SEXUAL HARASSMENT AND SEXUAL VIOLENCE POLICY

Section 1: Statement of Purpose

Illinois Wesleyan University (“University” or “IWU”) is committed to creating, fostering and maintaining an educational, employment, business and campus environment that is free of discrimination on the basis of sex. IWU does not tolerate discrimination on the basis of sex and is dedicated to prohibiting such conduct in all aspects of university life consistent with the University’s Mission Statement, Vision Statement and Strategic Plan as well as the provisions of Title VII of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, the Illinois Human Rights Act, and all other applicable State and Federal laws.

Section 2: Definitions

A. Sexual Harassment

Sexual harassment is a form of discrimination on the basis of sex. Sexual harassment is unwelcome conduct of a sexual nature. Unwelcomed conduct includes conduct that an individual did not solicit or incite and that the individual regarded as undesirable or offensive. Sexual harassment includes any unwelcome sexual advances, requests for sexual favors, and other verbal, nonverbal, or physical conduct of a sexual nature when: (1) submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment or academic status; (2) submission to or rejection of such conduct by an individual is used as the basis for academic or employment decisions affecting such individual; or (3) such conduct has the purpose or effect of substantially interfering with an individual's work or academic performance; or creating an intimidating or hostile work or educational environment.

B. Sexual Violence

Sexual violence refers to physical sexual acts perpetrated against an individual’s will; or where an individual is incapable of giving consent due to the use of drugs or alcohol or because of intellectual or other disabilities. With respect to any instances of sexual violence that involves the use of drugs or alcohol, it is the University’s position that the use of drugs or alcohol never makes an individual at fault for sexual violence. A primary concern of the University is each individual’s safety, and as such, any other rules violations will be addressed separately from the sexual violence allegations. A number of different acts fall into the category of sexual violence, including: rape, sexual assault, sexual battery, and sexual coercion. All such acts of sexual violence are forms of sexual harassment. Use of the term “sexual harassment” throughout this policy includes sexual violence.

C. Gender Based Harassment

Gender based harassment includes verbal, non-verbal and physical acts of aggression, intimidation, or hostility based on an individual’s gender identity or gender expression, even if those acts do not involve conduct of a sexual nature. Gender identity is a person’s internal, deeply-felt sense of being either male, female, something other, or in between. Gender
expression is an individual’s characteristics and behaviors such as appearance, dress, mannerisms, speech patterns, and social interactions that are perceived as masculine or feminine. Gender based harassment will exist if an individual is harassed either for exhibiting what is perceived as a stereotypical characteristic for their sex, or for failing to conform to stereotypical notions of masculinity and femininity. Use of the term “sexual harassment” throughout this policy includes gender based harassment.

D. Sexual Orientation Harassment

Sexual orientation harassment includes verbal, non-verbal and physical acts of aggression, intimidation, or hostility based on an individual’s actual or perceived heterosexuality, homosexuality, bisexuality, or transsexuality. Use of the term “sexual harassment” throughout this policy includes sexual orientation harassment.

Section 3: Examples of Sexual Harassment

Sexual harassment can occur both on and off campus and take many forms. The harassment may be subtle and indirect or blatant and overt. Such harassment can also occur in person or via electronic, print or other media. It may consist of repeated actions or may arise from a single incident if sufficiently severe. The complainant as well as the respondent may be male or female and the complainant does not have to be of the opposite sex of the respondent. Depending on the circumstances sexual harassment may include:

- Physical assaults of a sexual nature, such as rape, sexual assault, sexual battery, and sexual coercion.
- Intentional unwelcomed physical conduct that is sexual in nature such as kissing, touching, poking, grabbing, pinching, fondling, rubbing, patting, or brushing against another individual’s body.
- Offering or implying an academic or employment related reward in exchange for sexual favors or submission to sexual conduct.
- Threatening or taking a negative academic or employment action because unwelcomed conduct of a sexual nature is rejected.
- The use or display in the classroom of materials of a sexual nature that do not serve a reasonable or legitimate educational purpose.
- Unwelcome sexual advances, repeated propositions or requests for a sexual relationship to an individual who has previously indicated that such conduct is unwelcome.
- Gestures, displays, noises, remarks, jokes, questions, or comments about an individual that are unwelcomed and of a sexual nature.
Section 4: Awareness Education and Training

A. Dissemination of Policy

The University will widely distribute this policy to all students, staff, faculty, applicants and other relevant third parties. Additionally, the University will incorporate this policy into the Student Handbook, the Faculty Handbook, the Non-Exempt Staff Handbook, the Exempt Staff Handbook and other University publications of general distribution. The University shall also post this policy on its website. All students, faculty and staff shall be responsible for reviewing this policy.

B. Education

The University will implement and provide preventative educational programs to all faculty, staff and students. Such programs shall include discussions of what constitutes sexual harassment and sexual violence, the University’s policies and grievance procedures, and the consequences of violating these policies.

C. Training

The University shall provide training to all faculty, staff, volunteers, vendors and agents who are likely to witness or receive reports of sexual harassment. Such training shall include how to identify and report sexual harassment.

Section 5: Title IX / Title IX Coordinator

A. Title IX

Title IX provides that no person shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any academic, extracurricular, research, occupational training, or other education program or activity operated by the University. Title IX also provides that no person shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination in employment, or recruitment, consideration, or selection therefore, whether full-time or part-time, under any education program or activity operated by the University. The University acknowledges its obligations under Title IX and is committed to complying with all Title IX requirements.

B. Title IX Coordinator

The University has designated the following individual as its Title IX Coordinator:

Frank A. Boyd Jr.
Associate Provost, Title IX Coordinator
211 Holmes Hall
Phone: (309) 556-3255
Email: fboyd@iwu.edu
The Title IX coordinator is responsible for coordinating the University compliance with Title IX. The Title IX Coordinator’s responsibilities include overseeing all Title IX reports of sexual harassment and identifying and addressing any patterns or systemic problems that arise during the review of such reports. To assist the Title IX Coordinator the University has designated the following individuals as Title IX Deputy Coordinators, all of whom report directly to the Title IX Coordinator:

**For reports by staff or third parties:**

Catherine E. Spitz  
Associate Vice President for Human Resources, Title IX Deputy Coordinator  
209 Holmes Hall  
Phone: (309) 556-3971  
Email: cspitz@iwu.edu

**For reports by students:**

Darcy L. Greder  
Associate Dean of Students, Title IX Deputy Coordinator  
103 Holmes Hall  
Phone: (309) 556-3541  
Email: dgreder@iwu.edu

**For reports by faculty:**

Frank A. Boyd Jr.  
Associate Provost, Title IX Coordinator  
211 Holmes Hall  
Phone: (309) 556-3255  
Email: fboyd@iwu.edu

All students, faculty, staff and applicants, who have concerns about discrimination on the basis of sex, including any concerns pertaining to sexual harassment, are encouraged to seek the assistance of either the Title IX Coordinator or a Title IX Deputy Coordinator. Coordinators are knowledgeable about, and will provide information on, all options for addressing and resolving such reports. Those options may vary depending on the nature of the incident; whether the complainant is a student, faculty member, staff member or applicant; the wishes of the complainant regarding confidentiality; and whether the complainant prefers to proceed formally or informally. Together, the Coordinators play an integral role in carrying out the University’s commitment to creating, fostering and maintaining an educational, employment, business and campus environment that is free of discrimination on the basis of sex as well as sexual harassment.
Section 6: Reporting Sexual Harassment

All students, faculty, staff, applicants, volunteers, vendors and agents are strongly encouraged to report any incidents of sexual harassment. Reports may be made orally or in writing and such reports should be made to the Title IX Coordinator or a Title IX Deputy Coordinator. Reports may also be made to any Supervisor, Department Chair or School Director, Dean, Director, Resident Director or Resident Advisor, Head Coach, Vice-President, or Security Officer. Such personnel that receive reports of sexual harassment and responsible employees that know or reasonably should know of the occurrence of sexual harassment are required to forward those reports to the Title IX Coordinator or a Title IX Deputy Coordinator.

In addition to the foregoing, all faculty and staff who become aware of or suspect sexual abuse of a minor (under the age of 17) must report that information to the Title IX Coordinator or a Title IX Deputy Coordinator whom shall then inform local, state and/or federal law enforcement officials of such incident as required by law.

Section 7: Investigation

A. Pre-Investigation

Upon receipt of a report of sexual harassment or upon notice of an incident of sexual harassment the University shall inform the complainant about: (i) available counseling, medical and other support services; (ii) the option to avoid contact with the respondent during the pendency of the investigation; (iii) their Title IX rights; (iv) their grievance rights; and (v) their right to file a criminal complaint. The University shall provide the complainant with a copy of this policy and the applicable grievance procedures identified herein.

Additionally, the University may make a preliminary, non-binding, assessment of the information contained in the report (and any supplement to the report) to determine whether that information, if true, would pose an imminent threat of immediate harm to the complainant or others. If there is an imminent threat of immediate harm then, consistent with the grievance procedures identified below, temporary measures may be imposed against the respondent to mitigate the threat during the pendency of the investigation. The need for such temporary measures shall be reevaluated on a regular basis during the pendency of the investigation to ensure the need for such temporary measures remain present.

B. Investigation

Upon receipt of a report of sexual harassment or upon notice of an incident of sexual harassment the University shall conduct a prompt, thorough, and impartial investigation of the incident consistent with the applicable grievance procedures identified below. If complainant and respondent are members of different constituencies (e.g. faculty, staff, students) then the investigation may proceed as a collaborative effort between the Coordinators for those respective constituencies. Such investigations shall, barring exigent circumstances, be completed within sixty (60) days. In all investigations the University shall provide the parties with a parity of
protections. Additionally, all investigations shall utilize a preponderance of the evidence standard in determining whether or not sexual harassment occurred.

C. Grievance Procedures

The following grievance procedures shall apply when the respondent is a:

i. **Faculty member**

The grievance procedures for faculty members (including Adjunct Professors) can be found in the Faculty Handbook, Chapter VI ([http://www.iwu.edu/provost/faculty-handbook.pdf](http://www.iwu.edu/provost/faculty-handbook.pdf)).

ii. **Staff member**

The grievance procedures for non-exempt staff members can be found in the Non-Exempt Staff Handbook ([http://www.iwu.edu/iwujobs/NonExemptHandbook/Nonexempt_Staff_Handbook_.1-12-12.pdf](http://www.iwu.edu/iwujobs/NonExemptHandbook/Nonexempt_Staff_Handbook_.1-12-12.pdf)). The grievance procedures for exempt staff members can be found in the Exempt Staff Handbook.

iii. **Student**

The grievance procedures for students can be found in the Student Handbook ([http://www.iwu.edu/judicial/handbook/](http://www.iwu.edu/judicial/handbook/)) and ([http://www.iwu.edu/judicial/SexualOffenses.html](http://www.iwu.edu/judicial/SexualOffenses.html)).

Notwithstanding anything in the referenced grievance procedures to the contrary, with respect to instances involving sexual violence, the complainant shall **not** be required to participate in any mediation or other informal grievance procedures.

D. Outcome of Investigation

The University shall provide the complainant and respondent with written notice of the outcome of the investigation (i.e., whether harassment was found to have occurred) within seven (7) days of such a finding being made. If the University has determined that harassment has occurred, the University shall immediately take reasonably effective action to eliminate the harassment, prevent its recurrence, and address its effects. When allowed for by applicable State and Federal law the University shall also notify the complainant of any sanction(s) imposed upon the respondent.

Section 8: Confidentiality

A complainant may report sexual harassment yet request confidentiality. If the complainant requests confidentiality or asks that the report not be pursued, the University shall take all reasonable steps to investigate and respond to the report consistent with the request for confidentiality or request not to pursue the investigation – as long as doing so does not prevent the University from responding effectively to the harassment and preventing harassment of other third parties. Upon a request for confidentiality, the University shall inform the complainant: (i) if the University cannot ensure confidentiality; (ii) that a confidentiality request may limit the
University’s ability to respond to the report; and (iii) that the University prohibits retaliation and that such retaliation is subject to disciplinary action under this policy. Notwithstanding the foregoing, should the report concern an instance of sexual violence involving a minor (under the age of 17), then in that event, the University shall investigate the report without regard to the request for confidentiality and shall inform local, state and/or federal law enforcement officials of such incident as required by law.

Section 9: Retaliation

It is a violation of this policy for any person to retaliate against, interfere with, coerce, or take any other adverse action against a student, faculty member, staff member, applicant or other third party that: (A) seeks advice concerning sexual harassment; (B) makes a report of sexual harassment; (C) assists or supports another individual that makes a report of sexual harassment; or (D) participates as a witness or in the investigation of a sexual harassment report. Such conduct is in violation of this policy and will be investigated and adjudicated accordingly.

Section 10: Malicious, False Accusations

It is a violation of this policy to make a report of sexual harassment that is known to be false. Such conduct is in violation of this policy and will be investigated and adjudicated accordingly.

Section 11: Academic Freedom

IWU is committed to the principles of academic freedom. Vigorous discussion and debate are fundamental to the University and this policy is not intended to stifle teaching methods or infringe upon academic freedom. The protections of academic freedom must be carefully considered in all reports of sexual harassment involving faculty. The fact that speech or a particular expression is offensive is not, standing alone, a legally sufficient basis to establish a violation of this policy. If such speech or expression takes place in the teaching context, it must also be persistent, pervasive, and not germane to the subject matter in order to be sexual harassment under this policy. The academic setting is distinct from the workplace in that wide latitude is required for professional judgment in determining the appropriate content and presentation of academic material.

Section 12: Effective Date

This policy shall be effective as of August 1, 2012.