

**APPENDIX A**  
**TITLE IX SEX DISCRIMINATION**  
**EFFECTIVE JANUARY 9, 2025**  
**2020 TITLE IX FINAL RULE**

**NON-DISCRIMINATION POLICY**

The Title IX Educational Amendments of 1972 prohibits discrimination based on sex in education programs and activities that receive federal assistance. No person shall, on the basis of sex, be excluded from participation in, be denied the benefits of, be subjected to discrimination under any education program or activity receiving federal financial assistance.

It is the intention and commitment of Illinois Tech to not discriminate on the basis of sex in our educational program or activities. The types of discrimination that are covered under Title IX include but are not limited to: sex-based harassment, sexual violence (sexual assault, domestic and dating violence, and stalking), admission, employment, disability, marital or parental status including pregnancy or related conditions, and access to and treatment in the programs and activities of Illinois Tech. This policy is effective as of January 9, 2025, and will also be used to resolve reports before January 9, 2025.

**I. TITLE IX DEFINITIONS**

The following terms have the following definitions as used in this Title IX sex discrimination/sex-based harassment grievance process:

**1. ACTUAL KNOWLDEGE**

Actual Knowledge means notice of sex discrimination/sex-based harassment or allegations of sex discrimination/sex-based harassment to Illinois Tech's Title IX Coordinator or designee or to any Official With Authority. Assumption of knowledge based solely on Illinois Tech's status as an employer or other presumption under the law does not constitute Actual Knowledge. This standard is not met when the only official of Illinois Tech with Actual Knowledge is the respondent. "Notice" as used here includes, but is not limited to, a report or complaint of sex discrimination/sex-based harassment to the Title IX Coordinator or any Official With Authority in person, by mail, by telephone, or by email directly to the Title IX Coordinator, Virginia Foster, [foster@iit.edu](mailto:foster@iit.edu) or by any means that results in the Title IX Coordinator or an Illinois Tech Official With Authority receiving the person's verbal or written report.

**2. BUSINESS DAYS**

Days on which the Illinois Tech main office is open.

**3. COMPLAINANT**

A person who is alleged to be the victim of conduct that could constitute sex discrimination including sex-based harassment.

#### 4. CONFIDENTIAL ADVISORS

- Confidential Advisors are the only individuals who generally have an obligation to maintain privacy and confidentiality and not to report information that they may learn regarding sex discrimination/sex-based harassment. In addition, Illinois law has established the recognized role of Confidential Advisor, which is an individual retained by a higher education institution that has certain mandated training and has the duty and ability to provide emergency and ongoing support to students who have experienced sex discrimination/sex-based harassment. Illinois Tech has elected to contract for Confidential Advisor services. The provider of such services is:

##### Resilience

444 N. Michigan Ave, Suite 970

Chicago, Illinois 60611

Phone Number: 312-907-1062 (24 hours)

- Illinois Tech's Student Health and Wellness Center has licensed health professionals who can meet with victims on a professional basis and discuss matters in confidence. Staff members of the Student Health and Wellness Center, whose official responsibilities include providing mental health counseling to members of the student body, when acting within the scope of their license or certification, are generally obligated by law to maintain confidentiality, and these individuals when so acting are not required by law to report criminal offenses, including some sex discrimination/sex-based harassment, about which they are informed.

#### 5. CONSENT

Consent represents the cornerstone of respectful and healthy intimate relationships. Illinois Tech strongly encourages its community members to communicate – openly, honestly, and clearly – about their actions, wishes, and intentions when it comes to sexual behavior, and to do so before engaging in sexual behavior or other forms of intimate conduct. It is always the requirement of the individual initiating intimate conduct (or undertaking a new type of sexual behavior) to ensure that consent is present before acting and is present during the intimate conduct.

When determining whether consent was present, Illinois Tech will consider whether a reasonable person in the same circumstances should have known whether the other party could or could not consent to the sexual activity. Thus, to have sex with someone who you know to be, or should have known to be incapable of knowingly, voluntarily, and clearly giving permission, by words and/or actions to engage in sexual behavior is a violation of this policy. Consent is not present when an individual cannot give permission, voluntarily or involuntarily, due to age (younger than 17 in Illinois), physical condition, or disability that impairs the individual's ability to give consent. Reasons why one could lack the capacity to give consent due to a physical condition include, but are not limited to, incapacitation due to the consumption of drugs or alcohol (voluntarily or involuntarily) or being in a state of unconsciousness, sleep, or other state in which the person is unaware

that sexual activity is occurring. To be clear, a person may appear to be giving consent but may not have the capacity to do so; in which case, the apparent consent is not effective. If there is any doubt as to another person's capacity to give consent, one should assume that the other person does not have the capacity to give consent. Being intoxicated or impaired by drugs or alcohol does not excuse one from the responsibility to obtain consent.

With the foregoing, consent means the existence of clearly understandable words or actions that manifest a knowing, active, voluntary, and present and ongoing agreement to engage in specific sexual behavior or intimate conduct by one not suffering from incapacitation (as defined below). Consent must be all of the following:

- **Knowing:** Consent must demonstrate that all individuals are in a state of mind to understand, to be aware of, and to agree to the "who" (same partners), "what" (same acts), "where" (same location), "when" (same time), and "how" (the same way and under the same conditions) of sexual or intimate activity.
- **Active:** Consent must be communicated in clearly understandable words or actions that reveal one's expectations and agreement to engage in specific sexual or intimate activity. This means that silence, passivity, submission, or the lack of verbal or physical resistance (including the lack of a "no") should not - in and of itself - be understood as consent. Consent cannot be inferred by an individual's manner of dress, the giving or acceptance of gifts, the extension or acceptance of an invitation to go to a private room or location, or going on a date.
- **Voluntary:** Consent must be freely given and cannot be the result of force (violence, physical restraint, or the presence of a weapon); threat or coercion (defined below); or fraud (misrepresentation or material omission about oneself or the present situation in order to gain permission for sexual or intimate activity).
- **Present and ongoing:** Consent must exist at the time of the sexual or intimate activity. Consent to previous sexual or intimate activity does not imply consent to later sexual or intimate acts; similarly, consent to one type of sexual or intimate activity does not imply consent to other sexual or intimate acts. Consent may also be withdrawn at any time by the person making known, by articulated word or concrete action, his or her intention to withdraw it, and thereupon, the sexual or intimate activity should immediately cease.
- **Threat or Coercion:** The direct or implied threat of force, violence, danger, hardship, or retribution sufficient to persuade a reasonable person one would have to submit. Coercive behavior differs from seductive behavior based on the type of pressure someone uses to get consent from another. A person's words or conduct cannot amount to coercion unless they wrongfully impair the other's freedom of will or ability to choose whether or not to engage in sexual activity. When someone makes it clear that they do not want to engage in sexual activity, that they want to stop, or they do not want to go past a certain point of sexual interaction, continued pressure beyond that point can be threatening or coercive.
- **Incapacitation:** The inability to understand the nature of the activity or to give knowing consent. Incapacitation is also the inability to understand the "who, what, when, where, & how" of the intimate conduct that took place. When a person is sufficiently intoxicated, high, intellectually disabled, or the

like such that the person is not capable of appreciating what is happening establishes incapacitation. The legal inability to give effective consent because of age or declared incompetent.

## 6. DISCIPLINARY SANCTIONS

Are consequences imposed on a respondent after a determination has been made that the respondent has violated Illinois Tech's Title IX prohibition on sex discrimination, including sex-based harassment.

## 7. EDUCATIONAL PROGRAM or ACTIVITY

Locations, events, or circumstances in the United States over which Illinois Tech exercises substantial control over both the respondent and the context in which Title IX sex discrimination/sex-based harassment occurs, and also includes any building owned or controlled by a student organization that is officially recognized by Illinois Tech. Depending on the facts, such as whether it was an Illinois Tech sponsored event, this phrase may extend to off-campus reports occurring in the United States.

## 8. EMERGENCY REMOVAL/ LEAVE OF ABSENCE

Illinois Tech may, after receiving Actual Knowledge or a Formal Title IX Complaint, remove a student respondent from its education program or activity on an emergency basis, provided Illinois Tech makes an individualized safety and risk analysis and determines that an immediate threat to the physical health or safety of any student or other individual arising from the allegations of sex discrimination/sex-based harassment justifies removal, and provides the respondent with notice and an opportunity to challenge the decision immediately following the removal. Illinois Tech may place a non-student employee Title IX Respondent on paid administrative leave during the pendency of this Title IX sex discrimination/sex-based harassment process. Such emergency removals/leaves of absence must comply with any other relevant laws, policies, administrative procedures, and agreements governing removals of students and/or employees from the institution's program or activity.

## 9. FORMAL TITLE IX COMPLAINT

A document filed by a complainant or signed by the Title IX Coordinator alleging sex discrimination/sex-based harassment against a respondent and requesting that Illinois Tech investigate the allegation.

At the time of filing a Formal Title IX Complaint, the complainant must be participating in or attempting to participate in Illinois Tech's education program or activity within which the formal complaint is filed.

A complaint may be filed with the Title IX Coordinator in person, by mail, or submitted electronically by email or using the [Illinois Community Reporting Form - Incident Report](#) that contains the complainant's physical or digital signature or otherwise indicates that the complainant is the person filing the complaint.

Where the Title IX Coordinator signs a Formal Title IX Complaint, the Title IX Coordinator is not a complainant or otherwise a party under this sex discrimination policy.

## 10. INTERNAL INVESTIGATORY REPORTS

- A Preliminary Report will be prepared and shared with each party and their advisor, if any, at the conclusion of the investigation and each party shall have 10 calendar days to review and provide a written response prior to the completion of the summary report.
- A Summary Report will be prepared prior to the hearing, that summarizes evidence collected and sent to each party and their advisor, if any, 10 calendar days before the hearing for their review and written response.

## 11. PARTY

This means a complainant or respondent.

## 12. RESPONDENT

An individual named in a report who is alleged to have violated Illinois Tech's prohibition on sex discrimination including sex-based harassment.

## 13. RESPONSIBLE EMPLOYEES

Responsible Employees have an obligation to report immediately any information they come to learn regarding sex discrimination/sex-based harassment. At Illinois Tech, Responsible Employees are to report such information to officials designated by Illinois Tech to have authority to institute corrective measures on the institution's behalf. Illinois Tech has designated individuals holding the following titles/positions as Responsible Employees: Office of the Vice Provost for Student Affairs, Title IX Coordinator, President, Provost, Vice Presidents/Provosts and those designated to serve in the role of Associate and Assistant Vice Presidents/Provosts; academic deans, directors and department chairs; including those serving in associate roles; student affairs directors; residential life personnel, including resident advisors; Greek life coordinators; athletic administrators, including directors, assistant directors, coaches, assistant coaches and trainers; student activities coordinators; faculty and staff advisors to Illinois Tech recognized student organizations; academic advisors; and Department of Public Safety staff.

Faculty and staff members who do not meet any of these criteria are not considered Responsible Employees, though all such employees, while safeguarding an individual's privacy, are encouraged to share any information that they may learn regarding sex discrimination/sex-based harassment so that Illinois Tech may address the same. For the avoidance of doubt, Responsible Employees are not the same as Officials With Authority. See the definition of Officials With Authority.

## 14. SEX-BASED HARASSMENT

Sex-based harassment is a form of sex discrimination and refers to conduct on the basis of sex that satisfies one or more of the following:

- Quid Pro Quo Harassment

An employee of the recipient to provide an aid, benefit, or service under Illinois Tech's educational program or activity conditioning the

provision of such an aid, benefit, or service on a person's participation in unwelcome sexual behavior.

- Hostile Environment Harassment

Unwelcome sex-based conduct, that based on a reasonable person and the totality of the circumstances, is so severe, pervasive, and objectively offensive that it effectively denies a person equal access to Illinois Tech's education program or activity. Whether a hostile environment has been created is a fact-specific inquiry that includes consideration of the type, frequency, and duration of the conduct, the parties' ages, and the degree to which the conduct affected the complainant's ability to access their educational program or activity.

- Conduct Prohibited by the Violence Against Women Act

**Sexual Assault:** An offense classified as a forcible or nonforcible sex offense under the Federal Bureau of Investigation, Criminal Justice Information Services, Uniform Crime Reporting (UCR) Program, National Incident-Based Reporting System (NIBRS), <https://www.fbi.gov/services/cjis/ucr/nibrs>, which includes rape, sodomy, sexual assault with an object, or fondling directed against another person, without the consent thereof, including instances where said other person is incapable of giving consent, as well as incest and statutory rape. Consistent with the NIBRS, the following definitions of these offenses are:

- **Rape (Except Statutory Rape):** The carnal knowledge of another person, without the consent of said person, including instances where the person is incapable of giving consent because of their age or because of his/her temporary or permanent mental or physical incapacity.
- **Sodomy:** Oral or anal sexual intercourse with another person without the consent of said person, including instances where the person is incapable of giving consent because of their age or because of their temporary or permanent mental or physical incapacity.
- **Sexual Assault with An Object:** To use an object or instrument to unlawfully penetrate, however slightly, the genital or anal opening of the body of another person, without the consent of said person, including instances where the person is incapable of giving consent because of their age or because of their temporary or permanent mental or physical incapacity.
- **Fondling:** The touching of the private body parts of another person for the purpose of sexual gratification without the consent of said person, including instances where the person is incapable of giving consent because of their age or because of their temporary or permanent mental or physical incapacity.
- **Incest:** Nonforcible sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.

**Statutory Rape:** Nonforcible sexual intercourse with a person who is under the statutory age of consent.

**Dating Violence** – Violence committed by a person: (1) who is or has been in a social relationship of a romantic or intimate nature with another person, and (2) where the existence of such a relationship shall be determined based on a consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship. 34 U.S.C. §12291(a)(10).

- **Domestic Violence** – Any felony or misdemeanor crimes of violence committed by (i) a current or former spouse or intimate partner of a person, (ii) someone with whom a person shares a child in common, (iii) a person who is cohabitating with or has cohabitated with another as a spouse or intimate partner, (iv) a person similarly situated to a spouse under the domestic or family violence laws of the jurisdiction, or (v) any other person against an adult or youth who is protected from that person's acts under the domestic or family violence laws of the jurisdiction. 34 U.S.C. §12291(a)(8).

**Stalking** – Engaging in a course of conduct, whether in-person or via any electronic, telephonic computer or digital means, directed at the Title IX Complainant that would cause a reasonable person to: (1) fear for his or her safety or the safety of others, or (2) suffer substantial emotional distress. 34 U.S.C. §12291(a)(30).

## 15. STUDENT EMPLOYEE

A student whose primary relationship with the Illinois Tech is to receive an education, and the student works for the Illinois Tech, and while performing work-related services learns of conduct that may constitute sex discrimination/sex-based harassment under Illinois Tech's Title IX policy has a duty to report the alleged conduct to the Office of Title IX Compliance.

All Illinois Tech employees (including student employees) and graduate students with teaching or supervisory authority are obligated to promptly report sex discrimination, or sex-based harassment, of which they become aware in the scope of their work for Illinois Tech to the Office of Title IX Compliance.

## 16. SUPPORTIVE MEASURES

When Illinois Tech is notified of conduct that reasonably may constitute Title IX sex discrimination/sex-based harassment the Title IX Coordinator or designee may offer and coordinate non-disciplinary, non-punitive, individualized services offered as appropriate, and as reasonably available, without fee or charge to a complainant or respondent. Such measures are designed to restore or preserve equal access to the university's education program or activity without unreasonably burdening the other party, including measures designed to protect the safety of all parties or the university educational environment and deter Title IX sex discrimination/sex-based harassment. Supportive Measures may include but are not limited to counseling, extensions of work assignment deadlines, modification of work schedules, campus escort services, mutual restrictions on contact between the parties, changes in work locations, leaves of absence, work and housing changes and other similar measures.

The Title IX Coordinator or designee will be responsible for coordinating the effective implementation of supportive measures; provided, however, the Title IX Coordinator may designate other Illinois Tech Officials to assist with implementing Supportive Measures. Illinois Tech will 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 Illinois Tech to provide the supportive measure. Illinois Tech may not impose any disciplinary sanctions or other actions that are not supportive measures against a respondent until a determination of responsibility has been issued as required by Title IX and its regulations.

#### 17. TITLE IX APPELATE DECISION-MAKER

An individual designated by Illinois Tech to conduct an appeal required by the Title IX sex discrimination/sex-based harassment process. The Title IX Appellate Decision-maker cannot be the Title IX Coordinator, Title IX Investigator, Title IX Decision-maker or Title IX Informal Resolution Facilitator assigned to the same Formal Title IX Complaint, must be free from conflicts of interest or bias against complainants and respondents generally and against an individual complainant or respondent, and must be trained to properly implement Illinois Tech's Title IX grievance procedures and to serve impartially.

#### 18. TITLE IX COORDINATOR

The individual designated and authorized by Illinois Tech to coordinate its efforts to comply with and carry out its responsibilities under the regulations implementing Title IX at 85 Fed. Reg. 30026, 30026-30579. The identity of and contact information for the Title IX Coordinator is as follows: Virginia Foster, [foster@iit.edu](mailto:foster@iit.edu), 312-567-5725 and is also available on the Title IX Office website at <https://www.iit.edu/title-ix/title-ix-compliance>. The Title IX Coordinator may delegate authority to perform any task under this Title IX sex discrimination/sex-based harassment to any duly trained individual.

#### 19. TITLE IX DECISION-MAKER

An individual designated by the Title IX Coordinator or designee to reach a determination regarding responsibility in a Formal Title IX Complaint by applying the preponderance of the evidence standard of proof in a proceeding conducted in accordance with this Title IX sex discrimination/sex-based harassment process. An individual designated by the Title IX Coordinator or designee to reach a determination regarding responsibility in a formal complaint, using the preponderance of the evidence standard of proof, and applying Illinois Tech's Title IX grievance procedures. The Title IX Decision-maker cannot be the Title IX Coordinator, Title IX Investigator, Title IX Informal Resolution Facilitator or Title IX Appellate Decision-maker assigned to the same Formal Title IX Complaint, must be free from conflicts of interest or bias against complainants and respondents generally and against an individual Title IX complainant or respondent, and must be trained to properly implement Illinois Tech's Title IX grievance procedures and to serve impartially.

## 20. TITLE IX INVESTIGATOR

An individual designated by the Title IX Coordinator to investigate a Formal Title IX Complaint according to this Title IX sex discrimination/sex-based harassment process. The Title IX Investigator cannot be the Title IX Decision-maker, Title IX Informal Resolution Facilitator or the Title IX Appellate Decision-maker assigned to the same Formal Title IX Complaint, must be free from conflicts of interest or bias against complainants and respondents generally and against an individual complainant or respondent, and must be trained to properly implement Illinois Tech's Title IX grievance procedures and to serve impartially.

## 21. TITLE IX INFORMAL RESOLUTION FACILITATOR

An individual designated by the Title IX Coordinator to seek an informal resolution of a Formal Title IX Complaint in accordance with this Title IX sex discrimination/sex-based harassment process. The Title IX Informal Resolution Facilitator cannot be the Title IX Coordinator, Title IX Investigator, Title IX Decision-maker or Title IX Appellate Decision-maker assigned to the same Formal Title IX Complaint, must be free from conflicts of interest or bias against complainants and respondents generally and against an individual complainant or respondent, and must be trained to properly implement Illinois Tech's Title IX grievance procedures and to serve impartially.

## **II. TITLE IX SEX DISCRIMINATION/SEX-BASED HARASSMENT GRIEVANCE PROCESS**

If Illinois Tech has Actual Knowledge of sex discrimination/sex-based harassment, the institution shall respond in a manner that is not clearly unreasonable in light of the known circumstances by using this grievance process. No person designated or serving as a Title IX Coordinator or designee, Title IX Investigator, Title IX Decision-Maker, Title IX Appellate Decision-Maker or Title IX Informal Resolution Facilitator will have a conflict of interest or bias for or against complainants or respondents generally or against an individual complainant or respondent. The institution's response will include, at a minimum, the following:

### **1. WHETHER OR NOT A FORMAL TITLE IX COMPLAINT ALLEGING SEX DISCRIMINATION/SEX-BASED HARASSMENT IS FILED:**

At a minimum, the Title IX Coordinator or designee will comply with the following:

- **Initial Meeting with the Complainant:** The Title IX Coordinator or designee must promptly contact the Title IX Complainant to:
  - Inquire about and consider the Title IX Complainant's wishes with respect to Supportive Measures;
  - Inform and discuss with the Title IX Complainant the availability of Supportive Measures with or without the filing of a Formal Title IX Complaint; and

- Explain to the Title IX Complainant the process for filing a Formal Title IX Complaint as set forth in this Title IX sex discrimination/sex-based harassment process.
- **Supportive Measures:** The Title IX Coordinator will be responsible for coordinating the effective implementation of Supportive Measures; provided, however, the Title IX Coordinator may designate other Illinois Tech officials to assist her with implementing Supportive Measures. Illinois Tech will 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 Illinois Tech to provide the Supportive Measures. Illinois Tech may not impose any disciplinary sanctions or other actions that are not Supportive Measures against a respondent unless a Formal Title IX Complaint has been filed and a finding of responsibility has been issued against the respondent under this grievance.
  - Emergency Removals/Leaves of Absence: Illinois Tech may after receiving Actual Knowledge or a Formal Title IX Complaint remove a student-respondent from its education program or activity on an emergency basis, provided that Illinois Tech makes an individualized safety and risk analysis, determines that an immediate threat to the physical health or safety of any student or other individual arising from the allegations of Title IX sex discrimination/sex-based harassment justifies removal, and provides the respondent with notice and an opportunity to challenge the decision immediately following the removal. Illinois Tech also may place a non-student employee respondent on paid administrative leave during the pendency of this grievance process. Such emergency removals/leaves of absence must comply with any other relevant laws, policies, administrative procedures, and agreements governing removals of students and/or employees from the institution's program or activity.

2. **IF A FORMAL TITLE IX COMPLAINT ALLEGING SEX DISCRIMINATION/SEX-BASED HARASSMENT IS FILED OR INITIATED:**

The Title IX Coordinator or designee will, at a minimum:

- Notice of Allegations: Provide written notice to any known Title IX Complainants and Title IX Respondents including:
  - A copy or link to this grievance process;
  - Notice of the allegations of sex discrimination/sex-based harassment in the Formal Title IX Complaint, including the identities of all known parties involved in the incident(s), the conduct allegedly constituting sex discrimination/sex-based harassment, the date and location of the alleged incident, if known, and any other details necessary to prepare a response; such notice must be provided with sufficient time for the

parties to prepare a response before any interview, which in no case shall be less than 48 hours;

- A statement that the respondent is presumed not responsible for the alleged conduct;
- A statement that a determination regarding responsibility is made at the conclusion of the process;
- Notice to the parties that they may have an advisor of choice who may be, but is not required to be, an attorney;
- Notice to the parties that they may inspect, and review evidence obtained during the investigation; and
- Notice of any provision of Illinois Tech Code of Conduct that prohibits knowingly making false statements or knowingly submitting false information during the process.

If at any time during the course of the investigation additional allegations of sex discrimination/sex-based harassment arise that will be investigated and that were not included in the written notice, the Title IX Coordinator or designee will, within 7 calendar days of the decision to add the allegations to the investigation, provide notice of the additional allegations as described above to the parties whose identities are then known.

**Mandatory Dismissals:** Within 10 calendar days of receiving a Formal Title IX Complaint filed by a complainant, the Title IX Coordinator or designee will dismiss under this grievance process any allegation in the Formal Title IX Complaint that would not constitute sex discrimination/sex-based harassment, even if true; that did not occur in Illinois Tech's education program or activity; and/or that did not occur against a person in the United States. Nothing precludes action on any dismissed allegations under another policy, procedure, or rule of Illinois Tech or school. Upon such dismissal, the Title IX Coordinator or designee will send written notice of the dismissal and reason(s) therefore simultaneously to the parties.

**Identification of Investigator:** Identify and document one or more qualified Title IX Investigator(s) who will investigate the Formal Title IX Complaint. The Title IX Investigator(s) will investigate the allegations of sex discrimination/sex-based harassment in a Formal Title IX Complaint.

3. **INFORMAL RESOLUTION** As provided for herein, if the complainant and respondent and Illinois Tech each freely agree, Illinois Tech will offer the option to participate in a voluntary informal resolution process in an attempt to resolve allegations of Title IX sex discrimination/sex-based harassment; provided, however, if a Formal Title IX Complaint involves an allegation of sex discrimination/sex-based harassment by an Illinois Tech employee against a student, then informal resolution is not an available option.

The Title IX Investigator will, within 7 calendar days of assignment to the Formal Title IX Complaint, notify, in writing, the complainant and respondent of the option to complete informal resolution, which will, among other things, set forth (i) the allegations; (ii) the requirements of the informal resolution process, including the circumstances under which it precludes the parties from resuming a Formal Title IX Complaint arising from the same allegations, provided, however, that at any time prior to agreeing to a resolution, any party has the right to withdraw from the informal resolution process and resume the sex

discrimination/sex-based harassment process with respect to the Formal Title IX Complaint; and (iii) any consequences resulting from participating in the informal resolution process, including the records that will be maintained or could be shared. The complainant and respondent may elect to participate in an informal resolution process at any time prior to a determination regarding responsibility for the allegation(s) in the Formal Title IX Complaint being rendered. Further, either the complainant or respondent may at any time, prior to execution of a resolution agreement, request the informal resolution process be terminated by so notifying the Title IX Informal Resolution Facilitator, in which case processing of the Formal Title IX Complaint under this policy will recommence.

Illinois Tech states that it does not require - as a condition of enrollment or continuing enrollment, or employment or continuing employment, or enjoyment of any other right - waiver of the right to an investigation and adjudication of Formal Title IX Complaints of sex discrimination/sex-based harassment consistent with this policy.

As noted, the informal resolution process is voluntary and requires written consent from the complainant and respondent. The informal resolution process can only be initiated once a Formal Title IX Complaint has been filed with the Title IX Coordinator. Upon receipt of signed, voluntary consents to participate in the informal resolution process, the Title IX Coordinator or designee will designate a Title IX Informal Resolution Facilitator to facilitate the informal resolution process. To maintain the integrity and impartiality of the informal resolution process, a Title IX Informal Resolution Facilitator may not be called to testify, at any live hearing convened pursuant to this policy, as to any matter related to any informal resolution process to which the Title IX Informal Resolution Facilitator has been assigned.

During the informal resolution process, all timeframes under this sex discrimination/sex-based harassment process will be tolled. If no resolution is reached within 45 calendar days of commencement of the informal resolution, meaning the day after the Title IX Informal Resolution Facilitator has been assigned, then, unless such 45-day time period is extended by agreement of the parties, or if the parties cease to engage in informal resolution, the sex discrimination/sex-based harassment process and its timeframes will thereafter recommence where it left off.

In general, an informal resolution process will aim to restore a sense of safety to one who experienced harm, restore or maintain access to educational and/or employment opportunities, and/or in some instances repair harm. To this end, informal resolution processes can utilize a broad range of conflict resolution strategies, including mediation, facilitated communication, and/or restorative justice practices.

As an initial matter, the Title IX Informal Resolution Facilitator typically will meet with each party separately—in person, by telephone, or by videoconference in one or more meetings, at the Title IX Informal Resolution Facilitator’s discretion—to describe the process, including the role of the Title IX Informal Resolution Facilitator; to gain an understanding of each party’s feelings, positions, and wishes with respect to resolution of the Title IX Formal Complaint; and to gather necessary information to identify any harm caused and opportunities lost. Any remaining steps of the process may be effectuated through separate or joint meetings of the parties with the voluntary agreement from the parties.

Though the facts and circumstances surrounding each Formal Title IX Complaint are unique, in general, the Title IX Informal Resolution Facilitator will seek to facilitate its resolution, and this may be accomplished by one or more of the following options, which options are intended to be exemplary, not exhaustive:

- Participation in educational programming;

- Changes in academic, work, and living arrangements;
- Assistance with requesting academic allowances and extensions;
- Writing an impact statement;
- Writing a statement acknowledging harm caused; and
- Restrictions of contact between the parties.

The Title IX Informal Resolution Facilitator does not have the power to make decision for either party but will attempt to help them find a mutually agreeable resolution and create a document for execution by all parties that summarizes the freely agreed-upon solutions. Once a resolution agreement has been executed, Illinois Tech will neither resume nor initiate the sex discrimination/sex-based harassment process with respect to any allegations resolved in therein or arising out of the same facts or circumstances as those allegations. If a party fails to fulfill the terms of the resolution agreement, Illinois Tech may initiate a Code of Conduct violation under Article II of the Student Handbook for Failure to Comply with the Code of Conduct charge.

**4. DURING THE INVESTIGATION OF A FORMAL TITLE IX COMPLAINT AND THROUGHOUT THIS SEX DISCRIMINATION/SEX-BASED HARASSMENT PROCESS:**

The Title IX Team must:

- **Burdens:** Ensure that the burden of proof and the burden of gathering evidence sufficient to reach a determination regarding responsibility rest on Illinois Tech and not on the parties, provided that Illinois Tech cannot access, consider, disclose, or otherwise use a party's records that are made or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in the professional's or paraprofessional's capacity, or assisting in that capacity, and which are made and maintained in connection with the provision of treatment to the party, unless Illinois Tech obtains the voluntary, written consent to do so from that party. During the investigation, Illinois Tech will meet its burden by undertaking a search for the relevant, available facts and evidence pertaining to a particular case, while operating under the time frames, constraints and procedures set for in this sex discrimination/sex-based harassment process and without the power to subpoena. Such conditions may limit the extensiveness and comprehensiveness of Illinois Tech's ability to gather evidence.
- **Equal Treatment – Evidence Presentation:** Provide an equal opportunity for the parties to present any inculpatory or exculpatory evidence, including fact and expert witnesses. Illinois Tech will not restrict the ability of either party to discuss the allegations under investigation or to gather and present relevant evidence.
- **Equal Treatment – Advisors:** Provide the parties with the same opportunity to be accompanied to any related meeting or proceeding by an advisor of choice, who may be, but is not required to be, an attorney, and not limit the

choice or presence of an advisor for either the complainant or respondent in any meeting or proceeding. During an investigation, advisors are free to act as a support for the party, but they cannot speak on behalf of the party in any way. During the live hearing, the advisor's primary role is to conduct the cross-examination. They may provide other forms of support for the party, but they cannot represent or speak on behalf of the party during the live hearing unless engaged in cross-examination. If a party wishes, Illinois Tech will provide an advisor of its choice, without charge to the party, who may be, but likely not will be, an attorney to conduct cross-examination during the hearing on behalf of the party

- **Written Notice of Meetings:** Provide, to a party whose participation is invited or expected, including, without limitation, the complainant and respondent and witness, written notice of the date, time, location, participants, and purpose of all investigative interviews and other meetings, with sufficient time for the party to prepare to participate, which in no case shall be less than 48 hours.
- **Equal Opportunity – Evidence Review:** Provide both parties and their advisors, if any, an equal opportunity to inspect and review any evidence obtained as part of the investigation that is directly related to the allegations raised in a Formal Title IX Complaint, including evidence upon which Illinois Tech does not intend to rely in reaching a determination regarding responsibility and inculpatory or exculpatory evidence whether obtained from a party or other source, so that each party can meaningfully respond to the evidence prior to conclusion of the investigation. Prior to completion of the investigative report, the Title IX Investigator(s) must send to each party and the party's advisor, if any, the evidence subject to inspection and review in an electronic format or a hard copy, and the parties must have at least five calendar days to submit a written response, which the Title IX Investigator(s) will consider prior to completion of the Summary Investigative Report.
- **Investigative Report:** Within 90 Business Days of receipt of the Formal Title IX Complaint, the Title IX Investigator will create a Summary Investigative Report that fairly summarizes relevant evidence and, at least five calendar days prior to a live hearing or other time of determination regarding responsibility, send to each party and the party's advisor, if any, the investigative report in an electronic format or a hard copy, for their review and written response.

5. **THE PROCESS USED TO INVESTIGATE AND RESOLVE A FORMAL TITLE IX COMPLAINT WILL ALSO MEET THE FOLLOWING ADDITIONAL REQUIREMENTS:**

- The process used must treat complainants and respondents equitably in all manners, including by providing remedies to a complainant where a determination of responsibility for sex discrimination and sex-based harassment has been made against the respondent, and by following this sex discrimination and sex-based harassment process before the imposition of any disciplinary sanctions or other actions that are not Supportive Measures against a respondent.
- No evidence that constitutes or seeks disclosure of information protected under a legally recognized privilege will be required, allowed, or relied on unless the person holding such privilege has waived the privilege.

- The Title IX Investigator and the Title IX Decision-Maker will objectively review all relevant evidence, including both inculpatory and exculpatory evidence, and credibility determinations will not be based on a person's status as a complainant, respondent, or witness.
- All members of the Title IX Team will operate under a presumption that the respondent is not responsible for the alleged conduct until a determination regarding responsibility is made at the conclusion of this grievance process.
- Remedies may include, but are not limited to, the same individualized services described as Supportive Measures in this policy but need not be non-disciplinary or non-punitive and need not avoid burdening the respondent. Student discipline can involve a range of consequences, which may include, but are not limited to, Supportive Measures, a warning, probation, suspension and expulsion, depending on the severity of the action and circumstances of the student(s) involved. For the avoidance of doubt, the Title IX Decision-maker may impose any sanction provided for in this policy upon which a respondent is found responsible, after a live hearing, for sex discrimination/sex-based harassment. Discipline for employees also includes a range of options, including, but not limited to, a letter of reprimand, reassignment, suspension with or without pay, discharge or recommendation for discharge, notifying appropriate legal authorities and/or taking legal action against the employee.
- The Title IX Coordinator or designee may consolidate Formal Title IX Complaints as to allegations of sex discrimination/sex-based harassment against more than one respondent, or by more than one complainant against one or more respondents, or by one party against the other party, where the allegations of sex discrimination/sex-based harassment arise out of the same facts or circumstances.
- E-mail correspondence sent to a student's registered iit.edu e-mail address (or, in the case of a non-Illinois Tech student, such e-mail address as they shall provide) will be considered sufficient written notification in all instances where written notification is required under this policy. It is the party's sole responsibility to monitor their email. The date any such notification is e-mailed will serve as the start date for any time period within which or after which any subsequent action or proceeding is to commence. Illinois Tech's sole obligation is to send notice to the complainant and respondent and witness; Illinois Tech shall have no obligation also to communicate with the advisors or parents or other representatives of such parties.

#### **6. AFTER THE INVESTIGATION OF A FORMAL TITLE IX COMPLAINT:**

The Title IX Coordinator or designee and the Title IX Decision-Maker will comply with the following:

- **Designation of Decision-maker:** The Title IX Coordinator or designee will identify one Title IX Decision-maker for the Formal Title IX Complaint, which cannot include the Title IX Coordinator or designee, or the Title IX Investigator or Title IX Informal Resolution Facilitator, if any, assigned to the Formal Title IX Complaint.
- **Live Hearing:** A live hearing will be provided as part of the sex discrimination/sex-based harassment process. The live hearing will comply with the following requirements:
  - The live hearing may, upon the request of either the complainant or the respondent, be held virtually, with parties located in separate rooms with

technology enabling the Title IX Decision-Maker and parties to simultaneously see and hear the party or witness answering questions. Any live hearing may, at the discretion of the Title IX Decision-Maker, also be held virtually as outlined above. Unless the live hearing is conducted virtually, all parties must be physically present in the same geographic location.

- All hearings will be documented through audio recording, audiovisual recording, or transcript, at Illinois Tech's discretion, and will be made available to the parties for inspection or review.
- At the hearing, the Title IX Decision-Maker must permit each party's advisor to ask the other party and any witnesses all relevant questions and follow-up questions, including those that challenge credibility; such questions are referred to as "cross-examination." Only relevant cross-examination may be asked of a party or witness. With respect to cross-examination:
  - Questions and evidence about the complainant's sexual predisposition or prior sexual behavior are not relevant, unless such questions and evidence about the complainant's prior sexual behavior are offered to prove that someone other than the respondent committed the conduct alleged by the complainant, or if the questions and evidence concern specific incidents of the complainant's prior sexual behavior with respect to the respondent and are offered to prove consent.
  - The Title IX Decision-Maker must explain to the party proposing the questions any decision to exclude a question as not relevant.
- Cross-examination at the live hearing must be conducted by the party's advisor, and never by the party. If a party does not have an advisor present at the live hearing, Illinois Tech will provide an advisor of its choice, without charge to the party, who may be, but likely not will be, an attorney to conduct cross-examination on behalf of the party.
- If a party or witness does not submit to cross-examination at the live hearing, the Title IX Decision-Maker may still consider and rely on any statement of that party or witness in reaching a determination regarding responsibility. However, the Decision-Maker cannot draw an inference about the determination regarding responsibility based solely on the party or witness's absence or refusal to answer cross-examination or other questions.
- **Burdens:** Illinois Tech, as the party bearing the burden of proof during the investigation and adjudication of Formal Title IX Complaints, will meet this burden during the live hearing by presenting at the live hearing the relevant evidence gathered by the investigator summarized in the investigative report
- **Statements:** The complainant and respondent shall each be afforded the opportunity to make an opening and closing statement and to suggest to the Title IX Decision-Maker what they would consider an appropriate sanction in the event that the Title IX Decision-Maker were to find the respondent responsible for all or some of the allegations brought against the respondent. All such statements are to be made by the complainant and respondent; advisors may not make such statements on their behalf.

- **Live Hearing Procedures.** The Title IX Decision-Maker may establish rules for the live hearing, which may include, but are not limited to, governing decorum, setting time limits for opening and closing remarks, empowering the Title IX Decision-Maker to take a temporary recess, and any such other rules deemed prudent for the effective and efficient conduct of the live hearing; provided, however, any such rules must be consistent with this policy and must apply equally to the complainant and respondent. Any rules applicable to the hearing will be included in the notice of hearing.
- **Written Determination:** Within 21 calendar days of receipt of the final written responses and evidence from the parties, the Title IX Decision-Maker must issue a written determination regarding responsibility. To reach this decision, the Title IX Decision-Maker must apply the preponderance of the evidence standard, regardless of whether the respondent is a student or an employee. The written determination must include:
  - Identification of the allegations potentially constituting sex discrimination/sex-based harassment;
  - A description of the procedural steps taken from the receipt of the Formal Title IX Complaint through the determination, including any notifications to the parties, interviews with parties and witnesses, site visits, methods used to gather other evidence, and hearings held; ○ Findings of fact supporting the determination;
  - Conclusions regarding the application of this sex discrimination/sex-based harassment process to the facts;
  - A statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility, any disciplinary sanctions Illinois Tech will impose on the respondent, and whether remedies designed to restore or preserve equal access to Illinois Tech's education program or activity will be provided by Illinois Tech to the complainant; and
  - Illinois Tech's procedures and permissible bases for the complainant and respondent to appeal.
- **Notice of Written Determination:** The Title IX Decision-maker or a designee must provide the written determination to the parties simultaneously.
- **Appeal:** Both parties may appeal from either a determination regarding responsibility or from Illinois Tech's dismissal of a Formal Title IX Complaint or any allegations therein, on the following bases:
  - Procedural irregularity or error that affected the outcome of the matter;
  - New evidence or information that was not reasonably available at the time the determination regarding responsibility or dismissal was made, that could affect the outcome of the matter;
  - Claims that the Title IX Coordinator or designee, Investigator(s), or Decision-Maker(s) had a conflict of interest or bias for or against complainants or respondents generally or the individual complainant or respondent that affected the outcome of the matter; and
  - The sanction is disproportionate with the violation.

A complainant or respondent who wishes to appeal must submit a notice of appeal to the Title IX Coordinator within 5 calendar days of the date of the Title IX Decision-Maker's decision. An appeal must be filed by email to the Title IX Coordinator at [foster@iit.edu](mailto:foster@iit.edu).

## **7. UPON RECEIPT OF AN APPEAL:**

The Title IX Coordinator or designee must do the following:

- **Notice of Appeal:** Within 5 calendar days of receipt of the appeal, notify the other party in writing that an appeal was filed;
- **Equal Treatment—Appeal:** Implement appeal procedures equally for both parties;
- **Different Title IX Appellate Decision-Maker:** Ensure that the Appellate Decision-Maker is not the same person as the Title IX Decision-maker that reached the determination regarding responsibility or dismissal, the Title IX Investigator(s) or Title IX Informal Resolution Facilitator, if any, assigned to the Formal Title IX Complaint, or the Title IX Coordinator or designee; and
- **Appeal Standards Met:** Ensure that the Title IX Appellate Decision-maker complies with the standards set forth in this policy for appeals.

Upon receipt of an appeal, the Title IX Appellate Decision-Maker must do the following:

- **Equal Treatment – Written Statement:** Given due consideration to the facts and circumstances of a particular case, give both parties a reasonable, equal opportunity to submit a written statement in support of, or challenging, the outcome. In general, this means that each party will be made aware of, on, at least, a summary basis, the reason(s) of any appeal filed by the other party and provided the opportunity to submit a response thereto within 5 calendar days;
- **Written Appeal Decision:** Issue a written decision describing the result of the appeal and the rationale for the result within 30 calendar days after the Title IX Appellate Decision - Maker's receipt of the last written statement from a party; and
- **Notice of Written Appeal Decision:** Provide the written decision on appeal simultaneously to both parties.

If an appeal is successful, the Title IX Coordinator or designee will remand the matter back to the appropriate member of the Title IX Team to remedy the concern. A determination regarding responsibility becomes final on the date that (1) if an appeal is filed, the Title IX Appellate Decision-Maker provides the parties with the written determination of the result of the appeal upholding the determination; or (2) if an appeal is not filed, the date on which an appeal would no longer be considered timely. The Title IX Coordinator or designee is responsible for effective implementation of any remedies.

## **8. AFTER THE CONCLUSION OF THE SEX DISCRIMINATION/SEX-BASED HARASSMENT PROCESS:**

Illinois Tech or the parties may exercise any rights ancillary to this Title IX process as necessary, e.g., disciplinary processes for suspensions or expulsions of students; tenured faculty dismissal proceedings; any other pre-remedy process required by any applicable law, agreement, policy, or contract.

## **DISMISSAL OF A FORMAL TITLE IX COMPLAINT**

Illinois Tech must investigate the allegations of sex discrimination/sex-based harassment received in a Title IX Formal Complaint and **must** dismiss the complaint if one or more of the following occurs:

- The conduct alleged in the Formal Complaint would not constitute sex discrimination/sex-based harassment as defined in this policy even if proved;
- The conduct did not occur in Illinois Tech's educational program or activity;
- The conduct did not occur against a person in the United States;

Illinois Tech may dismiss the Title IX Formal Complaint or any allegations therein, if at any time during the investigation or hearing:

- The respondent is no longer enrolled in Illinois Tech education program or activity or is no longer employed by Illinois Tech;
- A complainant notifies the Title IX Coordinator in writing that the complainant would like to withdraw the Formal Complaint or any allegations therein
- Specific circumstances prevent the recipient from gathering evidence sufficient to reach a determination as to the Formal Complaint or allegations therein
- Upon dismissal, Illinois Tech must promptly send written notice of the dismissal and reason(s) therefore simultaneously.

## **APPEAL THE DISMISSAL OF A FORMAL TITLE IX COMPLAINT**

Illinois Tech will notify the complainant that the Formal Title IX Complaint was received and dismissed and may be appealed and will provide the complainant with an opportunity to appeal the dismissal. If the dismissal occurs after the respondent has received a Notice of Allegations, then Illinois Tech will also notify the respondent that the dismissal of the Formal Title IX Complaint may be appealed.

If the dismissal of a Formal Title IX Complaint is appealed, Illinois Tech will:

- Notify the Complainant of any appeal, including the basis of the appeal, and notify the Respondent only if a Notice of Allegations was sent;
- Ensure that the Title IX Decision-maker for the appeal has been trained consistent with the 2020 Title IX regulations;
- Provide the parties a reasonable and equal opportunity to make a statement in support of, or challenging, the outcome; and
- Send notification to the complainant of the outcome of the appeal and the rationale for the result and notify the respondent only if a Notice of Allegation was sent;

If a Formal Title IX Complaint is dismissed, Illinois Tech will, at a minimum:

- Offer supportive measures to the complainant as appropriate;
- If the respondent has been notified of the allegations, offer supportive measures to the respondent as appropriate; and

- Take other prompt and effective steps as appropriate, through the Title IX Coordinator to ensure that sex discrimination/sex-based harassment does not continue or recur within Illinois Tech's education program or activity.

## **RECORD-KEEPING**

The Title IX Coordinator or designee will maintain, for a period of at least seven years, records of:

- Each complaint of sex discrimination/sex-based harassment, records documenting the Informal Resolution process or grievance procedures, and if applicable the resulting outcome and documentation showing that Illinois Tech's response was not deliberately indifferent, and document that it has taken measures designed to restore or preserve equal access to an Illinois Tech education program or activity.
- Each determination regarding responsibility and any disciplinary sanctions imposed on the respondent, and any remedies provided to the complainant designed to restore or preserve equal access to Illinois Tech's education program or activity; (a) any appeal and the results therefrom; (b) any informal resolution and the result therefrom.
- All materials used to train Title IX Coordinators, their designees, Title IX Investigators, Title IX Decision-Makers, Title IX Appellate Decision-Makers, and Title IX Informal Resolution Facilitators.

## **REQUIRED TRAINING**

Any person serving as the Title IX Coordinator or a designee, Title IX Investigator(s), Title IX Decision-maker(s), Title IX Appellate Decision-maker(s), or Title IX Informal Resolution Facilitator, will be trained regarding the definition of sex discrimination, including sex-based harassment, on how to conduct impartial investigations, the informal resolution process, reviewing appeals, and if applicable, how to serve impartially, including by avoiding prejudgment of the facts at issue, conflicts of interest, and bias, and issues of relevance and credibility. Any person serving as a Title IX Investigator will receive training on issues of relevance to create an investigative report that fairly summarizes relevant evidence.

Any materials used to train the Title IX team must not rely on sex stereotypes and must promote impartial investigations and adjudications of complaints and will be made available upon request. Illinois Tech will make all materials used to train Title IX Team members publicly available on its website.

## **CONFIDENTIALITY**

Illinois Tech must keep confidential and not disseminate to the public the identity of any individual who participates in the Title IX process, which includes: any individual making a report or complaint of Title IX sex discrimination, including sex-based harassment; any person who has filed a Formal Title IX Complaint of Title IX sex discrimination/sex-based harassment; any Title IX Complainant; any individual who has been reported to be the perpetrator of sex discrimination/sex-based harassment; any Title IX Respondent; and any witness, except as may be permitted or required by law or to conduct any investigation, informal resolution, hearing, appeal or other proceeding arising under this Title IX sex discrimination/sex-based harassment process. When an exception is applicable, Illinois Tech

will use its best efforts not to disseminate identifying information beyond those who have a need to know, which generally may include the parties to the Formal Title IX complaint, their advisors, investigators, Decision-Makers, appeal Decision-Makers, informal resolution facilitators and witnesses. This includes instances in which the Title IX Coordinator files a Formal Title IX Complaint when an individual who has made a report or complaint of sex discrimination/sex-based harassment elects not to participate in the Title IX sex discrimination/sex-based harassment process. In furtherance of the foregoing, only the Title IX complainant and respondent, their respective advisors, witnesses and any needed language translators or aides necessary to provide reasonable accommodations will generally be allowed into the live hearing.

## **RETALIAITON**

**Prohibited** No person may intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by the State or federal Constitution, State or federal statute, Illinois Tech policy, this Title IX sex discrimination/sex-based harassment process, or because the individual has made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under this Title IX sex discrimination/sex-based harassment process.

Charging an individual with a Code of Conduct violation for knowingly making a materially false statement or knowingly providing false information in the course of an investigation under this Title IX sex discrimination/sex-based harassment process is not prohibited retaliation; provided, however, that a determination regarding responsibility, alone, is not sufficient to conclude that any party made a materially false statement or knowingly provided false information. Complaints alleging retaliation may be filed under the process and procedures set forth in Article II of this Student Handbook, entitled Code of Conduct and Conduct Discipline.

## **DEADLINES**

All timeframes under this Title IX sex discrimination/sex-based harassment process may be temporarily extended for good cause by the Title IX Coordinator or a designee. Good cause may include considerations such as the absence of a party, a party's advisor, or a witness; concurrent law enforcement activity; the need for language assistance or accommodation of disability; and other circumstances reasonably outside of the institution's control, such as, but not limited to, campus closures; public health emergencies; illness, death or family emergencies experienced by key participants in the process or other such circumstances. The Title IX Coordinator or a designee shall notify the parties in writing when a timeframe is extended.