

**Policy Title:** TITLE IX POLICY: DISCRIMINATION BASED ON SEX

**Policy Number:**

**Sponsor:** Diversity, Equity and Inclusion

**Effective Date:** August 14, 2020, Amended March 15, 2023

## I. PURPOSE

Title IX of the Education Amendments of 1972, 20 U.S.C. § 1681 et seq. notes: No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving federal financial assistance. This policy is primarily designed and intended to comply with the requirements of Title IX yet also comply with other applicable federal and Illinois laws that prohibit discrimination based on sex, including Title VII of the Civil Rights Act of 1964, 110 ILCS 155, and 775 ILCS 5/5A. Acts amounting to discrimination based on sex are sometimes termed “sexual misconduct or sexual violence.”

## II. SCOPE

This policy applies to all of the educational programs and activities that the University offers. This policy therefore applies to all university faculty, staff, and students, and the behavior addressed in this policy includes that which might be exhibited by other parties. Should the University become aware that any contractor, vendor, partner or other affiliate engages in behavior that is prohibited by this policy, it will take appropriate action.

## III. POLICY STATEMENTS

**Amnesty Statement:** The University provides immunity to any student who reports, in good faith, an alleged violation of this policy to the Title IX Coordinator or through any other established reporting mechanism of the University for reports of discrimination based on sex, so that the reporting student will not receive a disciplinary sanction by the University for a student conduct violation, such as underage drinking or possession or use of a controlled substance, that is revealed in the course of such a report, unless the University determines that the violation was egregious, including without limitation an action that places the health or safety of any other person at risk.

**Non-Discrimination Statement:** The University does not engage in or tolerate discrimination on the basis of sex, which includes sexual harassment and sexual violence, in its educational or employment programs and activities, including admission, and such behavior is prohibited. Such behaviors are forms of unlawful sex discrimination under Title IX and other federal and state laws. Through a thorough and impartial investigation, the University is committed to responding to any instance of such discrimination by taking prompt and effective steps to end the discrimination and address its effects.

**Pregnancy/ Parenting Statement:** The University prohibits discrimination against students, faculty and staff based on pregnancy, false pregnancy, termination of

pregnancy, childbirth, or recovery from any of these conditions.

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**Retaliation Statement:** The University prohibits retaliation against any individual who reports or discloses an alleged violation of this policy, files a complaint, or otherwise participates in the complaint resolution procedure. Any person, who is found to have retaliated in violation of this policy, will be subject to sanctions up to and including termination of employment or dismissal from the education program, as applicable.

### **IV. DESIGNATION OF TITLE IX COORDINATOR**

The institutional official responsible for coordinating and overseeing university efforts to comply with the requirements of Title IX and this policy is called the Title IX Coordinator. This policy serves as the primary governing document for the Title IX Coordinator regarding investigations of sex discrimination involving employees and students. Questions or concerns regarding Title IX, this policy, or other aspects of the University's commitment to sex non discrimination may be directed to the Title IX Coordinator:

Allena Barbato, JD LMFT  
Director of Title IX Compliance and Equity  
Officer  
Title IX Coordinator  
Basic Science Building 1.314  
224-570-7314  
[TitleIX.Coordinator@rosalindfranklin.edu](mailto:TitleIX.Coordinator@rosalindfranklin.edu)

### **V. NOTIFICATIONS ABOUT POLICY AND TITLE IX COORDINATOR**

A notice shall be made on the university website and made in student and employee recruitment materials of the substance of Sections III and IV of this policy.

### **VI. EXAMPLES OF SPECIFIC PROHIBITIONS**

- A. In determining whether a person satisfies any policy or criterion for admission, or in making any offer of admission, the University shall not, on the basis of sex, give preference, apply numerical limitations, or otherwise treat one individual differently from another.
- B. In providing any aid, benefit, or service to a student, the University shall not, on the basis of sex, provide different aid, benefits, or services or provide them in a different manner, subject any person to separate or different rules of behavior, sanctions, or other treatment, such that it limits any person in the enjoyment of any right,

privilege, advantage, or opportunity.

- C. Regarding full-time or part-time employment, the University shall not, on the basis of sex, exclude from participation in, deny benefits of, or otherwise discriminate in its recruitment, application process, hiring, promotion, termination, compensation, assignments, fringe benefits, or any other term, condition, or privilege of employment.

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- D. Regarding the learning environment or working environment, unwelcome conduct of a sexual nature that is sufficiently severe, pervasive, and objectively offensive so as to interfere with or limit a student's or employee's ability to participate in or benefit from the services, activities or opportunities offered by the University. Such prohibited conduct might include making sexual propositions or pressuring for sexual favors; touching of a sexual nature; writing graffiti of a sexual nature; displaying or distributing sexually explicit drawings, pictures, or written materials; performing sexual gestures or touching oneself sexually in front of others; telling sexual or dirty jokes; spreading sexual rumors or rating students as to sexual activity or performance; or circulating or showing emails or web sites of a sexual nature. Such prohibited conduct might be exhibited by University employees, students, or other third parties, such as a visiting speaker or independent contractor. Such prohibited conduct might include verbal acts and name-calling; graphic and written statements, which may include use of cell phones or the internet; or other conduct that may be physically threatening, harmful, or humiliating. Such prohibited conduct need not include intent to harm, need not be directed at a specific target, and need not involve repeated incidents.
- E. Regarding the learning environment or working environment, engaging in acts of sexual violence.
- F. Regarding the learning environment, engaging in acts which a person repeatedly directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with a person's property.

## VII. DEFINITIONS

The policy against sex discrimination includes sexual violence within its scope of prohibited conduct. This section addresses the additional provisions applicable to instances of sexual violence.

### A. Definitions

1. Consent: (i) consent is a freely given agreement to sexual activity, (ii) a person's lack of verbal or physical resistance or submission resulting from the use or threat of force or any form of coercion does not constitute consent, (iii) a person's manner of dress does not constitute consent, (iv) a person's consent to past sexual activity does not constitute consent to future sexual activity, (v) a person's consent to engage in sexual activity with one person does not constitute consent to engage in sexual activity with another, (vi) a person can withdraw consent at any time, and (vii) a person cannot consent to sexual activity if that person is unable to understand the nature of the activity or give knowing consent due to circumstances, including without limitation the following: (A) the person

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is incapacitated due to the use of influence of alcohol or drugs; (B) the person is asleep or unconscious; (C) the person is under age; or (D) the person is incapacitated due to a mental disability. The definition of consent does not vary based upon a participant's sex, sexual orientation, gender identity or gender expression.

2. Domestic violence includes acts of violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim, or by any other 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.
3. Dating violence means violence committed by a person—
  - a. who is or has been in a social relationship of a romantic or intimate nature with the victim; and
  - b. where the existence of such a relationship shall be determined based on a consideration of the following factors:
    - i. The length of the relationship.
    - ii. The type of relationship.
    - iii. The frequency of interaction between the persons involved in the relationship.
4. Sexual Misconduct: One or more acts of sex discrimination. Such misconduct can occur among, between or to heterosexual, lesbian, gay, bisexual and transgender individuals.
5. Sexual Assault: Any sexual act including rape, sodomy, sexual assault with an object, or fondling directed against another person, without the consent of the

victim, including instances where the victim is incapable of giving consent.

6. Sexual Violence: Physical sexual acts attempted or perpetrated against a person's will or when a person is incapable of giving consent, including without limitation rape, sexual assault, sexual battery, sexual abuse, and sexual coercion, dating violence, domestic violence, and stalking.
7. Stalking means engaging in a course of conduct directed at a specific person that would cause a reasonable person to—
  - a. fear for his or her safety or the safety of others; or
  - b. suffer substantial emotional distress.

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### B. Available Assistance

#### 1. Law Enforcement

- Police (Emergency): 911
- Campus Security: 847-578-3288
  - Police (non-emergency)
    - Libertyville: 847-362-8310
    - Lake County: 847-377-4000
    - McHenry County: 815-338-2144
    - North Chicago: 847-596-8700
    - Vernon Hills: 847-362-4449

#### 2. Medical Care

- RFU Health Clinics - Student Health: 224-570-7201
- Lake Forest Hospital Emergency Room: 847-535-6150
- Highland Park Hospital Emergency Room: 847-480-3751
- Advocate Condell Medical Center: 847-362-2900
- Centegra Hospital - Huntley: 224-654-0000

#### 3. Counseling and Advocates

- Lake County Council Against Sexual Assault (LACASA): 847-872-7799
- Zacharias Sexual Abuse Center in Gurnee: 847-872-7799
- Chicago Rape Crisis Hotline: 888-293-2080

- Student Counseling Services: 847-578-8723
- Student Success and Wellness: 847-578-8354
- Employee Assistance Program  
Mutual of Omaha, Employee Assistance Program (EAP)  
Toll-free: 800.316.2796  
<https://www.mutualofomaha.com/eap/>  
Group Number: G000AH8M

4. Director of Title IX Compliance/Title IX Coordinator
  - Allena Barbato, JD LMFT: 224-570-7314

## 5. TITLE IX TEAM

The Title IX Team acts to ensure that the University 1) maintains an education and employment environment that is free from unlawful discrimination and harassment based on sex (2) provides a prompt and equitable resolution in instances in which it is alleged and identified and (3) promotes compliance with the various laws applicable to the University environments. The Title IX Team consists of the Director of Title IX Compliance/Title IX Coordinator, all Deputy Title IX Coordinators, Investigators, Advisors and any other function necessary to fulfill all applicable discrimination and harassment policies as deemed necessary and proper.

## 6. TITLE IX ADVISORY COMMITTEE

Title IX Advisory Committee meets quarterly or as needed to discuss developments in Title IX laws as they apply to the University. The committee provides input into the optimal implementation of Title IX laws, overseeing the operation of the applicable policies. The committee consists of the Director of Title IX Compliance/Title IX Coordinator, all Deputy Title IX Coordinators, designees from the departments of Human Resources, Student Affairs, Academic and Faculty Affairs.

## IX. REPORTING.

- A. Any University employee or student who believes that discrimination on the basis of sex, which includes sexual harassment and sexual violence, has occurred or is occurring in any of the University's employment or education programs or activities shall promptly make a report to the Director of Title IX Compliance/Title IX Coordinator or Associate Vice President of Human Resources. An exception to this mandatory reporting obligation is when the information was acquired within the provider/patient relationship such that there is a legally recognized provider/ patient privilege.
- B. Any University employee or student who believes to have been subjected to discrimination on the basis of sex, which includes sexual harassment and sexual violence, in any of the University's employment or education programs or activities

is encouraged to make a report to the Director of Title Compliance/Title IX Coordinator or Associate Vice President of Human Resources in order to enable the University to provide a prompt and equitable resolution.

- C. An available alternative method of reporting is to make the report to the Office of Compliance directly or through the use of the EthicsPoint system (which allows anonymity) by calling 800-254-0460 or navigating to the webpage:  
<http://rosalindfranklin.ethicspoint.com>.
- D. Upon receipt of a report of an allegation of discrimination based on sex, the recipient shall notify the Director of Title IX Compliance/Title IX Coordinator, which shall perform its functions as described in this policy. In addition, proper notifications of rights and options shall be provided in accordance with 110 ILCS 155/15.

#### X. PRIMARY OVERSIGHT

- A. In all situations, the Director of Title IX Compliance/Title IX Coordinator has primary oversight and for assigning roles and responsibilities of the Deputy Coordinators depending on the roles of individuals in each reported incident.

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- B. If the allegation involves a student as the individual alleged to have engaged in the behavior and a student alleged to have been subjected to the behavior, then a Deputy Coordinator with responsibility for students shall be involved in the matter.
- C. If the allegation involves an employee as the individual alleged to have engaged in the behavior and an employee alleged to have been subjected to the behavior, then the Deputy Coordinator with responsibility for human resources and/or faculty affairs shall be involved in the matter.

#### XI. SUPPORTIVE MEASURES

- A. Upon awareness of a report of discrimination based on sex, supportive measures for the complainant and respondent shall be considered and implemented as deemed appropriate and reasonably available.
- B. The complainant shall be promptly contacted to discuss the availability of supportive measures, consider the complainant's wishes with respect to supportive measures, inform the complainant of the availability of supportive measures with or

without the filing of a formal complaint, and explain to the complainant the process of this policy and the Title IX process for filing a formal complaint. This step shall include providing copies of this policy and of the provisions of the University Code of Conduct and Student Code of Conduct as it pertains to the prohibition of making false statements.

- C. Supportive measures are non-disciplinary, non-punitive individualized services offered, as appropriate and as reasonably available, and without fee or charge to the complainant or the respondent regardless of whether a formal complaint has been or will be filed. Such measures are designed to restore or preserve equal access to the relevant education program or activity without unreasonably burdening the other party, including measures designed to protect the safety of all parties or the university's educational environment, or deter sexual harassment. Supportive measures may include counseling, extensions of deadlines or other course-related adjustments, modifications of work or class schedules, campus escort services, mutual restrictions on contact between the parties, changes in work or housing locations, leaves of absence, increased security and monitoring of certain areas of the campus, and other similar measures. The University must maintain as confidential any supportive measures provided to the complainant or respondent, to the extent that maintaining such confidentiality would not impair the ability of the University to provide the supportive measures.

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## XII APPLICABLE PROCESS

- A. In situations, and only in situations, where there is a "formal complaint" as defined in this section, the University shall implement the policy "Title IX Investigation and Hearing Policy". A "formal complaint" is:

1. a document filed by a complainant with the Director of Title IX Compliance/Title IX Coordinator or signed by the Title IX Coordinator;

*Note: As used in this paragraph, the phrase "document filed by a complainant" means a document or electronic submission such as by electronic mail or through an online portal provided for this purpose by the recipient, that contains the complainant's physical or digital signature, or otherwise indicates that the complainant is the person filing the formal complaint. The document must have been filed with the Title IX Coordinator.*

*Note: "Complainant", for purposes of this section, means an individual who is alleged to be*



*the victim of conduct that could constitute sexual harassment, as defined in this section. Where the Title IX Coordinator signs a formal complaint, the Title IX Coordinator is not a complainant.*

*Note: At the time of filing a formal complaint, a complainant must be participating in or attempting to participate in the education program or activity of this University.*

2. alleging sexual harassment (as defined in this section);

*Note: "Sexual harassment", for purposes of this section, means conduct on the basis of sex that satisfies one or more of the following:*

- (a) A University employee conditioning the provision of an aid, benefit, or service of the university on an individual's participation in unwelcome sexual conduct;*
- (b) Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the university's education program or activity; or*
- (c) Sexual assault, dating violence, domestic violence, or stalking as defined in Section VII of this policy.*

3. that occurred in an education program or activity of the University against the complainant while physically present in the United States;

*Note: The University's education programs or activities are locations, events, or circumstances over which the University exercised substantial control over both the respondent and the context in which the sexual harassment occurs, and also includes any building owned or controlled by a student organization that is officially recognized by the University. Occurrence in a University's education program or activity includes interference with or limit of a student's or employee's ability to participate in or benefit from the services, activities or opportunities offered by the University.*

4. that was perpetrated by a respondent;

*Note: "Respondent", for purposes of this section, means a University employee or University student who has been reported to be the perpetrator of conduct that could constitute sexual harassment.*

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5. and expressly requesting that the University investigate the allegation of sexual harassment.

- B. Student - Student. Except as provided in XII.A, in situations where a student is alleged to have engaged in discrimination based on sex against another student, the University shall respond in manner such that provides a prompt and equitable resolution that includes, when such discrimination has been found to have occurred, a resolution that properly addresses any adverse consequences of the discrimination, if any, and restores the environment to one that is free from unlawful discrimination. Matters of accountability of the offending student, if any, shall be

handled in accordance with existing University policies addressing student behavior. Any hearings shall be subject to the following requirements:

1. the preponderance of the evidence standard shall be used;
2. the parties shall be able to challenge decision-maker(s) for conflict of interest;
3. each party shall have opportunity to present evidence;
4. neither party may directly cross-examine the other party;
5. the parties may have advisors present to assist the party so long as the advisor complies with University policies and does not harass, abuse, or intimidate either party, a witness, or an individual resolving the complaint;
6. the parties may attend the hearing and provide testimony in separate physical locations;
7. notifications to parties are prompt, equal in content, and simultaneous;

- C. Employee - Employee. Except as provided in XII.A, in situations where an employee is alleged to have engaged in discrimination based on sex against another employee, the University shall respond in manner such that provides a prompt and equitable resolution that includes, when such discrimination has been found to have occurred, a resolution that properly addresses any adverse consequences of the discrimination, if any, and restores the environment to one that is free from unlawful discrimination. Matters of accountability of the offending employee, if any, shall be handled in accordance with existing University policies addressing employee behavior and, if applicable, faculty behavior.

### XIII. PRIVACY AND CONFIDENTIALITY

#### A. Privacy

The University shall protect the privacy of individuals involved in a report of sex discrimination to the extent allowed by law and University policy. A report of sexual assault or harassment may result in the gathering of extremely sensitive information about individuals in the University community. While such information is considered

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confidential, University policy regarding access to public records and disclosure of personal information may require disclosure of certain information concerning a report of sexual assault or harassment when explicitly called for under the law. In such cases, every effort shall be made to redact the records in order to protect the privacy of individuals. An individual who has made a report of sexual

assault and/or harassment may be advised of sanctions imposed against the accused when the individual needs to be aware of the sanction in order for it to be fully effective (such as restrictions on communication or contact with the individual who made the report). However, information regarding disciplinary action taken against the accused shall not be disclosed without the accused's consent, unless it is necessary to ensure compliance with the action or the safety of individuals.

#### B. Confidentiality

Confidential offices for information regarding resources, options for reports of sexual assault or harassment or how to file a complaint of sexual harassment include the licensed counselors in the Employee Assistance Program for employees and/or licensed counselors at Student Counseling Services and Student Health Center for students. These resources provide individuals who may be interested in bringing a report of sexual assault and/or harassment with a safe place to discuss their concerns and learn about the procedures and potential outcomes involved. Individuals who consult with these confidential resources shall be advised that (a) their confidential consultations in those settings are not considered reports of sexual assault or harassment and that (b) without additional action by the individual, such as reporting to the Director of Title IX Compliance/Title IX Coordinator, Student Affairs, Campus Safety or other University Official, those confidential consultations will not result in any action by the University to resolve their concerns.

If a University employee believes that discrimination on the basis of sex, which includes sexual harassment and sexual violence, has occurred or is occurring in any of the University's employment or education programs or activities, that employee is required to promptly report that to the Director of Title IX Compliance/Title IX Coordinator or Associate Vice President of Human Resources, even if the individual making the report requests that no action be taken. An individual's request regarding the confidentiality of reports of discrimination based on sex, including sexual harassment and sexual violence, will be considered in determining an appropriate response; however, such requests will be considered in the dual contexts of the University's legal obligation to ensure a working and learning environment free from discrimination based on sex and the due process rights of the accused to be informed of the allegations and their source. Some level of disclosure may be necessary to ensure a complete and fair investigation, although the University will comply with requests for confidentiality to the extent possible.

#### XIV. EDUCATION AND TRAINING

In compliance with the Illinois Preventing Sexual Violence in Higher Education Act (110 ILCS 155) and IL Human Rights Act, prevention and awareness programming and/or training will be provided to all members of the university community both in written format and through active means appropriate to the status of the participants. Each community member will receive notice of the university's policies regarding discrimination annually. Flyers, brochures and other information will be distributed throughout campus regularly to ensure up to date information.

This training is in addition to the required training as articulated in the following policies:

Title IX Investigation and Hearing Policy

#### XV. REFERENCES AND RELATED POLICIES

Title IX Investigation and Hearing Policy

#### XVI. POINTS OF CONTACT:

Allena Barbato, JD, LMFT, Director of Title IX Compliance and Equity Officer,  
Title IX Coordinator

Sally Madden, Associate Vice President of Human Resources