

Date: August 16, 2024

## **ILLINOIS TECH'S TITLE IX SEX DISCRIMINATION APPENDIX**

### **1. NON-DISCRIMINATION POLICY**

It is the intention and commitment of Illinois Tech that the university will not engage in discrimination or harassment against any person because of race, color, religion, sex, national origin, ancestry, age, marital status, order of protection status, genetic information, disability, pregnancy, sexual orientation including gender identity, unfavorable discharge from the military or status as a protected veteran, or based on any other legally protected status, and will comply with all applicable federal and state nondiscrimination, equal opportunity and affirmative action laws, orders and regulations. This nondiscrimination policy applies to admissions, employment, access to and treatment in the programs and activities of Illinois Tech.

### **2. DEFINITIONS**

#### **A. COMPLAINANT**

- i. A person who has the right to make an oral or written complaint of sex discrimination, including complaints of sex-based harassment, requesting that Illinois Tech investigate and make a determination about alleged discrimination under Title IX:
  1. A Complainant is a student or employee of Illinois Tech who is alleged to have been subjected to conduct that could constitute sex discrimination under Title IX;
  2. Any person other than a student or employee who is alleged to have been subjected to conduct that could constitute sex discrimination under Title IX and was participating or attempting to participate in an Illinois Tech education program or activity at the time of the alleged sex discrimination;
  3. A parent, guardian, or other authorized legal representative with legal rights to act on behalf of a complainant;
  4. Illinois Tech's Title IX Coordinator or designee.
- ii. In addition to the people listed above, the following persons have a right to make a sex discrimination complaint other than sex-based harassment:
  1. Any student or employee of Illinois Tech; or
  2. Any person other than a student or employee who was participating or attempting to participate in an Illinois Tech education program or activity at the time of the alleged sex discrimination.

#### **B. RESPONDENT**

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

#### **C. COMPLAINT**

- i. Oral or written request to Illinois Tech that objectively can be understood as a request to investigate and make a determination about alleged discrimination under Title IX. A written request may be 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.

#### D. REPORTS

- i. 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.
- ii. 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 days before the hearing for their review and written response.

#### E. DECISION-MAKER

- i. An individual designated by the Title IX Coordinator or designee to reach a determination regarding responsibility in a formal Title IX complaint, using the preponderance of the evidence standard of proof, and applying Illinois Tech's Title IX grievance procedures. The decision-maker is not the Title IX Coordinator; Title IX Investigator; Title IX Informal Resolution Facilitator; or the Title IX Appellate decision-maker assigned to the formal Title IX complaint. The decision-maker must be impartial, free of bias and conflicts of interest, and is trained to properly implement Illinois Tech's Title IX grievance procedures.

#### F. DISCIPLINARY SANCTIONS

- i. 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.

#### G. CONFIDENTIAL EMPLOYEE

- i. This means an employee of a recipient whose communications are privileged or confidential under Federal or State law. The employee's confidential status, for purposes of this part, is only with respect to information received while the employee is functioning within the scope of their duties to which privilege or confidentiality applies.
- ii. A confidential employee of a recipient whom the recipient has designated as confidential under this part for the purpose of providing services to persons related to sex discrimination. If the employee also has a duty not associated with providing those services, the employee's confidential status is only with respect to information received about sex discrimination in connection with providing those services.

##### 1. Confidential Advisors

- a. 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-based harassment, about which they are informed.

- b. 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. Illinois Tech has elected to contract for Confidential Advisor services. The provider of such services is:

Resilience

180 N Michigan Avenue, Suite 600

Chicago, Illinois 60601

24-hour Confidential Advisor Phone Number: 312-907-1062

#### H. STUDENT EMPLOYEE

- i. A student whose primary relationship with the University is to receive an education, and the student works for the University, and while performing work-related services learns of conduct that may constitute sex discrimination under Illinois Tech's Title IX policy has a duty to report the alleged conduct to the Office of Title IX Compliance.
  1. All University employees (including student employees) and graduate students with teaching or supervisory authority are obligated to promptly report discrimination, harassment, or sexual misconduct of which they become aware in the scope of their work for the University to the Office of Title IX Compliance.

#### I. EMERGENCY REMOVAL/ LEAVE OF ABSENCE

- i. Illinois Tech may remove a 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 justifies removal, and provides the respondent with notice and an opportunity to challenge the decision immediately following the removal.

#### J. ADMINISTRATIVE LEAVE

- i. Illinois Tech also may place an employee respondent on administrative leave during the pendency of Illinois Tech's grievance procedures.<sup>1</sup>

#### K. REPORTING REQUIREMENTS

- i. If a person shares with an employee conduct that may reasonably constitute sex discrimination under Title IX, the employee has a duty to report this information to the Title IX Coordinator or designee.

#### L. NOTIFICATION REQUIREMENTS

- i. If a person shares information with a confidential employee/advisor about conduct that may reasonably constitute sex discrimination under Title IX, or if a student shares information about their pregnancy or related condition, to an employee, the employee must notify or provide the person the contact information of the Title IX Coordinator and information on how to make a complaint of sex discrimination.

#### M. PARTY

- i. This means a complainant or respondent.

#### N. PEER RETALIATION

- i. Retaliation means 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 including 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 including 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 including 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.
- ii. Peer Retaliation is retaliation by a student against another student.

#### O. SUPPORTIVE MEASURES

- i. When Illinois Tech is notified of conduct that reasonably may constitute sex discrimination under Title IX 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 sexual harassment. Supportive Measures may

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<sup>1</sup> Such emergency removals and administrative leave must comply with any other relevant laws, policies, administrative procedures, and agreements governing removal of employees and/or students from and Illinois Tech education program or activity.

include but are not limited to 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, increased security, and monitoring of certain areas of the campus, and other similar measures.

P. PREGNANCY OR RELATED CONDITIONS

- i. Means pregnancy, childbirth, termination of pregnancy, lactation; or medical conditions related to pregnancy.

Q. CONSENT

- i. 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.
- ii. 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.
  1. 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.
- iii. 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:
  1. 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.

2. 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.
3. 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).
4. 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.
5. 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.
6. 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.

## R. SEX DISCRIMINATION

- i. Discrimination on the basis of sex includes discrimination due to sexual orientation, gender identity, sex stereotypes, sex characteristics, and pregnancy and related conditions.

## S. SEX-BASED HARASSMENT

- i. Sex-based harassment is a form of sex discrimination and means sexual harassment and other harassment on the basis of sex, including the following types of harassment:

1. Quid Pro Quo Harassment

- a. An employee, agent, or other person authorized by the recipient to provide an aid, benefit, or service under Illinois Tech's educational program or activity explicit or impliedly conditioning the provision of such an aid, benefit, or service on a person's participation in unwelcome sexual behavior.

2. Hostile Environment Harassment

- a. Unwelcome sex-based conduct, that based on the totality of the circumstances, is subjectively and objectively offensive, and is so severe or pervasive that it limits or denies a person's ability to participate in or benefit from the recipient's education program or activity (i.e., creates a hostile environment). 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 education.

3. Conduct Prohibited by the Violence Against Women Act

- a. **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:
  - i. **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.
  - ii. **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.

- iii. **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.
- iv. **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.
- v. **Incest:** Nonforcible sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.
- vi. **Statutory Rape:** Nonforcible sexual intercourse with a person who is under the statutory age of consent.

### 3. BASIC REQUIREMENTS OF TITLE IX GRIEVANCE PROCEDURES

- A. Illinois Tech has adopted grievance procedures that provide for the prompt and equitable resolution of complaints made by students, employees, or other individuals who are participating or attempting to participate in its education program or activity. Title IX grievance procedures at Illinois Tech include:
  - i. Treating complainants and respondents equitably;
  - ii. Requiring that the Title IX Coordinator, investigator, or decision-maker not have a conflict of interest and are bias-free;
  - iii. Presuming that the respondent is not responsible for the alleged conduct until a determination is made regarding responsibility;
  - iv. Setting reasonable timeframes, under the circumstances of the case, for processing the allegation through each step of the grievance process;
  - v. Providing for the gathering and the objective evaluation of relevant evidence and the exclusion of impermissible evidence, as determined by Illinois Tech;
  - vi. Providing notice of allegations to the parties;
  - vii. Reserving the right for Illinois Tech to consolidate complaints in certain circumstances;



- viii. Giving the parties an equal opportunity to present fact witnesses and other evidence;
- ix. Giving the parties an equal opportunity to access relevant and not otherwise impermissible evidence or an accurate description of such evidence; as well as a reasonable opportunity to respond. Illinois Tech will take reasonable steps to prevent and address proscribed disclosures of confidential or other protected information;
- x. Accessing credibility when credibility is in dispute and relevant;
- xi. Using the preponderance of the evidence standard of proof to determine whether sex discrimination occurred;
- xii. If it is determined sex discrimination occurred, remedies for the complainant or others; determining disciplinary sanctions for those found responsible; and other appropriate prompt and effective steps to ensure that sex discrimination does not continue or recur;
- xiii. Any additional provision of this policy applicable to the parties;
- xiv. Giving parties the option to participate in the informal resolution processes;
- xv. Providing written notice to the parties of allegations, dismissal, delays of timelines set under this policy, meetings, and proceedings;
- xvi. Permitting each party to have an advisor of the party's choice;
- xvii. Assessing credibility when credibility is in dispute, including questioning a party or witness during meetings or in a live hearing;
- xviii. If a live hearing will be held, review with each party the procedures for the hearing;
- xix. Written determination provided simultaneously to the parties; and
- xx. Providing procedures for a party to appeal a determination.

#### B. Impermissible Evidence

The following types of evidence, and questions seeking that evidence, are impermissible (i.e., will not be assessed, disclosed, considered, and will not otherwise be used, except by Illinois Tech to determine whether one of the exceptions listed below applies), regardless of whether they are relevant. Evidence that is:

- i. Protected under a privilege or confidentiality;

- ii. A party or witness records made or maintained by a physician, psychologist, or other recognized professional in connection with treatment;
- iii. Relating to the complainant's sexual interests or prior sexual conduct.
- iv. Exception:
  - 1. Evidence that relates to the complainant's sexual predisposition or prior sexual behavior is 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 of the questions and evidence concern specific incidents of the complainant's prior sexual behavior with respect to the Title IX respondent and are offered to prove consent.

#### **4. SUPPORTIVE MEASURES MEETING**

- A. Once notified, Illinois Tech will offer and coordinate supportive measures as appropriate for the complainant and/or the respondent to restore or preserve that person's access to Illinois Tech's education program or activity or provide support during Illinois Tech's Title IX grievance procedures or during the Informal Resolution process. Supportive Measures may include, counseling, extension of deadlines, restrictions on contact applied to one or more parties, and changes in class, work, housing etc.
- B. 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.

#### **5. NOTICE OF ALLEGATIONS**

- A. Upon initiation of Illinois Tech's grievance process, the Title IX Coordinator or designee will provide a written Notice of the allegations to the complainant and respondent, that includes:
  - i. A copy of or the link to Illinois Tech's Title IX Sex Discrimination or Sex-Based Harassment process;
  - ii. The identities of all known parties involved in the incident(s), the conduct alleged to constitute sex discrimination or sex-based harassment, the date and location of the alleged incident, if

known, and any other details necessary to prepare a response before any interview, which in no case shall be less than 48hours;

- iii. A statement that the respondent is presumed not responsible for the alleged conduct;
- iv. A statement that a determination regarding responsibility is made at the conclusion of the process;
- v. Notice to the parties that they may have an advisor of their choice who may be, but is not required to be, an attorney and can attend investigatory meetings or live hearing proceedings;<sup>2</sup>
- vi. Notice to the parties that they may inspect and review evidence obtained during the investigation;
- vii. Notice that the Illinois Tech Code of Conduct prohibits knowingly making false allegations and statements or knowingly submitting false information during the process;
- viii. Notice of the option to pursue an Informal Resolution process;
- ix. Notice that retaliation is prohibited; and
- x. The parties are entitled to an equal opportunity to access the relevant and not otherwise determined impermissible evidence or an accurate description of this evidence.

If, during an investigation, Illinois Tech decides to investigate additional allegations of sex discrimination or sex-based harassment by the respondent to the complainant that is not included in the notice provided or included in a consolidated complaint, Illinois Tech will notify the parties of the additional allegations within seven calendar days of the decision to add them.

## 6. INVESTIGATION

- A. Illinois Tech will provide for the adequate, reliable, and impartial investigation of complaints. The burden is on Illinois Tech—not the parties—to conduct an investigation that gathers sufficient evidence to determine whether Sex Discrimination or Sex-Based Harassment occurred.
- B. Illinois Tech will provide equal opportunity for the parties to present fact witnesses and other inculpatory and exculpatory evidence that are relevant and not otherwise impermissible. Illinois Tech will review all evidence gathered through the investigation and determine what evidence is impermissible regardless of relevance.

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<sup>2</sup> Other persons who are not advisors may attend meetings or proceedings with permission of Illinois Tech.

- C. Illinois Tech will provide each party with an equal opportunity to access the evidence that is relevant to the allegations of sex discrimination or sex-based harassment in the following manner:
- i. Illinois Tech will provide an equal opportunity to access either the relevant and not otherwise determined impermissible evidence or an accurate description of the evidence. If Illinois Tech provides a description of the evidence, Illinois Tech will provide the parties with an equal opportunity to access the relevant and not otherwise impermissible evidence.
  - ii. Illinois Tech will provide a reasonable opportunity to respond to the evidence and a preliminary investigative report. Prior to completion of the summary investigative report, the Title IX Investigator(s) must allow each party, and the party's advisor, if any, to review evidence. The parties shall have 10 calendar days to submit a written response, which the Title IX Investigator(s) will consider prior to completing the summary investigative report.
  - iii. Illinois Tech will take reasonable steps to prevent and address the parties' unauthorized disclosure of information and evidence obtained solely through the grievance procedures. Disclosures of such information and evidence for purposes of administrative proceedings or litigation related to the complaint of sex discrimination are authorized.

## **7. TITLE IX HEARING PROCEDURES**

- A. Adjudication With Hearing. Illinois Tech will use this model when the allegations involve Illinois Tech students. A live hearing will be provided as part of the grievance process. The live hearing will comply with the following requirements:
- i. The live hearing will be held with both parties located in the same room or virtually, if either party request to be in a separate room. Illinois Tech will use technology enabling equipment for the parties to simultaneously see and hear each other and witnesses answering questions. Unless the live hearing is conducted virtually, all parties must be physically present in the same geographic location.
  - ii. All hearings will be documented through audio recording, audiovisual recording, or transcript, at the university's discretion, and will be made available to the parties for inspection or review.
  - iii. 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 challenges to credibility. Only relevant cross-examination and other questions may be asked of a party or witness. With respect to cross-examination:

1. Questions and evidence about the Title IX Complainant's sexual predisposition or prior sexual behavior are not relevant, unless such questions and evidence about the Title IX Complainant's prior sexual behavior are offered to prove that someone other than the Title IX Respondent committed the conduct alleged by the Title IX Complainant, or if the questions and evidence concern specific incidents of the Title IX Complainant's prior sexual behavior with respect to the Title IX Respondent and are offered to prove Consent.
  2. 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 directly, orally, and in real-time by the party's adviser of choice and never by the party personally.
- iv. Cross-examination 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, the university will provide an advisor of its choice, without charge to the party, who may be, but likely will not be, an attorney to conduct cross-examination on behalf of the party.
  - v. If a party or witness does not submit to cross-examination at the live hearing, the Title IX decision-maker cannot rely on any statement of that party or witness in reaching a determination regarding responsibility; provided, however, that the Title IX decision-maker cannot draw an inference about the determination regarding responsibility based solely on the party or witnesses' absence or refusal to answer cross-examination or other questions.
- B. 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 Title IX complainant and respondent. Any rules applicable to the hearing will be included in the notice of hearing.<sup>3</sup>
- C. Adjudication No Hearing. Illinois Tech will use this model when a complaint involves Illinois Tech employees exclusively and non-Illinois Tech community members.

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<sup>3</sup> For information about Rules of Decorum in a hearing, contact the Title IX Coordinator at foster@iit.edu

## **8. DETERMINATION OF WHETHER SEX DISCRIMINATION OCCURRED**

- A. Following an investigation and evaluation of all relevant and not otherwise impermissible evidence, Illinois Tech will:
- i. Use the preponderance of the evidence of proof, to determine whether sex discrimination occurred. The standard of proof requires the decision-maker to evaluate relevant and not otherwise impermissible evidence for its persuasiveness. If the decision-maker is not persuaded under the applicable standard of evidence that sex discrimination occurred, whatever the quantity of the evidence is, the decision-maker will not determine that sex discrimination occurred.
  - ii. Notify the parties in writing of the determination whether sex discrimination occurred under Title IX including the rationale for such determination, and the procedures and permissible bases for the Complainant and Respondent to appeal, if applicable.
  - iii. Not impose discipline on a Respondent for sex discrimination prohibited by Title IX unless there is a determination at the conclusion of the grievance procedures that the Respondent engaged in prohibited sex discrimination.
  - iv. Comply with the grievance procedures before the imposition of any disciplinary sanctions against a Respondent.
  - v. Not discipline a party, witness, or others participating in the grievance procedures for making a false statement or for engaging in consensual sexual conduct based solely on the determination of whether sex discrimination occurred. However, Illinois Tech may discipline students using the Code of Conduct for making false statements.
- B. If there is a determination that sex discrimination occurred, the Title IX Coordinator or designee will, as appropriate:
- i. Coordinate the provision and implementation of remedies to a complainant and other people Illinois Tech identifies as having had equal access to Illinois Tech's education program or activity limited or denied by sex discrimination;
  - ii. Coordinate the imposition of any disciplinary sanctions on a respondent, including notification to the complainant of any such disciplinary sanctions; and
  - iii. Take other appropriate prompt and effective steps to ensure that sex discrimination does not continue or recur within Illinois Tech's education program or activity.

## 9. INFORMAL RESOLUTION

Illinois Tech offers community members a voluntary Informal Resolution process to resolve allegations of sex discrimination, including sex-based harassment, with the exceptions of allegations including, but not limited to, harassment of a student by an employee. The Informal Resolution process is voluntary, requires both parties' written consent, and involves facilitation or mediation between them. Prior to reaching a resolution, either party has the right to withdraw from the Informal Resolution process and resume Illinois Tech's grievance process. However, once an agreement has been reached under the Informal Resolution process, Illinois Tech cannot resume the grievance process nor initiate or allow either party to initiate another complaint process addressing any allegations resolved in the Informal Resolution process or arising out of the same facts or circumstances as any allegations resolved in the Informal Resolution process.

The Informal Resolution process aims to restore a sense of safety to the person who experienced harm, restore or maintain access to educational and or employment opportunities, and in some instances repair harm. Informal Resolution may include a broad range of conflict resolution strategies, including but not limited to facilitated communication and/or restorative justice practices.

The Informal Resolution process begins with a signed voluntary Informal Resolution Agreement from both the complainant and respondent, the Title IX Coordinator or designee will designate an Informal Resolution Facilitator to facilitate the Informal Resolution process. Next, the 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 Informal Resolution Facilitator; to gain an understanding of each party's feelings, positions, and wishes with respect to resolution of the complaint; and when appropriate, to gather necessary information to identify the harm caused.

If after an initial meeting with each party, the facilitator and both parties agree, in writing, that an in-person meeting involving both parties and the facilitator is an appropriate step, the facilitator may, at their discretion, convene such a meeting between the parties. In such cases, any remaining steps of the process may be effectuated through separate or joint meetings of the parties, at the facilitator's discretion.

Though the facts and circumstances surrounding each complaint are unique, in general, the facilitator will seek to facilitate its resolution, and this may be accomplished by one or more of the following options: (a) participation in educational programming; (b) changes in academic, work, and living arrangements; (c) assistance with requesting academic allowances and extensions; (d) writing an impact statement; (e) writing a statement acknowledging harm caused; or (g) restrictions of contact between the parties.

Additionally, the facilitator will facilitate all communication between the parties during the process with the ultimate goal of helping them reach a resolution. The facilitator does not have the power to make a 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 grievance process with respect to any allegations resolved 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 this Student Handbook for Failure to Comply.

## **10. DISMISSAL OF A COMPLAINT**

- A. Illinois Tech may dismiss a complaint of sex discrimination if:
  - i. Illinois Tech is unable to identify the respondent after taking reasonable steps to do so;
  - ii. The respondent is not participating in an Illinois Tech education program or activity and is not employed by Illinois Tech;
  - iii. The complainant voluntarily withdraws any or all of the allegations in the complaint, the Title IX Coordinator declines to initiate a complaint, and Illinois Tech determines that, without the complainant's withdrawn allegations, the conduct that remains alleged in the complaint, if any, would not constitute sex discrimination under Title IX even if proven; or
  - iv. Illinois Tech determines the conduct alleged in the complaint, even if proven, would not constitute sex discrimination under Title IX. Before dismissing the complaint, Illinois Tech will make reasonable efforts to clarify the allegations with the complainant.
- B. Upon dismissal, Illinois Tech will promptly notify the complainant of the basis for the dismissal. If the dismissal occurs after the respondent has been notified of the allegations, then Illinois Tech will also notify the respondent of the dismissal and the basis for the dismissal promptly following notification to the complainant, or simultaneously if notification is in writing.
- C. Pursing Complaints without Support of Complainant. The Title IX Office can pursue a complaint without the support of the complainant if the allegations in the complaint constitutes sex discrimination under Title IX and all the applicable considerations have been reviewed. This review process occurs when the complaint is initially reported.

## **11. APPEAL THE DISMISSAL OF A COMPLAINT**

- A. Illinois Tech will notify the complainant that the 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 been notified of the allegations, then Illinois Tech will also notify the respondent that the dismissal may be appealed.
- B. When a complaint is dismissed, Illinois Tech will, at a minimum:
  - i. Offer supportive measures to the complainant as appropriate;
  - ii. If the respondent has been notified of the allegations, offer supportive measures to the respondent as appropriate; and
  - iii. Take other prompt and effective steps as appropriate, through the Title IX Coordinator to ensure that sex discrimination does not continue or recur within Illinois Tech's education program or activity.
- C. Grounds For Dismissal.



- i. The Title IX Coordinator, investigator(s), or decision-maker(s) generally had a conflict of interest or bias for or against a complainant or a respondent that would change the outcome of the determination.
- D. If the dismissal is appealed, Illinois Tech will:
- i. Notify the parties of any appeal, including the basis of the appeal, if Notice was not previously provided to the Respondent;
  - ii. Either party may appeal the parties;
  - iii. Ensure that the decision-maker for the appeal has been trained consistent with the Title IX regulations;
  - iv. Provide the parties a reasonable and equal opportunity to make a statement in support of, or challenging, the outcome; and
  - v. Notify the parties of the appeal determination and the rationale for the result.

## **12. APPEAL OF DETERMINATION**

- A. Illinois Tech offers the following process for appeals from a determination that sex discrimination occurred. Both the complainant and respondent may file an appeal from a determination regarding responsibility, on the following bases:
- i. Procedural irregularity that affected the outcome of the matter;
  - ii. New evidence that was not reasonably available when the determination of responsibility was made that could affect the outcome of the matter;
  - iii. Claims that the Title IX Coordinator or designee, investigator(s), or decision-maker(s), had a conflict of interest, or a bias for or against a complainant or respondent generally that have affected the outcome of the matter; and
  - iv. The sanction is disproportionate to the violation.

A complainant or respondent who wishes to appeal must submit an appeal to the Title IX coordinator within five calendar days of the date of determination of responsibility. An Appeal must be filed by email to the Title IX Coordinator at [foster@iit.edu](mailto:foster@iit.edu).

## **13. DISCIPLINARY SANCTIONS AND REMEDIES**

- A. Following a determination that sex discrimination occurred, Illinois Tech may impose disciplinary sanctions, which may include:<sup>4</sup>
- i. Disciplinary warning;
  - ii. Mutual no contact order;
  - iii. Disciplinary probation;
  - iv. Suspension; &
  - v. Expulsion.

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<sup>4</sup> Illinois Tech may also provide remedies, which may include supportive measures. For more detailed information see Code of Conduct and Conduct Discipline of the 2024-2025 Illinois Tech Student Handbook.

B. Amnesty For Sexual Misconduct Reporting

- i. Illinois Tech encourages reporting of sexual misconduct and seeks to remove any barriers to an individual making a report. To this end, Illinois Tech recognizes that an individual who was drinking or using drugs at the time of such an incident may be hesitant to make a report because of potential consequences for their own conduct. Accordingly, an individual(s) who, in good faith, reports sexual misconduct that was directed at them or another person, either as a reporting party or a third-party witness, will not be subject to disciplinary action by Illinois Tech solely for their own personal consumption of alcohol or drugs.

**14. PREGNANCY OR RELATED CONDITIONS**

- A. Illinois Tech is committed to creating an accessible and inclusive environment for pregnant and parenting students and does not discriminate against any student based on the student's current, potential, or past pregnancy or related conditions. Students who are pregnant or have a related condition can voluntarily:
  - i. Participate in a separate portion of the educational program or activity as long as the separate portion is comparable to that offered to students who are not pregnant and do not have related conditions.
  - ii. Take a leave of absence in accordance with the university's leave of absence policy. Upon return from a leave of absence, the student will be reinstated to the academic status held when the voluntary leave began.
- B. Pregnancy or related conditions will be covered under the same policies as other temporary medical conditions regarding medical and hospital benefits offered through Illinois Tech.
- C. Illinois Tech does not require students who are pregnant or have related conditions to provide certification from a healthcare provider that they are physically able to participate in its educational program or activity except under very limited circumstances.<sup>5</sup>
- D. When a student, or a person who has a legal right to act on behalf of the student, informs an Illinois Tech employee of their pregnancy status or related condition, the employee must provide the person with the Title IX Coordinator's contact information and inform the student that the Title IX Coordinator can coordinate specific actions to prevent sex discrimination and ensure continued access to the educational program or activity.
- E. Illinois Tech does not require supporting documentation from the student to receive reasonable accommodations unless the documentation is necessary. Accommodations may vary based on the student's circumstances and may include: academic accommodations and flexibility (such as breaks during class, intermittent absences to attend medical appointments, rescheduling of tests, extensions of deadlines, and alternatives to make up missed work); access to online education, changes in physical space, voluntary leaves of absences or changes in work schedules, changes to housing, or

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<sup>5</sup> Certification of participation is required if the physical ability or health is necessary for participation in the program or activity and if Illinois Tech requires certification for all students participating in the program.

other types of accommodations.<sup>6</sup> Illinois Tech does provide lactation spaces across the university. For a list of locations, click [here](#).

## **15. RECORD-KEEPING**

- A. The Title IX Coordinator or designee will maintain, for a period of at least seven years, records of:
  - i. Each complaint of sex discrimination, 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 of activity.
  - ii. 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 there from.

## **16. TRAINING**

- A. Any person serving as the Title IX Coordinator or a designee, Investigator, decision-maker, Appeal decision-maker, or 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
- B. 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.

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<sup>6</sup> Illinois Tech will treat pregnancy or related conditions as any other temporary medical condition for job related purposes including commencement, duration and extensions of leave, payment of disability income, accrual of seniority and any other benefit or service, and reinstatement, and under any fringe benefit offered to employees by virtue of employment.