

Prohibiting Discrimination, Harassment and Retaliation Against Students & Policy & Procedure for Handling Discrimination, Harassment and Retaliation Complaints by Students

POLICY STATEMENT

IAIA values diversity and fosters tolerance and mutual respect for all. Students have the right to participate fully in IAIA programs and activities free from unlawful discrimination, harassment and retaliation. IAIA prohibits harassment of any kind, including sexual harassment and sexual violence, domestic violence, dating violence and stalking. IAIA responds promptly and effectively to all reports of discrimination, harassment and retaliation and shall take appropriate action to prevent, correct and when necessary, discipline behavior that violates this policy.

Except as noted below, any campus community member who knows or has reason to know of allegations or acts that violate this policy, shall promptly inform the Title IX Coordinator (where the allegations involve sex discrimination, sexual harassment or sexual violence). Except as noted below, employees are required to disclose the name of a possible victim of sexual violence to the Title IX Coordinator **even when the victim has requested that his/her name remain confidential**; the Title IX Coordinator will determine whether confidentiality is appropriate given the circumstance of each incident.

- The following persons are **not** required to report **any** information about an incident of sexual violence: (1) physicians, professional licensed counselors and clergy who work on or off campus, and who provide medical or mental health treatment or counseling; and (2) sexual assault and domestic violence counselors and advocates who work or volunteer on or off campus in sexual assault centers, victim advocacy offices, women's centers and health centers, without the victim's consent.

Employees and students who violate this policy shall be subject to discipline. If employee discipline is appropriate, it shall be administered in a manner consistent with the IAIA HR Policy Manual. Student discipline shall be handled by the IAIA Student Handbook.

Policy Implementation and Communication

The Title IX Coordinator is responsible for publicizing this policy, ensuring that campus training is developed and conducted, and providing an administrative structure that facilitates the prevention and elimination of discrimination, harassment and retaliation, including sex discrimination, sexual harassment, sexual violence, domestic violence, dating violence and stalking. The Title IX Coordinator's contact information shall be made available to all members of the IAIA campus community as well as third parties. The contact information will be updated as necessary.

This policy shall be made readily available to all students, IAIA employees, and third parties, utilizing multiple media of communication, including student orientations and catalogs, new employee orientations, campus website, student handbook, Human Resources and the Office of the ADA administrator.

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Procedure for Handling Discrimination, Harassment and Retaliation Alleged Policy Violations

This policy provides students a procedure to address discrimination, harassment and retaliation by IAIA, an IAIA employee, another student or a third party. Whenever a complaint is outside the scope of this policy, the student will be notified promptly in writing.

1. Any student may file a complaint of discrimination, harassment and retaliation under this policy with the following exceptions.

a. *Exception:* Complaints by a student about his/her academic accommodations to an IAIA educational program related to his/her disability. Such inquiries and complaints shall be directed to the Disability Support Service Office in the Student Success Center.

2. Grade appeals that allege Discrimination, Harassment or Retaliation shall proceed simultaneously under the Grade Disputes Policy and under this Policy. However, the Grade Dispute Procedure shall be postponed until this policy and appeal processes under Level 1 and/or Level 2 of this policy have concluded. The final determination under this policy regarding whether Discrimination, Harassment or Retaliation occurred shall be provided to the Department Chair and/or Academic Dean. The decision shall be bound by such determination when considering the grade appeal.

Grade disputes that do not allege Discrimination, Harassment or Retaliation shall be filed under the Academic Grade Dispute Policy.

Informal Resolution

Students who believe they are or may have been victims of Discrimination, Harassment or Retaliation may initiate the Informal Resolution process prior to, or instead of, filing a Complaint. However, it is not appropriate in such cases for a student to be required to work out an informal resolution directly with the Accused; and in no event should any meeting between the student and the accused occur without involvement by the Title IX Coordinator, (if the allegations involve Sex Discrimination, including Sexual Harassment).

Allegations that involve Sex Discrimination (including Sexual Harassment or Sexual Violence) shall promptly be referred to the Title IX Coordinator.

Upon receipt of a student's concern, the Title IX Coordinator shall meet the Complainant to discuss the Complainant's concerns and reasonable Interim Remedies, as appropriate. In cases where Sexual Violence is alleged, the Complainant shall also be advised to immediately file a Complaint under Level 1. **An informal resolution is not appropriate when Sexual Violence is alleged.**

During the pendency of the Informal Resolution process, the timeline to file a Complaint shall be extended for a period of no longer than 30 Calendar Days. If an extension is granted, a Complaint may be filed within 60 Calendar Days after the most recent alleged act of Discrimination, Harassment or Retaliation occurred.

A. Decision to terminate the Informal Resolution

Should the Complainant, the Accused, or IAIA elect to terminate the Informal Resolution process, the Title IX Coordinator shall promptly notify the Complainant and the Accused in writing that the Informal Resolution process has terminated along with the effective date and inform the student of his/her right to file a **Complaint under Level 1**.

B. Initial Meeting with the Concerned Student

If the student's concern alleges Sex Discrimination (including but not limited to sexual harassment, sexual violence, domestic violence or stalking), the Title IX Coordinator shall, during the initial meeting with the student, follow all the applicable steps in Level 1.D. In cases alleging sexual violence, domestic violence, dating violence or stalking, the student shall also be advised to immediately file a Complaint under Level 1.

C. Meeting with witnesses & other persons

The Title IX Coordinator shall attempt to resolve the student's concern quickly and effectively. The Title IX Coordinator, when the allegations involve sex discrimination, and/or sexual harassment, shall meet with the student, the accused and any other persons or witnesses determined by the Title IX Coordinator to be necessary for a resolution of the matter, to review the allegations and any responses. Informal Resolution may take the form of a negotiated resolution facilitated by the Title IX Coordinator.

D. Informal Resolution is reached

If an informal resolution is reached, a record of the resolution shall be signed by the student and maintained in accordance with Student Life recordkeeping policies. The matter shall be considered closed and the student is not permitted to file a complaint or appeal concerning the same incident, except where the terms of the informal resolution have been violated or have been ineffective in stopping the Discrimination, Harassment and Retaliation.

E. Informal Resolution is NOT reached

If a resolution is not reached, the Title IX Coordinator shall promptly notify the student and the accused in writing that the Informal Resolution process is terminated, and the termination effective date. The student shall be provided written notification about how to file a Level 1 Complaint and the timeline for doing so.

F. Confidentiality

Both the student and the accused shall keep the details of the Informal Resolution process confidential until the process is concluded. If the matter is not resolved informally and an investigation is conducted, the student and the accused shall maintain confidentiality until the conclusion of the Level 1 and Level 2 processes, if any.

Level 1: Complaint

The Title IX Coordinator may determine that circumstances warrant initiating an investigation even if a complaint has not been filed and independent of the intent or wishes of the student. In that event, any such investigation shall be subject to **Level 1**, D through I and **General Provisions for Investigation/Review of Complaints**, A through H only. Such investigation shall not be subject to the **Appeal Review**.

A. Filing a Complaint. The student shall submit a written Complaint to the Title IX Coordinator. The date of receipt shall be the Complaint filing date. The Title IX Coordinator shall offer reasonable accommodations to students who are unable to submit a written complaint because of disability.

B. Timeline for filing a Complaint: A Complaint may be filed at any time but students are encouraged to submit complaints in a timely manner after the most recent alleged act of Discrimination, Harassment or Retaliation occurred.

C. Complaint Requirements: The student should complete the IAIA Student Complaint Form for Discrimination/Harassment/Retaliation Complaints or, in the alternative, submit a written signed statement containing the following information:

1. The student's full name, mailing address, email address, phone and cell phone number;
2. The name of the Accused and job title, position or Student status, if known;
3. The Protected Status that is the basis of the alleged Discrimination, Harassment or Retaliation, or the Complainant's activity that is the basis for the alleged Retaliation.
4. A clear, concise statement of the facts that constitute the alleged Discrimination, Harassment or Retaliation, including pertinent date(s) and sufficient information to identify any individuals who may provide relevant information during the course of the investigation;
5. A statement verifying that the information provided is true and accurate to the best of the student's knowledge.
6. The semester and year of the student's most recent active academic status or the semester and year in which he/she sought admission to IAIA.
7. The full name, address and telephone number of the student's advocate, if any;
8. The specific harm resulting from the alleged Discrimination, Harassment or Retaliation;
9. The specific remedy sought;
10. The student's signature and
11. The date on which the Complaint is submitted.

D. Intake Interview:

The Title IX Coordinator shall meet with the student as soon as possible, but no later than **5 Working Days** after the Complaint was received. The student shall make him/herself available for this meeting.

1. The meeting shall serve as the initial intake interview and will:
 - a. Acquaint the student with the investigation procedure and timelines;
 - b. Inform the student of his/her rights, including having an advocate throughout the process;
 - c. Provide opportunity for the student to complete and sign a Complaint Form, if not already done; and
 - d. Discuss Interim Remedies, as appropriate.
2. In cases of alleging Sexual Violence, the Title IX Coordinator shall inform the student of the right to file a criminal complaint; offer to assist the student with filing a criminal complaint; assure the student such filing will not significantly delay the campus investigation; advise the student of available resources such as the IAIA Security, student health clinic, IAIA Counseling services; and discuss reasonable and appropriate Interim Remedies.

E. Advocate: The complainant and the accused may elect to be accompanied by an advocate to any meeting or interview regarding the complaint. The advocate may be an attorney. The advocate may not speak on behalf of the student or accused; their role is limited to observing and consulting.

F. Confidentiality: Information regarding the complaint shall be shared with other college employees and law enforcement on only a "need to know" basis. College employees shall attempt to honor any complainant's or accused's request for confidentiality; however, the college shall weigh request for confidentiality against its duty to provide a safe and nondiscriminatory environment for all the IAIA community. **Confidentiality, therefore, cannot be ensured.** In cases involving Sexual Violence, a victim's request for complete confidentiality are to be referred to the Title IX Coordinator, who will then determine whether the request for complete confidentiality can be honored under the facts and circumstances of the particular case.

G. Investigation Procedure: The Title IX Coordinator, in cases of Sex Discrimination, including Sexual Harassment and Sexual Violence, shall promptly investigate the complaint or assign the task to another investigator on a case-by-case basis. The investigator shall receive annual training regarding such issues and the investigatory process and the laws governing Discrimination, Harassment and Retaliation. If delegated, the Title IX Coordinator shall oversee the investigation to ensure that it is conducted in accordance with the standards, procedures and timelines set in this policy.

The complainant and the accused shall have equal opportunities to present relevant witnesses and evidence in connection with the investigation.

The investigation shall be completed no later than **30 Working Days** after the intake interview, unless the timeline has been extended according to Level 3, E or F. The timeline should not be extended for a period longer than an additional **10 Working Days** from the original due date.

Occasionally, a criminal investigation may be initiated by a law enforcement agency over the same allegations that are reported in a complaint filed under this policy. A pending law enforcement investigation is a separate investigation and does not relieve the IAIA of its responsibility to handle complaints under this policy. IAIA may not wait until the conclusion of a police investigation to continue its own investigation under this policy. It may be necessary to temporarily delay the fact-finding portion of the investigation while law enforcement is gathering evidence. Once their fact gathering is completed, the IAIA shall promptly resume and complete its own investigation. Upon inquiry, the complainant and accused shall be advised on the status of the investigation.

H. Investigative Report: The investigator shall prepare an investigative report within the investigation period stated above. The report shall include a summary of the allegations, the investigative process, the preponderance of the evidence standard, the evidence considered and appropriate findings. The report shall be promptly provided to the Title IX Coordinator.

I. Notice of Investigative Outcome: If the Title IX Coordinator, (in cases alleging Sex Discrimination, including Sexual Harassment and Sexual Violence) performed the investigation, he/she shall notify the student in writing of the investigation outcome with **5 Working Days** of completing the report. Otherwise, within **5 Working Days** of receiving the report, the Title IX Coordinator shall review the report and notify the student in writing of the outcome of the investigation. A written notice of the investigative outcome shall include:

1. A summary of the allegations;
2. The investigative process;
3. The preponderance of the evidence standard;
4. The evidence considered, the findings of fact; and
5. A determination as to whether this policy was violated, and if so, any remedies to be afforded to the complainant.

If the outcome is that this policy was not violated, the notice shall inform the complainant of his/her right to file an appeal under Level 2 Appeal Review.

At the complainant's request, a copy of the notice shall also be provided to his/her advocate, if any.

J. Notice of Investigative Outcome to the Accused: A separate written notice shall be provided to the accused indicating whether or not the allegations at Level 1 were substantiated. If the outcome is that this policy was not violated, the accused shall also be informed of the complainant's right to file an appeal. At the accused's request, a copy of the notice shall also be provided to his/her advocate, if any.

If the outcome of the investigation is that this policy was in fact violated, the accused shall be subject to discipline and the Title IX Coordinator, who is also the Dean of Students, will determine the sanction.

K. Sanctions for Policy Violations:

1. Verbal warning: Is given for minor offenses without the initiation of formal procedures.
2. Written warning: A written warning is given when the violation is minor but unacceptable and any repeated violations will warrant further sanctions which may include, but not limited to, any of the sanctions listed in this section.
3. No Contact Order: An order to avoid contact with the complainant or respondent or others for a specified period of time.
4. Counseling: A referral for counseling to attend a prescribed number of counseling sessions based on an initial assessment and recommendations from the counselor.
5. Loss of privileges: Loss of privileges on campus due to serious violations, which may include but not limited to, parking on campus, library, studio, cafeteria usage during specified times.
6. Limited access to campus: Due to serious violations, a student may have limited access to campus for a specified period of time.
7. Restricted Status (P.N.G.): There are two types of restricted status: a campus restriction when the person may not be present on campus for any reason, including IAIA activities on or off campus; and a student housing restriction when the person may not enter any residential housing area for any reason.
8. Alcohol & drug assessment and counseling: Referral for an alcohol and drug assessment and recommended number of counseling sessions recommended by the counselor.
9. Relocation: Removed from his/her present residence hall room for a specified period of time or removed permanently.
10. Disciplinary probation: This type of probation is generally imposed for significant or repeated violations for a specified period of time.

11. Suspension: The removal of a student from all IAIA programs for a specified period of time due to serious or severe violations and may reconsider return upon reapplication.
12. Expulsion: The removal of a student for an extensive period of time or indefinitely due to severe offenses.
13. Immediate Suspension: In case of reports of serious threat to individual, or community, sexual offense, discrimination, violence, etc. the Dean of Students or his/her designee will establish and impose immediate suspension/expulsion from the on-campus housing or the total IAIA program.
14. IAIA's primary concern is the safety of students, staff, and faculty and encourages the report of misconduct and crimes by victims and witnesses. We recognize that students who have been drinking and/or using drugs (whether such use is voluntary or involuntary) at the time that violence, including but not limited to domestic violence, dating violence, stalking, or sexual assault occurs may be hesitant to report such incidents due to fear of potential consequences for their own conduct.

IAIA will grant amnesty to victims and witnesses who may have violated IAIA policies related to the use of drugs, or alcohol at the time they experience or witness domestic violence, dating violence, stalking or sexual assault. Any major violation of state or federal criminal law involving the possession of alcohol or illegal drugs may result in prosecution, and IAIA cannot grant amnesty from proceedings in the criminal justice system.

An anonymous report can be submitted at <https://iaia.edu/student-life/title-ix-campus-safety/> and is located on the IAIA website under Student Life/Title IX.

The accused shall receive a written notice of his/her right to file an appeal under the Level 2 Appeal Review.

Level 2: Appeal Review – Student Hearing and Review Panel (SHRP)

A. Timing for an Appeal to the SHRP: If a complainant wishes to contend a Level 1 determination that a policy was not violated, or if the accused is deemed guilty of violating a policy, either party may file a Level 2 appeal with the Student Hearing and Review Panel (SHRP) no later than **3 Calendar Days** after receipt of the written notice of the Level 1 outcome.

Level 2 Appeals shall be submitted to the Assistant to the Dean of Students in Student Life. The Assistant to the Dean of Students shall promptly give written notice to the Title IX Coordinator, where the allegations of Sex Discrimination, Sexual Harassment or Sexual Violence, of any such appeal.

B. Appeal Request: The appeal shall be in writing and shall: (1) specify the reasons why the determination reached at Level 1 was erroneous; and (2) identify the specific evidence submitted at Level 1 that supports a finding of the alleged discrimination, harassment or retaliation by a preponderance of the evidence or lack thereof. The issues and evidence raised on appeal shall be limited to those raised and identified at Level 1. The SHRP will offer reasonable accommodations to complainants who are unable to submit a written appeal due to disability.

C. SHRP Review: The SHRP review shall be limited to determining (1) whether the Level 1 findings of fact are supported by a preponderance of the evidence; and (2) whether the findings of fact support the conclusion that this policy was or was not violated. The review will not involve a new investigation and will not consider evidence that the complainant did not introduce at Level 1. If the SHRP review determines that evidence introduced for the first time at Level 2 could have affected the Level 1 determination, the complaint shall be returned to the Title IX Coordinator so that the Level 1 investigation may be completed and findings revised, if necessary, within a specified time frame period that should not exceed an additional **10 Working Days**. Under these circumstances, the complainant and accused shall be informed that the investigation has been reopened and the timeline established in Level 2.D shall be extended according to Level 3 E and F.

D. SHRP Response: The SHRP shall respond to the complainant and accused no later than **5 Working Days** after receipt of the Level 2 appeal, unless the timeline has been extended according to Level 3 E and F. The response

shall include a summary of the issues raised on appeal, a summary of the evidence considered, the preponderance of the evidence standard, a determination of the two issues listed in Section C above and a final decision. In cases of allegations of Sex Discrimination, including Sex Harassment or Sexual Violence, a copy of the response shall be forwarded to the Title IX Coordinator. At the complainant's request, a copy of the SHRP Response shall also be provided to his/her advocate. The IAIA shall determine whether any remedies shall be afforded to the complainant and provide prompt written notice to the complainant of any remedies to be provided to him/her. The SHRP shall provide a separate notice to the accused and, if requested by the accused, to his/her advocate, indicating the appeal outcome; i.e., whether the accused has been determined to have violated this policy by a preponderance of evidence.

E. **Closure:** The SHRP response and decision are final and conclude the IAIA Complaint process.

Level 3: General Provisions for Investigation/Review of Complaints

A. All investigations and reviews shall be conducted impartially and in good faith.

B. Students and IAIA employees are required to cooperate with the investigation and other processes as stated in this policy, including but not limited to attending meetings, being forthright and honest during the process, and keeping confidential the existence and details of the investigation/review. If a complainant and/or accused refuse to cooperate, the IAIA may draw all reasonable inferences and conclusions on the basis of all available evidence and conclude the investigation/review.

C. A complainant shall proceed with a complaint in good faith. A student who knowingly and intentionally files a false complaint or gives false statements shall be subject to discipline in accordance to the Student Handbook. Such disciplinary action shall not be deemed to be retaliation.

D. Both the complainant and the accused shall have the right to identify witnesses or other evidence for consideration; however, the IAIA shall decide what evidence (if any) is relevant and significant to the issues raised.

E. If the complainant, the accused, a witness, the investigator, SHRP or other necessary person involved in the Complaint Process is unavailable due to any reason deemed to be legitimate by the investigator/SHRP, the timelines stated herein will be automatically adjusted for a reasonable time period that should not exceed an additional 10 Working Days. Both the complainant and accused shall receive written notification of any period of extension.

F. Timelines set in this policy may also be extended by mutual agreement. If the student does not agree or does not respond to IAIA's request for an extension, IAIA shall respond to the complaint or appeal within the timelines set forth herein. Any such response shall be temporary in nature as it will be based upon the information available at the time. The interim response shall note that the investigation or review is continuing until IAIA is satisfied that its duty to respond to the allegations(s) has been appropriately discharged. The interim response shall include a summary of the allegations, a description of the investigative and review process, and shall also provide the complainant with an anticipated date of completion.

G. When submitting a complaint or issuing a Level 1 or 2 decision, personal delivery, overnight delivery service, or certified mail shall be used. If personal delivery is used, a signature acknowledging the calendar date of delivery shall be obtained which will establish the date of filing or response. If certified mail delivery is used, the postmark shall establish the date of filing or response.

H. IAIA is not obligated to investigate under the provisions of this policy when no complaint is filed, or when a complaint is not timely filed. If the IAIA determines the circumstances warrant an investigation, the IAIA shall investigate the underlying allegations of any Discrimination, Harassment or Retaliation complaint. In the event, any such investigation shall be subject to Level 1 D through I and Level 3 A through H of this policy, but shall not be subject to Level 2 Appeal Review. If IAIA determines an investigation is not warranted, the reasons for that decision shall be put in writing and retained by IAIA according to appropriate record retention policies.

I. When it is necessary for the complainant or his/her advocate to have access to specific information for the purpose of filing a complaint, the complainant or his/her advocate shall make a written request for such information to the Title IX Coordinator. The complainant or his/her advocate shall have access to information within the policies and procedures and laws governing confidentiality and privacy that are relevant to any issue raised in a complaint. This provision does not authorize a complainant access to the personal files of another without the written consent of that person.

J. IAIA is committed to academic freedom assuring that all persons may exercise rights of free expression, speech and assembly; however, those rights do not allow any form of unlawful discrimination, harassment or retaliation.

Reporting Retaliation

A. It is a violation of Title IX and IAIA policy to retaliate against any person who makes a complaint of discrimination, harassment, including sexual violence or misconduct or testifies, assists, or participates in an investigation or proceeding regarding an allegation of discrimination, harassment, sexual violence or misconduct.

B. If a student, staff, or faculty member has threatened to retaliate or has retaliated against another student, staff, or faculty member it should be reported promptly to the Title IX Coordinator.

C. A staff, faculty member, or student who retaliates against a person who makes a complaint of sexual violence or misconduct, testifies, assists, or participates in an investigation or proceeding regarding an allegation of sexual violence or misconduct, or seeks assistance from the Title IX Coordinator, may be subject to disciplinary action, including dismissal, suspension or expulsion.