

of Greencastle, the policies of governing councils and the guidelines set forth by their individual national organizations. DePauw does not condone any activity involving physical or mental hazing, either against a pledge/new member or active member, nor any activity that requires a new member to violate a University policy, any state or local statute, or the University hazing policy. A chapter or selected representative members may be subject to University action for any chapter or pledge class-initiated activity that violates University policy.

Harassment Policy

Definition of Harassment and Notice of Non-Discrimination

The University is committed to a policy of equal opportunity for all members of the University community, including, but not limited to, members of the faculty and staff, students, guests of the University, and applicants for employment and admission. In this regard, the University reaffirms the right of its students to live and learn, and its employees to teach and work, in an environment free from harassment and inappropriate and/or offensive comments or conduct.

The University encourages a workplace and learning environment free of discrimination, harassment, and/or inappropriate treatment of any employee, student or guest because of any person's race, sex, color, creed, religion, age, national origin, sexual orientation, veteran status, gender identity, gender expression, disability, or any category protected under federal, state or local law. To be unlawful, conduct must be sufficiently serious that it unreasonably interferes with an employee's ability to work or a student's ability to learn or benefit from the University's programming. The University does not, however, condone or tolerate any inappropriate conduct, whether by employees or non-employees, based on a person's race, sex, color, creed, religion, age, national origin, sexual orientation, veteran status, gender identity, gender expression, disability, or any category protected under federal, state or local law.

Harassing conduct may include, but is not limited to:

- Ethnic, racial, religious, age, disability or sex-related jokes, epithets, stereotypes or slurs.
- Foul or abusive language.
- Offensive graffiti, cartoons or posters.
- Insulting or derogatory nicknames.
- Mimicking another.
- Starting or spreading rumors.
- Teasing about religious or cultural observances, retirement, age, ability to learn, or absenteeism.
- Threatening or offensive mail, e-mail, voicemail or messages.

The University also recognizes the fundamental importance of the open and free exchange of ideas and opinion. It recognizes that conflicts may arise between individuals' desires to express their opinions and the right of individuals to be free from harassment. The University also recognizes that every act that might be offensive to an individual or a group is not necessarily a violation of the law or of this policy.

Sexual Harassment

DePauw prohibits any form of sexual harassment or discrimination on the basis of sex and enforces the requirements of Title IX of the Education Amendments of 1972 and its implementing regulations through student and employee guidelines. DePauw is committed to providing students, employees and University guests an environment and workplace free of inappropriate comments or conduct of a sexual nature. Inquiries concerning the application of Title IX should be directed to the University's Title IX Coordinator. Prohibited sexual harassment may include, but is not limited to:

- Unsolicited and unwelcome comments or conduct of a sexual nature or that are demeaning to women or men as a group (for example, offensive or vulgar jokes, name-calling, comments about one's body or sex life, or stereotyping based on a person's sex);
- Unwelcome and unwanted sexual jokes, language, gestures, epithets, innuendoes, advances or propositions; sexually oriented "kidding," "teasing" or "practical jokes;"
- Unsolicited and unwelcome demands or requests, implicit or explicit, for sexual favors or sexual encounters;
- Sexually oriented propositions, slurs, suggestions or questions;
- Stalking;
- Persistent, unsolicited and unwelcome demands or requests, implicit or explicit, for social encounters;
- Written or verbal abuse of a sexual nature, including, for example, using sexually degrading or vulgar words to describe an individual;
- The display of sexually suggestive or revealing objects, other material or offensive pictures, electronic communications or photographs (this prohibition does not apply to University approved art exhibitions or other University approved displays or communications);
- Unwelcome and unsolicited information about another's sexual prowess, activities, deficiencies or sexual orientation;
- Asking questions or commenting about another's sexual activity or making unwelcome sexual advances or expressed or implied requests for sexual activity;
- Offensive or inappropriate behavior targeted at only one sex, even if the content of the conduct or comments is not sexual;
- Unwelcome physical contact, such as patting, pinching, touching, leering, ogling, whistling, indecent exposure, brushing against the body, or suggestive, insulting or obscene comments or physical gestures.
- Any instance in which a supervisor, faculty member or another in a position of authority uses his/her authority to require or to urge an employee or student to submit to sexual activity. Such behavior can be explicit or implicit - for example, a supervisor or another person in a position of authority states to an employee or student: "Things could be a lot better for you here if you would be a little nicer to me."

Reporting Procedure

Any employee, student or guest who believes that he/she either has witnessed or been subjected to behavior that violates this policy is encouraged to and has a responsibility to immediately report the suspected policy violation. The University cannot investigate and take appropriate action if the behavior is not reported. The method of reporting suspected policy violations is as follows:

Staff members and guests should immediately report suspected policy violations to the Office of Human Resources. The phone number for the Director of Human Resources is (765) 658-4181. If the

Director of Human Resources is unavailable or the staff member or guest is uncomfortable reporting the suspected policy violation to the Director of Human Resources, he or she may report the suspected violation directly to the Vice President for Finance and Administration at (765) 658-4161.

Faculty members should immediately report suspected policy violations to Academic Affairs. The phone number for the Vice President for Academic Affairs is (765) 658-4359. If the Vice President for Academic Affairs is unavailable or the faculty member is uncomfortable reporting the suspected policy violation to the Vice President for Academic Affairs, he or she may report the suspected violation directly to the Director of Human Resources at (765) 658-4181.

Students should immediately report suspected policy violations to the Office of Student Academic Life. The phone number for the Office of Student Academic Life is (765) 658-4199 or (765) 658-4270. If the Vice President for Student Academic Life is unavailable or the student is uncomfortable reporting the suspected policy violation to the Vice President, he or she may report the suspected violation directly to the Director of Human Resources at (765) 658-4181 or the Vice President for Academic Affairs at (765) 658-4359. Students should report suspected policy violations involving sexual harassment or discrimination based on sex to the Title IX Coordinator at (765) 658-4914.

Complaints of inappropriate behavior by a Vice President of the University should be directed to the President of the University and/or the Director of Human Resources.

Supervisors and department chairs who receive complaints or who observe inappropriate behavior must immediately inform the appropriate office listed above. Failure to report potential violations may result in appropriate discipline, up to and including termination.

Investigation and Resolution of Complaint

Given the nature of the type of conduct prohibited by this policy and the serious effects such conduct can have on the target of the conduct and the one accused of the conduct, the University takes every complaint of harassing behavior seriously and each report shall be investigated. The investigation will be conducted in as confidential a manner as circumstances permit to protect all parties involved, including witnesses. The University will not tolerate any retaliation against anyone who makes a report of harassing behavior or cooperates in an investigation of any complaint under this policy.

The responsibility for determining the need for and degree of administrative action to address a harassment complaint varies and is based upon the group to which the accused belongs. These groups include: faculty, staff, students and guests. Generally, complaints involving students only will be processed under the Community Standards or Sexual Misconduct process, and complaints involving non-students will be processed according to the procedures identified below.

The chart below indicates investigation and disciplinary authority as it relates to policy violations at DePauw:

Complainant	Accused	Investigating Responsibility	Disciplinary Responsibility	Guidance
-------------	---------	------------------------------	-----------------------------	----------

Student	Student	Office of Student Academic Life – Title IX Coordinator	Office of Student Academic Life	Student Handbook
	Staff or Guest	Office of Student Academic Life – Title IX Coordinator Human Resources	Human Resources	Employee Guide
	Faculty member	Office of Student Academic Life – Title IX Coordinator Academic Affairs Human Resources	Vice President for Academic Affairs and Dean of the Faculty	Academic Handbook
Staff or Guest	Student	Human Resources Office of Student Academic Life – Title IX Coordinator	Office of Student Academic Life	Student Handbook
	Staff or Guest	Human Resources	Human Resources	Employee Guide
	Faculty member	Human Resources Academic Affairs	Vice President for Academic Affairs and Dean of the Faculty	Academic Handbook
Faculty	Student	Academic Affairs Office of Student Academic Life – Title IX Coordinator Human Resources	Office of Student Academic Life	Student Handbook
	Staff or Guest	Academic Affairs Human Resources	Human Resources	Employee Guide
	Faculty member	Academic Affairs Human Resources	Vice President for Academic Affairs and Dean of the Faculty	Academic Handbook

The President and Director of Human Resources will be responsible for investigating complaints and determining the need and degree of administrative action for complaints against a Vice President of the University.

Violations of this policy will not be tolerated and will result in appropriate disciplinary action, up to and including discharge or dismissal. Please help us maintain a comfortable learning and work environment free from inappropriate and offensive conduct.

(Endorsed in principle by the faculty in March 1999; established as University policy April 1999; revised August 2003; revised August 2011)

Rights and Procedures for Students

Student Complainants' Rights

If a student feels that she or he is the victim of harassment, she or he has the following rights:

- To consult with a campus advocate. An advocate can be a faculty member, staff member or student whom the alleged victim trusts. The advocate may communicate with the Office of Student Academic Life on the complainant's behalf.
- To privacy, to the extent practical given the University's need to conduct an investigation.
- To request and receive from the Office of Student Academic Life:
 - a. a room change within two working days
 - b. an e-mail address change within one working day.
- In sexual harassment cases, to the additional procedural and other rights outlined in the sexual misconduct process.

NOTE: It is not necessary that a formal complaint be filed to receive these accommodations. However, someone in the Office of Student Academic Life must be informed, either directly or through a campus advocate.

- Generally, to request that the University take or not take action regarding the complaint. An investigation into the facts alleged in the report usually will not be undertaken until the report becomes an official complaint at the request of the complainant. However, the University reserves the right to proceed without the complainant's consent when there appears to be an imminent threat to the safety of the complainant or any other member of the University community.

The rights of students involved in the sexual misconduct process are listed in the sexual Misconduct and Interpersonal Violence Policy.

Formal Complaint Procedure for Students

If a student wishes to pursue an official University charge of harassment against another student, a formal complaint should be filed. Formal complaints should be filed with the Dean of Students or Director of DePauw Public Safety. Once a formal complaint is filed, the process will proceed as follows:

1. **Composition of the Board:** The board that hears harassment cases, other than sexual harassment, will be the community standards special cases hearing board and will be composed of one faculty member, one administrative staff and one student. The board that hears sexual harassment cases is the sexual misconduct board.
2. **Procedure:** The Dean of Students or Director of Public Safety shall conduct a preliminary review of information gathered or reported with regard to the alleged violation. The results of the preliminary review shall be used by the Associate Dean of Students to determine whether a charge of harassment is applicable. If the Associate Dean of Students determines that a charge of harassment is applicable, he or she will explain the procedure to the complainant. If a charge is pursued, the procedures are the same as outlined in the Community Standards Process or the sexual misconduct process, whichever is applicable.

Formal complaints involving sexual harassment or discrimination based on sex should be filed with the Title IX Coordinator. Once a formal complaint involving sexual harassment or discrimination based on sex is filed, it will be addressed through the process provided in the Sexual Misconduct and Interpersonal Violence Policy.

Sexual Misconduct and Interpersonal Violence Policy and Process

Definition and Statement of Policy

I. Preamble

Sexual misconduct and interpersonal violence (defined below) are a violation of University policy and, depending upon the conduct involved, may be a violation of state criminal law. Sexual misconduct and interpersonal violence include a broad spectrum of behaviors including but not limited to: rape, non-consensual sexual contact, sexual battery, sexual exploitation, sexual harassment, gender-based harassment, relationship violence (including dating and domestic violence), and stalking. The University prohibits retaliation against any persons who, in good faith, reports or makes a complaint of sexual misconduct. Collectively, these behaviors are referred to in this policy as prohibited conduct. The University does not tolerate any form of sexual misconduct or interpersonal violence, and will promptly investigate and respond to any report made to the Title IX Coordinator or the University police, DePauw Public Safety. Conduct in violation of this Policy is subject to sanction by the University, up to and including expulsion. Conduct that potentially violates state law may result in criminal prosecution.

The University does not discriminate on the basis of sex or gender in any of its education or employment programs and activities, and it does not tolerate discrimination or harassment on the basis of sex or gender. The University has designated a Title IX Coordinator to oversee the implementation of this policy and to ensure compliance with Title IX of the Education Amendments of 1972 (Title IX) and relevant portions of the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (Clery Act), as amended by the Violence Against Women Reauthorization Act of 2013 (VAWA), Title VII of the Civil Rights Act of 1964, and other applicable law.

The purposes of this Policy are:

1. To provide a fair and impartial administrative process to investigate and address reports of prohibited conduct, resulting in prompt and equitable decisions reflecting the values of the DePauw community;
2. To establish and protect the rights of members of the DePauw community;
3. To promote the development of individual and group integrity;
4. To eliminate, prevent and address the effects of prohibited conduct in order to provide a learning, living, and working environment free from discrimination and harassment; and,
5. To enforce the non-academic rules and regulations of the University.

This Policy is overseen by the Title IX Coordinator. Reports of prohibited conduct can be made to the Title IX Coordinator or DePauw Public Safety.

II. Scope

This Policy applies to conduct committed by a University student or student organization when the prohibited conduct occurs:

1. on campus;
2. in the context of a University-related program or activity, regardless of location, including, but not limited to University-sponsored study abroad, research, online or internship programs; or,
3. off campus and outside the context of a University-related program or activity, but has continuing adverse effects on campus or in a University-related program or activity.

Reports against University employees, including faculty, will be addressed under the University's Harassment Policy.

III. Key Policy Definitions

Advisor: an individual who provides the Reporting Party or Respondent support, guidance or advice. An Advisor may be any person, including an attorney, who is not otherwise a party or witness.

Coercion: unreasonable pressure to participate in an activity that is sufficient to overcome an individual's freedom of will whether to voluntarily consent to participate in the activity.

Consent: clear, knowing and voluntary agreement to participate in sexual activity. Consent can be given by words or actions, as long as those words or actions create mutually understandable clear permission regarding willingness to engage in (and the conditions of) sexual activity. Consent is active, not passive. Silence, in and of itself, cannot be interpreted as Consent, and relying on nonverbal communication alone may not be sufficient to establish consent. Additional guidance about Consent can be found in Section VIII.

Harassment: conduct that is unwelcome and unwanted, and that either intentionally or repeatedly threatens, alarms or places a person in fear for their safety or creates a Hostile Environment.

Hostile Environment: an environment where conduct is sufficiently severe, persistent, or pervasive that it unreasonably interferes with, limits, or deprives an individual from participating in or benefiting from the University's educational, employment, and/or campus-residential experience when viewed through both a subjective and objective standard.

Incapacitation: a state where a person is incapable of giving consent because they are incapable of or unable to recognize what is going on around a person or not able to recognize the extent of the situation the person is in. Additional guidance about Incapacitation can be found in Section VIII.

Intimidation: communicating a threat to another person such that a reasonable person in such a circumstance would be placed in fear.

Reporting Party: the individual who is reported to have experienced prohibited conduct, regardless of whether the individual makes a report or participates in a Title IX investigation.

Respondent: the student or student organization who has been accused of prohibited conduct.

Responsible Employees: University employees who are required to immediately report prohibited conduct to the Title IX Coordinator. Unless otherwise designated as a Confidential Resource, all faculty and staff are considered to be Responsible Employees.

Student: any person pursuing studies at the University, including: (a) a person not currently enrolled who was enrolled at the time of the alleged violation; or (b) a person who, while not currently enrolled, has been enrolled in the University and may reasonably be expected to seek enrollment at a future date; or (c) an accepted student who has paid a deposit.

Student Organization: a group consisting of a number of students who have followed the University requirements for recognition.

Title IX Coordinator: is the University employee who monitors the University's compliance with Title IX, including overseeing the Title IX process (investigations, adjudications and sanctioning); ensuring appropriate education and training for students and employees; and ensuring appropriate action to eliminate, prevent and address prohibited conduct.

Title IX Administrators: are the University employees who receive and review reports and complaints under the University's Administrative Sexual Misconduct and Interpersonal Violence Policy, conduct investigations, and determine findings of misconduct.

Voyeur(ism): knowingly or intentionally looking at or observing another individual, who has an expectation of privacy, in a clandestine, surreptitious, prying, or secretive nature without the consent of the other person.

IV. Reporting, Confidentiality, and Preservation of Evidence

DePauw strongly encourages anyone who experiences or witnesses prohibited conduct to talk with someone promptly about what happened so that they can get any support they need and so DePauw can respond appropriately.

Options for Reporting or Seeking Assistance:

A Reporting Party or witness may choose to:

- Seek assistance from a Confidential or Special Designated Resource;
- Report incidents of conduct prohibited under this Policy to the Title IX Coordinator, Title IX Administrators or a Responsible Employee;

- Report incidents of conduct that may violate state law to DePauw Public Safety (the University's police department), or the appropriate law enforcement agency.

An individual may make a report to the University, to law enforcement, to neither, or to both. Campus Title IX processes and law enforcement investigations operate independently of one another, although the University will coordinate information with the DePauw Public Safety Department.

Employee Reporting Responsibilities:

Different University employees have different abilities to maintain information as confidential. Confidential Resources, as defined below, are not required to share the information with the Title IX Coordinator. All other University employees, referred to as Responsible Employees, are required to immediately share all known information, including the identities of the parties, the date, time and location, and any details about the reported incident with the Title IX Coordinator. Responsible Employees include all faculty, all staff (excluding those designated as Confidential or Special Designated Resources), all administrators, including Student Academic Life and Public Safety personnel, and Resident Assistants (RAs).

Responsible Employees may provide support and assistance to a Reporting Party, witness, or Respondent, but they cannot promise confidentiality or withhold information about prohibited conduct. Even when information is shared by a Responsible Employee with the Title IX Coordinator, the Reporting Party may still request anonymity, or that no investigation be pursued. The Title IX Coordinator will then determine whether the Reporting Party's request can be honored (see below).

Seeking Assistance from a Confidential Resource:

A Reporting Party or witness may seek assistance from an individual who has the legally-protected ability to maintain the confidentiality of the conversation. These individuals are referred to in this Policy as Confidential Resources. University employees who are Confidential Resources include licensed counselors, medical professionals, and ordained clergy acting in a pastoral care capacity. Confidential Resources will not disclose protected information unless: 1) given permission by the patient/client; 2) there is an imminent threat of harm to self or others; 3) the conduct involves suspected abuse of a minor under 18 year of age; or, 4) as otherwise required or permitted by law or court order. A person's medical and counseling records are privileged and confidential documents. All University students have access to Confidential Resources that they may use for support and guidance regardless of whether they make a report to the University or participate in a University investigation. Reporting Parties can reach DePauw Counseling Services at 765-658-4268, DePauw Health at 765-658-4555, and the Center for Spiritual Life at 765-658-4615.

Special Designated Resources:

In order to foster increased reporting, DePauw University has designated Sexual Assault Survivors' Advocates (SASAs) as Special Resources who have the ability to receive reports and share information with the Title IX Coordinator in a manner that preserves the anonymity of the Reporting Party. SASAs

are permitted to share reports with the Title IX Coordinator in a manner that initially excludes personally identifiable information about the Reporting Party or witness. In the event that the SASA and/or the Title IX Coordinator determine that the reported conduct poses a potential threat to the health or safety of any campus community member, the SASA may be required to share personally identifiable information. Additionally, unlike Confidential Resources, who have statutorily-protected legal confidentiality, records maintained by SASAs may be subject to release by court order, search warrant or subpoena. If a Reporting Party has concerns or uncertainties about reporting an incident, including the confidentiality of discussions, the Reporting Party can call a Sexual Assault Survivors' Advocate (SASA) at 765-658-4650 for assistance.

Reporting Prohibited Conduct to the Title IX Coordinator:

DePauw strongly encourages Reporting Parties and witnesses to immediately report incidents of sexual misconduct to the Title IX Coordinator. The University will make reasonable efforts to investigate and address reports of prohibited conduct, regardless of how the information was brought to the University's attention or the extent to which the Reporting Party wishes to participate or be involved. A report can be made in person, by telephone, or online as follows:

Title IX Coordinator: Renee Madison

Email: titleixcoordinator@depauw.edu

Phone: 765-658-4914

Online: [Report An Incident Of Sexual Misconduct](#)

Timeframe for Reporting:

Reporting Parties and other reporting individuals are encouraged to report any violation of this policy as soon as possible in order to maximize the University's ability to respond promptly and effectively. There is no time limit for reporting, however, and reports under this Policy may be made at any time without regard to how much time has elapsed since the incident(s) in question. If the Respondent is no longer actively enrolled at the time of the report, the University may not be able to take disciplinary action against the Respondent. However, the University will still seek to meet its Title IX obligations by providing support for the Reporting Party and taking steps to end the prohibited conduct, prevent its recurrence, and address its effects. In addition, the University will assist the Reporting Party in identifying and contacting law enforcement and other external enforcement agencies.

Amnesty:

The University prioritizes the reporting of prohibited conduct and recognizes that students may be reluctant to make a report because of concern about personal conduct consequences. Students making a report (whether a Reporting Party or a witness) will not be charged under the University's Community Standards process for a violation of the University's alcohol or drug policy involving personal consumption at the time of the alleged misconduct.

Reporting Potential Criminal Conduct to Law Enforcement:

A Reporting Party has the right to report, or decline to report, potential criminal conduct to law enforcement, and the University will upon request assist a Reporting Party in contacting law enforcement at any time. Under limited circumstances posing a threat to health or safety of any University community member, the University may independently notify law enforcement.

If a criminal complaint is made, it must proceed via the county, state or federal criminal justice system. DePauw Public Safety Officers are fully sworn law enforcement officials and may take reports and complete criminal investigations. Students interested in filing criminal charges may also seek assistance directly from other law enforcement agencies. DePauw Public Safety will assist the Reporting Party with the involvement of local police. The filing of criminal charges does not preclude pursuing the administrative Sexual Misconduct process.

In instances where a criminal complaint is made against a current student, a concurrent Title IX administrative process will also commence. DePauw Public Safety investigators will share available information with Title IX Administrators to aid in the administrative process.

Definitions of crimes under the Indiana Criminal Code can be found here:

<http://iga.in.gov/legislative/laws/2017/ic/titles/035#35-42-4>

Anonymous Reporting:

An individual can make a report of prohibited conduct to the University without disclosing one's name at <http://www.depauw.edu/studentacademiclife/title-ix/report-an-incident-of-sexual-misconduct>. Depending on the level of information available about the incident or individuals involved, the University's ability to respond to an anonymous report may be limited.

Preservation of Evidence:

It is important to preserve all evidence related to any report of prohibited conduct, including but not limited to letters, notes, emails, text messages, social media and/or voice mails. There are staff members in the Wellness Center who have been trained as Sexual Assault Nurse Examiners and are available to conduct evidence collection exams at any time; students may access this resource by contacting a SASA or Public Safety 24 hours a day. Students may also receive a sexual assault examination at the Putnam County Hospital. Students are encouraged to seek prompt medical attention in cases of sexual misconduct and to preserve all evidence of the incident.

Clery Reporting:

Campus Security Authorities (CSA) include members of Public Safety or other individuals who have responsibility for campus security, as well as other individuals that students or employees may report crimes to, or individuals who have significant responsibility for student campus activities, are all required to share non identifiable information for consideration of Timely Warnings and inclusion in crime statistic data.

Any report of alleged sexual misconduct shall be included in crime statistics in accordance with The Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (The Clery Act). These statistics will be made without disclosing the names of either the Reporting Party or the Respondent. If the University determines that matters of public safety are involved, the University may disclose the name of a student who poses an active threat to the campus in Timely Warning or Emergency Notifications if this information is necessary to address that threat.

V. Interim Measures

Interim measures may be remedial (measures designed to maintain continued access to educational opportunities) or protective (involving a restrictive action against Respondent). Interim remedial measures are available to the Reporting Party regardless of whether the Reporting Party pursues an investigation. The options for interim measures will be discussed upon receipt of a report and will be outlined in writing. Examples of interim measures that may be implemented include, but are not limited to:

- providing access to counseling;
- issuing no-contact directives to each of the parties;
- issuing interim suspensions;
- assisting in requesting a criminal restraining order;
- changing housing;
- rearranging class schedules if available;
- assisting with local law enforcement; and,
- adjustments to on-campus job or extracurricular activity responsibilities.

The availability of remedial and protective measures will be determined by the specific circumstances of each report. The University will consider a number of factors in determining which measures to take, including:

- the needs of the student seeking remedial and/or protective measures;
- the severity or pervasiveness of the reported conduct;
- any continuing or disproportionate effects on the Reporting Party;
- whether the Reporting Party and the Respondent share the same residence hall, academic course(s), or job location(s); and,
- whether judicial measures have been taken to protect the Reporting Party (e.g., protective orders).

The University will work in good faith to implement the requirements of judicially-issued protective orders and similar orders, to the extent that doing so is within its authority.

Any interim measures will not disproportionately impact the Reporting Party. Requests for interim measures may be made to the Title IX Coordinator or Title IX Administrators. The Title IX Coordinator is responsible for ensuring the implementation of interim measures and coordinating the University's

response with the appropriate offices on campus. The Title IX Coordinator has the discretion to impose and/or modify any interim measure based on all available information and is available to meet with a Reporting Party or Respondent to address any concerns about the provision of interim measures. The University will maintain the privacy of any remedial and protective measures provided under this policy to the extent practicable and will promptly address any violation of protective measures.

All individuals are encouraged to report to the Title IX Office any concerns about the failure of another to abide by any restrictions imposed through interim measure. In the event of an immediate health or safety concern, individuals should contact 911 immediately. The University will take immediate action to enforce a previously implemented measure, and disciplinary penalties can be imposed for failing to abide by a University-imposed interim measure.

Interim University Suspensions

Interim University suspension may be imposed on a Respondent:

- to ensure the safety and well-being of members of the University community;
- to ensure the student's own physical or emotional safety and well-being; or,
- if the student or organization poses a threat of disruption of or interference with the normal operations of the University.

During any interim University suspension, the Respondent may be denied access to University housing, to the campus (including classes) and/or to all other University activities or privileges for which the student might otherwise be eligible. Specific details of the interim suspension will be outlined in written communication to the student.

If an organization is placed on interim University suspension, the organization shall be required to cease and desist with all organizational activities. The organization will be denied access to all University activities and privileges for which the organization might be eligible. In certain circumstances, organizational leadership may be restricted from communication with the organizational membership or students may be required to vacate organizational housing units.

Interim suspensions from the University shall be reviewed automatically by the Vice President for Student Academic Life or their designee within seven (7) days of the interim suspension. Upon review, the Vice President may continue the interim suspension for a designated period, may determine conditions for the termination of the suspension, may expel the student or organization if immediate expulsion is warranted, or take any other action in the best interest of the University.

No Contact Directive

At times it becomes necessary to restrict a student's or organization's privileges and/or prohibit contact with specified individuals, or specific locations, by issuing a "no contact" directive. This directive is issued when it is believed necessary to protect a person's safety and preserve a peaceful environment for all students to work, study and live on campus. Violation of a "no contact" directive issued in relation to a

violation of the Sexual Misconduct and Interpersonal Violence Policy is considered violation of the Sexual Misconduct and Interpersonal Violence Policy and may result in University action that could include interim suspension from the University.

Interim Housing Reassignments

Interim housing reassignments may be issued to students to diffuse issues which have arisen in the living unit, to protect the student or other students with whom the student lives or to promote the safety and well-being of the student or other members of the University community. In the event of an interim housing reassignment, the re-assigned student shall immediately move and shall not return to the location without written permission from the Title IX Coordinator or designee.

VI. Rights of Students and Student Organizations

DePauw strives to ensure that all students, whether Reporting Parties or Respondents, are afforded the following rights:

- To be treated respectfully by University staff and officials.
- To have complaints responded to promptly and sensitively, investigated appropriately and addressed competently.
- To have a support person or Advisor of one's own choosing present during the review of the case file.
- To be referred to campus and local mental health and counseling services.
- To obtain assistance in requesting a criminal restraining order from the State if so desired.
- To receive assistance from University officials and staff with any necessary adjustments to living and/or academic situations if such changes are reasonable and requested.
- To timely notice of meetings at which their presence will be requested or required.
- To be promptly notified, in writing, of decisions related to the investigation and determination of responsibility to the extent permitted by the law, regardless of whether or not one participates in the process.
- To have irrelevant prior sexual history be made inadmissible during any process to determine responsibility for prohibited conduct.
- To timely and equal access to information that will be used in the adjudication.
- To appeal the outcome.

Reporting Parties also have the following rights:

- To be free from any form of retaliation by members of the University community.
- To not be discouraged from reporting to the University or law enforcement, whether on-campus or off-campus, and to be supported by University staff or officials in so doing.
- To submit a written statement to be considered by the Dean of Students when determining sanctions, indicating the impact the alleged violation has had on them and hopes they may have

for sanctions assigned to the Respondent.

Respondents also have the following rights:

- To invoke the right to refuse to answer some or all questions (with the qualification that the University reserves the right to go forward with disciplinary proceedings based on available information, if the accused invokes this right).
- To submit a written statement to be considered by the Dean of Students when determining sanctions, indicating any factors they would like the Dean of Students to take into consideration in imposing sanctions, if the Title IX Administrator makes a finding of responsibility.

VII. Prohibited Conduct

The University prohibits the following conduct:

1. **Non-Consensual Sexual Contact:** Physical contact of a sexual nature by one person against the will of or without the consent of another.
2. **Rape:** Knowing or intentional sexual intercourse or other sexual conduct (as defined below) with another person against the will of or without the consent of that person. Other sexual conduct means:
 - a. acts involving a sex organ of one person and the mouth or anus of another person; or
 - b. the penetration of the sex organ or anus of a person by an object.
3. **Relationship Violence:** Any act of violence or threatened act of violence that occurs between individuals who are involved or have been involved in a sexual, dating, spousal, domestic, or other intimate relationship. Relationship Violence may include any form of prohibited conduct under this policy, including Rape, Sexual Battery, Stalking, and physical abuse. Physical abuse is threatening or causing physical harm or engaging in other conduct that threatens or endangers the health or safety of any person. Physical abuse will be addressed under this policy if it involves sexual or gender-based harassment, intimate partner violence, or is part of a course of conduct under the stalking definition.
 - a. **Dating Violence:** Violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim.
 - b. **Domestic Violence:** A felony or misdemeanor crime of violence committed –
 - i. By a current or former spouse or intimate partner of the victim;
 - ii. By a person with whom the victim shares a child in common;
 - iii. By a person who is cohabitating with, or has cohabitated with, the victim as a spouse or intimate partner;
 - iv. By a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred;or

- v. By another person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred.
4. Retaliation: Taking adverse action against the Reporting Party for participating in the University's Sexual Misconduct Process. Retaliation may include intimidation, threats, coercion, harassment, or adverse employment or educational actions that would discourage a reasonable person from engaging in activity protected under this Policy. A good faith pursuit by either party of civil, criminal or other legal action does not constitute Retaliation.
5. Sexual Battery: Intentional touching of another person for the purpose of arousing or satisfying one's own sexual desires without the consent of or against the will of the person being touched.
6. Sexual Exploitation: Nonconsensual use of sexual contact by one person with another for one's own advantage or benefit, or to benefit or advantage anyone other than the person being exploited, and the behavior does not otherwise constitute rape or sexual battery. Examples of sexual exploitation include prostituting another student, non-consensual video or audio taping of sexual activity, sharing consensual video or audio taping of sexual activity without all parties consent, allowing others to secretly watch sexual activity without all parties consent, and knowingly transmitting an STD or HIV.
7. Sexual or Gender-Based Harassment: Any unwelcome sexual advances, requests for sexual favors, and/or other verbal or physical conduct of a sexual nature when one of the conditions outlined in a., b., or c., below, are present. Gender-based harassment includes harassment based on gender, sexual orientation, gender identity, or gender expression. Sexual or Gender-Based Harassment may also include acts of aggression, intimidation, or hostility, whether verbal or non-verbal, graphic, physical, or otherwise, even if the acts do not involve contact of a sexual nature, when one of the conditions outlined in a., b., or c., below, are present:
 - a. Submission to, or rejection of, such conduct is made implicitly or explicitly a term or condition of a person's instruction, academic standing, employment, or participation in any University program, activity, or benefit;
 - b. Submission to, or rejection of, such conduct by an individual is used as a basis for evaluation in making academic or personnel decisions; or
 - c. Such conduct creates a hostile environment. A hostile environment exists when the conduct is sufficiently severe, persistent, or pervasive that it unreasonably interferes with, limits or deprives an individual from participating in or benefiting from the University's educational, employment, and/or campus-residential experience when viewed through both a subjective and objective standard.

A hostile environment can be created by persistent or pervasive conduct or by a single or isolated incident, if sufficiently severe. The more severe the conduct, the less need there is to show a repetitive series of incidents to prove a hostile environment,

particularly if the conduct is physical. For example, a single incident of Rape, Relationship Violence or Sexual Battery may be sufficiently severe to constitute a hostile environment. In contrast, the perceived offensiveness of a single verbal or written expression, standing alone, is typically not sufficient to constitute a hostile environment.

8. Stalking: A pattern of repeated and unwanted attention, harassment, contact or any other course of conduct directed at a specific person that would cause a reasonable person to feel fear for the person's safety or the safety of others, or suffer substantial emotional distress. Stalking can include, but is not limited to:
 - a. Repeated, unwanted, intrusive and frightening communications by phone, mail and/or email.
 - b. Repeatedly leaving or sending unwanted items, presents or flowers.
 - c. Following or lying in wait at places such as home, school, work or recreation place.
 - d. Making direct or indirect threats to harm the Reporting Party, the Reporting Party's family, friends or pets.
 - e. Damaging or threatening to damage the Reporting Party's property.
 - f. Harassing the Reporting Party through the internet.
 - g. Posting information or spreading rumors about the Reporting Party on the internet, in a public place or by word of mouth.
 - h. Obtaining personal information about the Reporting Party by accessing public records, using internet search services, hiring private investigators, going through the Reporting Party's garbage, following the Reporting Party, contacting the Reporting Party's friends, family work or neighbors, etc.

9. Violation of a No Contact Directive: Engaging intentionally in conduct or communication with an individual, whether directly or indirectly, or otherwise acting in contradiction to the explicit terms of the No Contact Directive, after having been directed by the University to have No Contact with the stated individual.

10. Voyeurism: Knowingly or intentionally looking at or observing another individual, who has an expectation of privacy, in a clandestine, surreptitious, prying, or secretive nature without the consent of the other person.

VIII. Statement on Consent and Incapacitation

Consent is clear, knowing and voluntary agreement to participate in sexual activity. Consent can be given by words or actions, as long as those words or actions create mutually understandable clear permission regarding a willingness to engage in (and the conditions of) sexual activity. Consent is active, not passive. Silence, in and of itself, cannot be interpreted as consent, and relying on nonverbal communication alone may not be sufficient to establish consent.

Consent to any one form of sexual activity does not automatically imply consent to any other forms of sexual activity. Previous relationships or prior consent do not imply consent to future sexual acts. Even in the context of a relationship, there must be mutual consent to engage in sexual activity each time it occurs. Consent to engage in sexual activity with one person is not consent to engage in sexual activity with any other person.

When it is unclear whether someone consents to activity, it is the responsibility of the person who initiates the activity to ensure that their partner clearly communicates consent. To continue to engage in sexual activity without consent from their partner is a violation of this Policy.

Consent can be withdrawn by either party at any point. Once consent is withdrawn, the sexual activity must cease immediately.

Consent must be mutually understandable. That is, a reasonable person would have to consider the words or actions of the parties to indicate that there was a clear agreement to engage in the given activity with each other at the same time.

Consent cannot be obtained through force, coercion or taking advantage of another person's incapacitation. Force is the use of physical violence and/or imposing on someone physically to gain sexual access. Force also includes threats, intimidation (implied threats) and coercion that overcome resistance or produce consent. Note: There is no requirement that a party actively resist the sexual advance or request, but resistance is a clear demonstration of non-consent. Sexual activity that is forced is by definition non-consensual, but lack of physical force or coercion does not indicate consent.

Coercion is unreasonable pressure for sexual activity that is sufficient to overcome an individual's freedom of will whether to voluntarily consent to participate in the sexual activity. Coercive conduct includes intimidation and express or implied threats of immediate or future physical, emotional, reputational, financial or other harm to the Reporting Party or other that would reasonably place an individual in fear and that is employed to compel someone to engage in sexual activity.

Consent cannot be given by minors, by mentally disabled persons, or by otherwise physically or mentally incapacitated persons. People who are unconscious, asleep, unaware the sexual activity is occurring, incapacitated as a result of alcohol or drugs (whether consumed voluntarily or involuntarily) or who are physically or mentally incapacitated cannot give consent.

Incapacitation is an important and specific concept. A person who is incapacitated is incapable of recognizing what is going on around them. An incapacitated person is not able to recognize the sexual nature or extent of the situation they are in. To engage in sexual activity with a person one knows or should know is incapacitated is a violation of this Policy.

Incapacitation means that a person lacks the ability to make informed, rational judgments about whether or not to engage in sexual activity. Consent cannot be gained by taking advantage of the incapacitation of another, where the person initiating sexual activity knew or reasonably should have known that the other was incapacitated.

When alcohol or other drugs are involved, incapacitation is a state beyond drunkenness or intoxication. A person is not necessarily incapacitated merely as a result of drinking or using drugs; the level of impairment must be significant enough to render the person unable to give consent. The impact of alcohol and other drugs varies from person to person, and a person's level of intoxication may vary based upon the nature and quality of the substance imbibed, the person's weight, tolerance, ingestion of food and other circumstances. A person's level of impairment may also change rapidly.

In evaluating consent in cases of potential incapacitation, the University asks two questions: (1) Did the person initiating sexual activity know that the other party was incapacitated? and, if not, (2) Should a sober, reasonable person, in the same situation, have known that the other party was incapacitated? If the answer to either of these questions is "yes," consent was absent and the conduct is likely a violation of this Policy.

One is not expected to be a medical expert in assessing incapacitation. One must look for the common and obvious warning signs that show that a person may be incapacitated or approaching incapacitation. Although every individual may manifest signs of incapacitation differently, typical signs often include slurred or incomprehensible speech, unsteady manner of walking, combativeness, emotional volatility, vomiting, or incontinence. A person who is Incapacitated may not be able to understand some or all of the following questions: "Do you know where you are?" "Do you know how you got here?" "Do you know what is happening?" "Do you know whom you are with?"

One should be cautious before engaging in sexual activity when either party has been drinking alcohol or using drugs. The use of alcohol or other drugs may impair either party's ability to determine whether consent has been sought or given. If one has doubt about either party's level of intoxication, the safe thing to do is to forego all sexual activity. A Respondent's intoxication will not excuse the Respondent from the obligation to obtain consent as described in this Policy.

IX. Title IX Process Overview

The Title IX Process is an administrative process that is informed by Title IX and the relevant provisions of VAWA. The Title IX Coordinator provides oversight of a prompt, fair and equitable process. While the parties involved have certain procedural rights, the procedure described is not intended to constitute a legal proceeding.

The Title IX Administrators shall use the process described in the subsequent section to determine facts and responsibility for the reported conduct. The Title IX Administrators, as designees of the Title IX Coordinator, investigate, including coordinating an internal or external investigation, and resolve reports of prohibited conduct, and any other related violations.

Upon receiving a report of prohibited conduct, a Title IX Administrator will meet with and interview the Reporting Party to gather key facts outlining the report. During this meeting, the Title IX Administrator will address any immediate physical safety and emotional support needs, including potential interim measures (see Section V for interim measures).