

# Sexual Harassment and Sexual Misconduct Policy

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## **Section I: Statement of Non-Discrimination, Title IX & VAWA**

DigiPen Institute of Technology (“DigiPen Institute of Technology,” “DigiPen,” or “the Institute”) prohibits any form of discrimination and harassment on the basis of sex, race, color, age, religion, national or ethnic origin, sexual orientation, gender identity or expression, pregnancy, marital or family status, medical condition, genetic information, veteran status, or disability in any decision regarding admissions, employment, or participation in a DigiPen Institute of Technology program or activity in accordance with the letter and spirit of federal, state, and local non-discrimination and equal opportunity laws, such as Titles VI and VII of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, The Age and Discrimination in Employment Act, The Americans with Disabilities Act and ADA Amendments Act, The Equal Pay Act, and RCW Chapter 49.60.

DigiPen Institute of Technology also complies with the Jeanne Clery Disclosure of Campus Security Policy and Campus Security Policy and Campus Crimes Statistics Act, as amended by the Violence Against Women Act (VAWA). Title IX prohibits retaliation for asserting or otherwise participating in claims of sex discrimination. VAWA imposes additional duties on universities and colleges to investigate and respond to reports of sexual assault, stalking, and dating or domestic violence, and to publish policies and procedures related to the way these reports are handled.

DigiPen Institute of Technology has designated the Title IX Coordinator to coordinate the Institute’s compliance with Title IX and VAWA and to respond to reports of violations. DigiPen has directed the Office of Compliance and Institutional Effectiveness coordinate the Institute’s compliance with the Clery reporting related to VAWA requirements. The Institute will promptly and equitably respond to all reports of sex discrimination and sexual harassment in order to eliminate the prohibited conduct, prevent its recurrence, and redress its effects on any individual or the community.

## Section II: Title IX of the Education Amendments of 1972

Title IX of the Education Amendments of 1972 ("Title IX") prohibits discrimination based on sex in education programs and activities that receive federal financial assistance. DigiPen Institute of Technology is committed to the principles of equal opportunity and seeks to establish and maintain an environment which ensures equal access to education for all DigiPen community members including students, applicants for admission, employees, applicants for employment, guests, and visitors. DigiPen does not discriminate on the basis of sex in any education program or activity operated by the Institute including, but not limited to, admissions, employment, recruitment, compensation, and athletics as well as access to housing and facilities, classes and schools, counseling, employment assistance to students, health and insurance benefits and services, and fringe benefits. DigiPen Institute of Technology is required by Title IX and the regulations thereunder not to discriminate in such a manner.

For additional information or inquiries about the application of Title IX and the regulations thereunder, contact DigiPen Institute of Technology's Title IX Coordinator and/or the Assistant Secretary of the United States Department of Education.

The contact information for DigiPen Institute of Technology's Title IX Coordinator and Deputy Title IX Coordinators is as follows:

Angela Kugler  
9931 Willows Rd NE  
Redmond, WA 98052  
Phone: (425) 895-4438  
Email: [akugler@digipen.edu](mailto:akugler@digipen.edu)

### **Deputy Title IX Coordinator for Student Cases**

Patrick Dezort  
9931 Willows Rd NE  
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### **Deputy Title IX Coordinator for Employee Cases**

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The United States Department of Education, Office for Civil Rights regional office contact information is as follows:

### **Seattle Office**

U.S. Department of Education  
915 Second Avenue, Room 3310  
Seattle, WA 98174-1099  
Telephone: (206) 607-1600  
Facsimile: (206) 607-1601  
Email: [OCR.Seattle@ed.gov](mailto:OCR.Seattle@ed.gov)

## SEXUAL HARASSMENT & SEXUAL MISCONDUCT POLICY

Complaints with the Office for Civil Rights must be filed within one hundred eighty (180) days of the last act that the Complainant believes was discriminatory. There is no time limit for making a report to DigiPen Institute of Technology.

## Section III: The Policy

### A. Scope of Policy & General Reporting Information

This policy applies to prohibited conduct (as defined in this policy) that occurs in a DigiPen Institute of Technology educational program or activity that is likely to have a substantial adverse effect on any member of the Institute community. There is no time limit for reporting allegations of sex discrimination and sexual harassment, however, the Institute strongly encourages the prompt reporting of sex discrimination and sexual harassment to allow the Institute to respond promptly and effectively. If the reported respondent is not a member of the DigiPen community or is no longer associated with the Institute at the time of the report or at the time of a resolution process is initiated, the Institute may be unable to conduct an investigation or take disciplinary action. The appropriate grievance or complaint process regarding a report will depend upon the form of prohibited conduct and status of the complainant at the Institute.

DigiPen Institute of Technology provides the following information on how to report sex discrimination and sexual harassment to DigiPen and outlines DigiPen's response to such reports.

Any person may experience sex discrimination, sexual harassment, or sexual misconduct, irrespective of the identity of the Complainant or Respondent, and is encouraged to report such incidents to DigiPen.

Any person, regardless of whether or not the person reporting the alleged incident is the person alleged to be victimized by the incident, may report sex discrimination, sexual harassment, or sexual misconduct to the Title IX Coordinator. Reports may be made at any time, including during non-business hours, in person, by mail to the office address listed for the Title IX Coordinator, by telephone, by email, or any other means that result in the Title IX Coordinator receiving a person's written or verbal report. Individuals may submit an Incident Report by email, mail, or in person directly to the Title IX Coordinator. The **Incident Report** can be found in this document.

When the Title IX Coordinator receives a report (either written or oral) of sex discrimination, sexual harassment, or sexual misconduct, they will contact the complainant to provide supportive measures. For more information about **Supportive Measures**, see Section III.D.

Upon receipt of a report or formal complaint (as defined in **Section IV** of this policy), the Title IX Coordinator or Deputy Title IX Coordinator will review the details of the alleged incident and conduct a preliminary assessment to determine which of DigiPen's grievance procedures will be applied to address the report. Regardless of the type of incident, DigiPen Institute of Technology applies prompt and equitable grievance procedures to resolve complaints of sex discrimination, Title IX sexual harassment, and sexual misconduct. DigiPen grievance procedures apply equally to all persons regardless of sex, gender, sexual orientation or gender identity.

Formal complaints of incidents of sexual harassment as defined under Title IX involving DigiPen students or employees will be addressed using the **Title IX Formal Complaint & Grievance Process** as described in **Section V.C** of this policy.

Incidents of sex discrimination and sexual misconduct (which do not involve sexual harassment as defined under Title IX) will be addressed using procedures outlined in the DigiPen Institute of Technology

Student Handbook (for incidents involving students) or Employee Manual (for incidents involving employees).

When possible, the Title IX Coordinator will notify the reporting party of DigiPen's grievance procedures which correspond to the alleged incident.

Please see ***Section V.A. Reporting Sex Discrimination, Sexual Harassment, and Sexual Misconduct*** to make a report of prohibited conduct.

## B. Title IX Coordinator Responsibilities

All educational institutions receiving federal financial assistance must designate and authorize at least one employee to coordinate its efforts to comply with its responsibilities under Title IX of the Education Amendment of 1972, which prohibits sex discrimination in education programs and activities. These designated employees are generally referred to as Title IX Coordinators.

The contact information for DigiPen Institute of Technology's Title IX Coordinator and Deputy Title IX Coordinators is as follows:

Angela Kugler  
9931 Willows Rd NE  
Redmond, WA 98052  
Phone: (425) 895-4438  
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Email: [alicia.cappola@digipen.edu](mailto:alicia.cappola@digipen.edu)

The Title IX Coordinator is responsible for responding to reports and formal complaints of sex discrimination and sexual harassment on behalf of DigiPen Institute of Technology. The Title IX Coordinator's responsibilities include, but are not limited to:

- Receiving the required training in relevant state and federal laws and DigiPen Institute of Technology policies and procedures;
- Advising an individual, including a complainant, third-party reporter, or respondent, about DigiPen Institute of Technology's policies and procedures related to sex discrimination and sexual harassment as well as explaining courses of action available at DigiPen and the courses of action available externally regarding any such incidents, including reporting to law enforcement;
- Receiving incident reports of sex discrimination, Title IX sexual harassment, and sexual misconduct;
- Informing complainants of the availability of supportive measures;

- Informing complainants of the process for filing a formal complaint under Title IX;
- Offering supportive measures to complainants designed to restore or preserve equal access to DigiPen' education program or activity;
- Conducting Title IX investigations;
- Working with respondents to provide supportive measures, as appropriate;
- Coordinating the effective implementation of both supportive measures (to one or both parties) and remedies to a complainant as well as disciplinary sanctions which may be imposed upon a respondent after the formal complaint process;
- Designating select Title IX tasks to Deputy Title IX Coordinators, as appropriate; and
- Handling other tasks and responsibilities as determined by the Title IX Coordinator.

## C. Prohibited Conduct

DigiPen Institute of Technology prohibits a broad spectrum of behavior, including sex discrimination, Title IX sexual harassment, and sexual misconduct.

Sexual harassment or sexual misconduct may also encompass criminal conduct under Washington and/or federal law. Additionally, sexual harassment or sexual misconduct under this policy may result in civil and/or administrative legal consequences.

The following conduct is specifically prohibited under this policy:

### i. **Sex Discrimination**

Discrimination against an individual based on that person's sex, gender, gender identity or sexual orientation.

### ii. **Title IX Sexual Harassment ("Sexual Harassment")**

Sexual harassment is a form of sex discrimination. Title IX defines sexual harassment as conduct on the basis of sex that satisfies **one or more of the following three types of behavior**:

#### 1. **Quid pro quo harassment**

A DigiPen employee conditioning provision of an aid, benefit or service of the DigiPen on an individual's participation in unwelcome sexual conduct.

For example, unwelcome sexual advances, requests for sexual favors and other verbal or physical conduct of a sexual nature by a person having power or authority over another constitutes sexual harassment when submission to such sexual conduct is made either explicitly or implicitly a term or condition of rating or evaluating an individual's educational or employment progress, development or performance. This includes when submission to such conduct would be a condition for access to receiving the benefits of or opportunities in any educational or employment program.



Quid pro quo harassment does not need to be severe and pervasive because the abuse of authority in the form of even a single instance is inherently offensive and serious enough to jeopardize equal educational access.

**2. Denial of Equal Educational Access due to Severe, Pervasive, and Objectively Offensive Conduct**

Unwelcome conduct determined by a reasonable person to be so severe, pervasive and objectively offensive that it effectively denies a person equal access to DigiPen's education program or activity.

Signs of enduring unequal educational access due to severe, pervasive, and objectively offensive sexual harassment may include skipping class to avoid a harasser, a decline in a student's grade point average, or having difficulty concentrating in class. However, no concrete injury is required to conclude that serious harassment would deprive a reasonable person in the complainant's position of the ability to access DigiPen education program or activity on an equal basis with persons who are not suffering such harassment.

**3. Sexual Assault, Dating Violence, Domestic Violence, and Stalking**

**Sexual Assault:** Forcible or non-forcible sex offenses under the FBI's Uniform Crime Reporting program (U.C.R.).

Various forms of sexual assault include:

**Sex Offenses, Forcible:** Any sexual act directed against another person, without the consent of the victim including instances where the victim is incapable of giving consent.

**Forcible Rape:** (Except Statutory Rape) The carnal knowledge of a person, forcibly and/or against that person's will or not forcibly or against the person's will in instances where the victim is incapable of giving consent because of his/her/their youth or because of his/her/their temporary or permanent mental or physical incapacity.

**Forcible Sodomy:** Oral or anal sexual intercourse with another person, forcibly and/or against that person's will or not forcibly or against the person's will in instances where the victim is incapable of giving consent because of his/her/their youth or because of his/her/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, forcibly and/or against that person's will or not forcibly or against the person's will in instances where the victim is incapable of giving consent because of his/her/their youth or because of his/her/their temporary or permanent mental or physical incapacity.

**Forcible Fondling:** The touching of the private body parts of another person for the purpose of sexual gratification, forcibly and/or against that person's will or not forcibly or against the person's will in instances where the victim is incapable of

giving consent because of his/her/their youth or because of his/her/their temporary or permanent mental or physical incapacity.

**Sex Offenses, Nonforcible:** (Except Prostitution Offenses) Unlawful, nonforcible sexual intercourse.

**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. In the state of Washington, the age of consent is 16 years old.

In an effort to clarify these definitions, DigiPen also summarizes these forms of sexual assault as **Non-Consensual Sexual Intercourse:** Non-consensual sexual intercourse consists of any sexual intercourse (urethral, anal, oral, or vaginal), however slight, with any body part or any object, by a person upon another person, without consent. Nonconsensual sexual activity occurs if a person is forced to have sexual intercourse, or if sexual intercourse occurs under circumstances in which a person is unable to consent to such activities.

Sexual intercourse may involve vaginal, oral, urethral, or anal penetration by any body part or any object. The perpetrator may be known or unknown to the victim. The force necessary can be any amount (or threat) of force which places the victim in fear of injury or in fear of their life. The perpetrator need not use a weapon nor must they physically abuse the victim to make the victim fearful of injury or in fear of their life. The terms “acquaintance rape” and “date rape” refer to the above-described behavior perpetrated by someone known to the reporting party.

**Dating Violence:** Violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim and where the existence of such a relationship shall be determined based on a consideration of the following factors:

1. The length of the relationship
2. The type of relationship
3. The frequency of interaction between the persons involved in the relationship

**Domestic Violence:** Felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction. *34 U.S.C. 12291 (a)(8)*

**Stalking:** Engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for his or her safety or the safety of others or suffer substantial emotional distress.

Sexual assault, which includes rape, is referenced in the third prong of the definitions of sexual harassment. Note that any report of sexual assault, dating violence, domestic violence, or stalking is not subject to the elements referenced in the second prong of definitions of sexual harassment, which consider whether the incident was “severe, pervasive, and objectively offensive.” A single act of sexual assault, dating violence, domestic violence, and stalking does not need to demonstrate severity, pervasiveness, objective offensiveness, or denial of equal access to education because denial of equal access is assumed. Therefore, complainants can feel confident reporting such incidents to DigiPen Institute of Technology and receive supportive measures without wondering whether sexual assault is ‘bad enough’ to report.

DigiPen Institute of Technology is required under Federal Title IX regulations to respond to incidents of sexual harassment as stated above. Additionally, conduct outlined in the above definitions of sexual harassment may be considered a violation of Washington law and subject to mandatory reporting and/or criminal investigation.

### iii. **Sexual Misconduct**

Sexual misconduct includes unwanted sexual conduct that does not fall under Title IX but is still actionable at DigiPen. It can take many forms. The misconduct may be subtle and indirect or blatant and overt. Such misconduct can also occur in person or via electronic, print or other media. It may consist of repeated actions or may arise from a single incident if sufficiently severe.

DigiPen Institute of Technology prohibits committing acts of sexual misconduct, such as:

- **Sexual Exploitation:** Sexual exploitation occurs when a student takes non-consensual, unjust, and/or abusive sexual advantage of another individual for advantage or benefit of anyone other than the individual being exploited. The behavior may also constitute as rape, sexual assault, and/or sexual harassment. Examples include, but are not limited to:
  - Inducing incapacitation with the intent to rape or sexually violate another person
  - Knowingly transmitting an STD
  - Prostituting another student
  - Taking non-consensual video, audio taping, or still photography of sexual activity and/or full or partial nudity
  - Allowing others to observe an act of consensual sex without the knowledge or consent of the consenting partner
- Non-consensual touching, bribery, demands for sexual favors, threats of physical and/or emotional harm, exposing one’s self, undue attention, unwanted embraces or bodily contact, sexual gestures, and verbal abuse. Sexual advances, requests for sexual favors, and other conduct of a sexual nature constitute sexual harassment when:
  - Such advances or requests are made under circumstances implying that one’s response might affect educational or personnel decisions that are subject to the influence of the person making the proposal; and/or
  - Such speech or conduct is directed against another and is either abusive or severely humiliating, or persists despite the objection of the person targeted by the speech or conduct; and/or

- Such speech or conduct is reasonably regarded as offensive and substantially impairs the academic or work opportunity of students, colleagues, or co-workers; and/or
- Such behavior may be an unwanted series of events or an unwanted single encounter that causes a reasonable individual worry, trouble, or concern.

## D. Additional Information

### **AMNESTY PROVISION**

Anyone, including a Complainant, who reports an incident of sex discrimination, Title IX sexual harassment, or sexual misconduct in good faith may not be disciplined by DigiPen Institute of Technology for any related Code of Conduct violation(s), such as underage drinking, arising out of the same facts or circumstances as the report unless a person's health or safety is at risk.

However, involved parties who have violated the Code of Conduct or Employee Manual may be offered and encouraged to seek support, counseling, or education efforts intended to benefit the individual and/or community by the Institute.

### **PRIVACY, CONFIDENTIALITY & PRIVILEGE**

The Institute is committed to protecting the privacy of all individuals involved in a report of sex discrimination, Title IX sexual harassment, and/or sexual misconduct. In any report under this policy, every effort will be made to protect the privacy interests of all individuals involved in a manner consistent with the need for a careful assessment of the allegation and any necessary steps to eliminate the harassment, prevent its recurrence, and address its effects. Privacy, confidentiality, and privilege have distinct meanings under this policy.

#### **Privacy**

Privacy generally means that information related to a report of sex discrimination, sexual harassment, or sexual misconduct will only be shared with a limited circle of individuals, including individuals who "need to know" in order to assist in the review, investigation, or resolution of the report or to deliver resources or support services. While not bound by confidentiality or privilege, these individuals will be discreet and respect the privacy of all individuals involved in the process. All participants in an investigation of Title IX sexual harassment, including advisors and witnesses, will be informed that privacy helps enhance the integrity of the investigation and protect the privacy interests of the parties and will be asked to keep any information learned in an investigation meeting or hearing confidential, to the extent consistent with applicable law.

In accordance with Title IX, the Institute will keep private the identity of any individual who has made a report of sex discrimination, including any individual who has made a report or filed a formal complaint of sexual harassment, any Complainant, any individual who has been reported to be the perpetrator of sex discrimination, any Respondent, and any witness, except as may be permitted by the FERPA statute or regulations, 20 U.S.C. 1232g and 34 CFR part 99, or required by law, or to carry out the purposes of 34 CFR part 106, including the conduct of any investigation, hearing, or judicial proceeding arising thereunder.

## Confidentiality

Certain individuals are designated as having confidentiality. For reports made to employees designated as having confidentiality, the Institute will respect the reporting party's expectations of privacy **to the extent permissible by law** while still ensuring compliance with other reporting obligations. For example, complaints involving minors are subject to mandatory reporting requirements.

Confidential resources are required to maintain near complete confidentiality; talking to a confidential resource is sometimes called a privileged communication (e.g. Counselor). This means that confidential resources will not share other information with the Title IX Coordinator or any other employee of the Institute without the express permission of the disclosing party. Confidential resources can provide information about the Institute and off-campus resources, support services and other options. As noted above, because of the confidential nature of these resources, disclosing information to or seeking advice from a confidential resource does not constitute a report or complaint to the Institute and will not result in a response or intervention by DigiPen. A person consulting with a confidential resource may later decide to make a report to the Institute and/or law enforcement.

Community members wishing to seek completely confidential assistance may speak with off-campus counselors, health service providers or rape crisis resources, who will maintain confidentiality.

## Privilege

Communication with certain individuals may be privileged by operation of law and reports made to these individuals will not be shared with the DigiPen Institute of Technology Title IX Coordinator or law enforcement except in very limited situations, such as when failure to disclose the information would result in imminent danger to the individual or to others or as otherwise required by law.

**Release of Information:** Pursuant to the Clery Act, anonymous statistical information must be shared with Campus Safety or the Compliance Office where required by the Clery Act. Annual Clery reporting to the U.S. Department of Education is required by educational institutions for certain offenses that have been reported at campus locations. The information contained in the Clery report tracks the number of Clery reportable offenses occurring at campus locations and does not include the names or any other identifying information about the persons involved in the incident.

The Institute may share non-identifying information about reports received in aggregate form, including data about outcomes and sanctions.

## DISCIPLINARY SANCTIONS & REMEDIES

Respondents and Complainants may be subject to the following disciplinary sanctions and remedies, respectively:

**Disciplinary Sanctions:** Respondents found responsible for Title IX sexual harassment or sexual misconduct as defined in this policy may be subject to disciplinary sanctions at the conclusion of the appropriate grievance process. For more information about disciplinary sanctions, see the DigiPen Institute of Technology Student Handbook and/or Employee Manual.

The range of possible sanctions for students includes, but is not limited to:

- Official Warning

- Educational Sanctions
- Disciplinary Probation
- Interim Suspension from DigiPen and/or DigiPen Housing LLC
- Permanent expulsion from DigiPen and/or DigiPen Housing LLC
- No Contact Order

The range of possible sanctions for employees includes, but it not limited to:

- Verbal Discussion: There will be a review of guidelines outlined in handbooks, policy statements or memorandums and/or verbal warning will be issued.
- Team Build: The nature of the prohibited conduct and a course of corrective action should be documented and discussed with the employee. Equivalent to formal counseling.
- Corrective: If satisfactory improvement has not been made, then the employee may be given written warning (probation) or suspension. All decisions are made on a case-by-case basis, and management may determine, based upon the circumstances, to give additional warnings or suspensions.
- Termination (Final Corrective): If there is no improvement or the improvement does not meet the requirements set forth in earlier actions, the employee shall be terminated.

**Remedies:** Remedies are provided to the Complainant and designed to restore or preserve their equal access to DigiPen Institute of Technology's education program or activity. Remedies may be the same individualized services as described in Section III.D. as **Supportive Measures**. However, remedies do not need to be non-disciplinary or non-punitive and do not need to avoid burdening the Respondent.

Remedies may include, but are not limited to:

- Guidance in identifying external counseling services and assistance in setting up an initial appointment
- Imposition of an on-campus No Contact Order
- Rescheduling of exams and assignments
- Change in class schedule, including the ability to transfer course sections or withdraw from a course without penalty
- Additional remedies, which can be tailored to the complainant to achieve the goals of this policy.

The Title IX Coordinator is responsible for the implementation of any remedies.

## FALSE ACCUSATIONS

DigiPen Institute of Technology prohibits parties, including Complainants, Respondents, and witnesses, from knowingly making false statements or knowingly submitting false information during the grievance process.

DigiPen Institute of Technology reserves the right to charge an individual with a Code of Conduct or other internal policy violation for making a materially false statement in bad faith during the course of the grievance process. Such charges do not constitute retaliation on behalf of DigiPen Institute of Technology against the individual as the individual has violated DigiPen's own policy.

## JURISDICTION OF THIS POLICY

Any person may experience sex discrimination, sexual harassment, or sexual misconduct anywhere. Therefore, any individual may report any incident to the Title IX Coordinator. However, DigiPen Institute of Technology's response to such incidents is dependent upon the location of the alleged incident.

The ***Title IX Formal Complaint & Grievance Process*** described in this policy must be applied when alleged incidents of Title IX sexual harassment as defined in ***Section III.C.ii.*** occur in DigiPen Institute of Technology's own education program or activity as defined in ***Section IV.*** of this policy and in the United States.

Alleged incidents of sex discrimination, sexual misconduct, and sexual harassment which occur outside of a DigiPen Institute of Technology education program or activity (as defined in this policy) or outside of the United States will be addressed using the Disciplinary Process and Procedures outlined in the DigiPen Student Code of Conduct or Employee Manual.

DigiPen Institute of Technology's jurisdiction extends to electronic, digital, and online sexual harassment which occurs in an education program or activity (as referenced in ***Section IV.***), in which DigiPen exercises substantial control over the Respondent and the context in which the harassment occurs. Factual circumstances of electronic, digital, and online sexual harassment will be analyzed on a case-by-case basis to determine the context in which the harassment occurred.

Electronic, digital, and online forms of Title IX ***sexual harassment*** will be addressed using the ***Title IX Formal Complaint and Grievance Process*** outlined in Section V.C.

For clarification regarding incidents which occur on-campus versus off-campus, see the definition of Education Program or Activity in ***Section IV.***

## RETALIATION

DigiPen Institute of Technology prohibits any person from intimidating, threatening, coercing, or discriminating against any individual for the purpose of interfering with any right or privilege secured by Title IX or its implementing regulations, or because an 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 Title IX and its implementing regulations.

This retaliation provision may apply to any individual who has made a report or complaint of sex discrimination, including any individual who has made a report or filed a formal complaint of sexual harassment, any Complainant, any individual who has been reported to be the perpetrator of sex discrimination, any Respondent, any witness, or any other individuals who participate (or refuse to participate) in any manner in an investigation, proceeding, or hearing of DigiPen Institute of Technology Title IX grievance process. This policy includes protecting the Complainant, Respondent, and witnesses from being coerced, intimidated, threatened, or otherwise discriminated against based on their participation or refusal to participate in the Title IX grievance process.

Retaliation includes intimidation, threats, coercion, or discrimination, including charges against an individual for code of conduct violations that do not involve sex discrimination, sexual harassment, or sexual misconduct, but arise out of the same facts or circumstances as a report or complaint of sex discrimination, or report or formal complaint of sexual harassment, for the purpose of interfering with any right or privilege secured by Title IX or its implementing regulations.



Charging an individual with a Code of Conduct or other Institute policy violation for making a materially false statement in bad faith in the course of the grievance process does not constitute retaliation. However, a determination regarding responsibility alone is not sufficient to conclude that an individual made a materially false statement in bad faith. A Complainant's allegations may not have been false even where the ultimate determination is that the Respondent is not responsible and/or that the Complainant may not have acted subjectively in bad faith (and conversely, that a Respondent may not have made false, or subjectively bad faith, denials even where the respondent is found responsible).

Exercising rights protected under the First Amendment does not constitute retaliation.

The parties have the right to discuss the allegations under investigation, but this right does not preclude DigiPen from warning the parties not to discuss or disseminate the allegations in a manner that constitutes retaliation or unlawful tortious conduct. It is unacceptable for any person to leak or disseminate information to retaliate against another person.

Complaints alleging retaliation may be filed with DigiPen Institute of Technology's Title IX Coordinator, which will be handled using the prompt and equitable grievance procedures available for non-sexual harassment sex discrimination complaints by students and employees, as referenced in the DigiPen Institute of Technology Student Handbook and Employee Manual.

## **SUPPORTIVE MEASURES**

Supportive measures are non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the Complainant and Respondent without unreasonably burdening the other party.

Supportive measures are designed to:

- Restore or preserve equal access to the party's education at DigiPen Institute of Technology;
- Protect the safety of all parties or the DigiPen Institute of Technology educational environment; or
- Deter sexual harassment.

DigiPen Institute of Technology's Supportive Measures include, but are not limited to:

- Assistance in identifying external counseling services;
- Extensions of deadlines or other course-related adjustments;
- Modifications of work or class schedules;
- Mutual restrictions on contact between the parties;
- Changes in work locations;
- Leaves of absence;
- Increased security and monitoring of certain areas of the campus when possible; and
- Other similar measures as necessary

DigiPen will offer supportive measures to every Complainant when the Title IX Coordinator receives a report of an incident of sexual harassment. Examples of a report may include written or oral reports submitted by a Complainant or third-party reporter.

Upon receiving a report of an alleged incident of sexual harassment, the Title IX Coordinator will promptly contact the complainant to discuss the availability of supportive measures and explain the option for filing a formal complaint under Title IX as well as the Title IX grievance process. The Complainant will have the



opportunity to express what they would like in the form of supportive measures, and the Title IX Coordinator will take into account the Complainant's wishes in determining which supportive measures to offer. Supportive measures will be available to Complainants regardless of whether or not they wish to file a formal complaint to initiate a grievance process.

Supportive measures remain available to the Complainant before and after filing a formal complaint of sexual harassment as well as when no formal complaint has been filed. Additionally, DigiPen Institute of Technology will provide supportive measures to Complainants even when the alleged incident does not constitute sexual harassment under Title IX or fall within the jurisdictional conditions of this policy. For example, a Complainant may still seek supportive measures when an incident of sexual harassment occurs outside of DigiPen's education program or activity or outside of the United States.

Supportive measures may remain in place throughout an appeal process.

Regardless of the result of the Title IX grievance process, DigiPen reserves the right to continue supportive measures. Therefore, if DigiPen determines that a Respondent is not responsible for violating Title IX, Code of Conduct, or Employee Manual policies, DigiPen may continue providing supportive measures to a Complainant or Respondent to restore or preserve equal access to their education.

DigiPen Institute of Technology adheres to Federal Title IX regulations, which require the equitable treatment of Complainants and Respondents. Equitable treatment under Title IX includes providing supportive measures and remedies for Complainants and avoiding disciplinary action against Respondents until the formal grievance process as outlined in this policy is completed. While Respondents will be offered supportive measures, Title IX does not require equality or parity with respect to the supportive measures provided to Complainants and Respondents.

**Confidentiality & Supportive Measures:** DigiPen Institute of Technology will keep confidential any supportive measures provided to the Complainant or Respondent, to the extent that maintaining such confidentiality would not impair the ability of DigiPen to provide the supportive measures. For example, where a no-contact order is appropriate, the Respondent would need to know the identity of the Complainant in order to comply with the no-contact order, or campus security is informed about the no-contact order in order to help enforce its terms. For more information about confidentiality during the Title IX grievance process, see Section III.D *Privacy, Confidentiality & Privilege*.

In order for DigiPen to provide supportive measures to the Complainant, DigiPen must know the identity of the Complainant. Therefore, it is not possible for the Complainant to remain anonymous and receive supportive measures because at least one school official (such as the Title IX Coordinator) must know the Complainant's identity in order to offer and implement any supportive measures. A Complainant or third party may desire to report sexual harassment without disclosing the Complainant's identity, but DigiPen will be unable to provide supportive measures in response to the report without knowing the Complainant's identity.

**Implementation of Supportive Measures:** The Title IX Coordinator is responsible for coordinating the effective implementation of supportive measures. Although supportive measures may require collaboration with various Departments on campus, the Title IX Coordinator will serve as the point of contact for Complainants and Respondents.

## **EMERGENCY REMOVAL**

DigiPen Institute of Technology reserves the right to remove a Respondent from a DigiPen education program or activity on an emergency basis, provided that DigiPen first undertakes an individualized safety and risk analysis and then determines that an immediate threat to the physical health or safety of any student or other individual arising from the allegations of sexual harassment justifies removal.

In the event of emergency removal, DigiPen will provide the Respondent with post-removal notice and the opportunity to challenge the decision immediately following the removal.

## **ADMINISTRATIVE LEAVE**

DigiPen Institute of Technology reserves the right to place a non-student employee respondent on administrative leave during the pendency of a grievance process outlined in this policy.

## Section IV: Definitions

The following terms are related to the Sexual Harassment and Sexual Misconduct policy:

**Actual Knowledge:** Notice of sexual harassment or allegations of sexual harassment delivered to DigiPen Institute of Technology's Title IX Coordinator. Such notice includes reports sent to the Title IX Coordinator in person, by mail, by telephone, by email, telephone call, in-person, or any other means that result in the Title IX Coordinator receiving a person's written or verbal report. Individuals may also submit an *Incident Report* to the Title IX Coordinator via email, mail, or in person.

**Advisor:** An individual who provides support, guidance, and/or assistance to the Complainant or Respondent throughout the investigation, hearing, appeals, and/or informal resolution process. Complainants and Respondents have the right to select an advisor of their choice. Advisors may be a friend, mentor, family member, attorney, or any other supporter a party chooses to advise them who is both eligible and available. Advisors may not have personal involvement regarding any facts or circumstances of the alleged misconduct. Advisors are required during the hearing process. If a party does not have an advisor present at the hearing process, DigiPen Institute of Technology will provide the party with an advisor. Additional information about the role of advisors can be in *Section V.C.ii. Right to an Advisor*.

**Complainant:** An individual who is alleged to be the victim of conduct that could constitute sexual harassment. A complainant may, but is not required to be, a student, employee, or other DigiPen community member.

**Consent:** Consent is a voluntary agreement to engage in sexual activity; someone who is incapacitated cannot consent; past consent does not imply future consent; silence or an absence of resistance does not imply consent; consent to engage in sexual activity with one person does not imply consent to engage in sexual activity with another.

**Confidential Resources:** Confidential resources are DigiPen employees with whom an individual can have privileged communication. Privileged communications cannot legally be disclosed to another person without the consent of the individual who originally provided the information, except under very limited circumstances such as allegations involving the physical or sexual abuse of a child or vulnerable adult or an imminent threat to the life of any person.

**Education Program or Activity:** All of the operations of DigiPen Institute of Technology, which may be on or off campus, as well as locations, events, or circumstances over which DigiPen exercises substantial control over both the Respondent and the context in which an incident of sexual harassment occurs. Additionally, any building owned or controlled by student organizations which are officially recognized by DigiPen Institute of Technology are also considered to be part of DigiPen' education program or activity.

DigiPen Institute of Technology's education program or activity also extends to operations which include computer and internet networks, digital platforms, and computer hardware or software owned or operated by, or used in the operations of DigiPen.

**Formal Complaint:** A document that initiates the Title IX grievance process outlined in *Section V.C.ii.* of this policy against a Respondent alleging sexual harassment. A formal complaint must be filed by the Complainant or signed by the Title IX Coordinator alleging sexual harassment against a Respondent and requesting that DigiPen investigate the allegation of sexual harassment. At the time of filing a formal

complaint, the Complainant must be participating in or attempting to participate in an education program or activity at DigiPen Institute of Technology. A formal complaint may be a document delivered to the Title IX Coordinator's office or electronic submission sent via email which contains the Complainant's physical or digital signature, or otherwise indicates that the complainant is the person filing the complaint. Individuals may submit a formal complaint via email, mail or in-person to the Title IX Coordinator.

Submission of a formal complaint to DigiPen Institute of Technology is not equivalent to filing charges with local law enforcement and does not require a Complainant to file charges with local law enforcement. For more information about reporting incidents of sexual harassment to local law enforcement, see ***Section V.A. Reporting Sex Discrimination, Sexual Harassment, and Sexual Misconduct.***

**Incapacitation:** Incapacitation exists (but is not limited to) when a person is unaware, blacked out, unconscious, unable to make rational/reasonable decisions, and/or otherwise physically or mentally helpless to give effective consent.

Incapacitation does not excuse the accused party.

**Report:** Notice, either written or oral, provided to the Title IX Coordinator of an alleged incident of sex discrimination, sexual harassment, or sexual misconduct. Any person, regardless of whether or not the person reporting the alleged incident is the person alleged to be the victim in the incident, may report sex discrimination, sexual harassment, or sexual misconduct. Reports may be made at any time, including during non-business hours, in person, by mail to the office address listed for the Title IX Coordinator, by telephone, by email, or any other means that result in the Title IX Coordinator receiving a person's written or verbal report. Individuals may also download and submit an ***Incident Report*** by email, mail, or in person directly to the Title IX Coordinator. A report is distinguished from a formal complaint as defined above.

**Respondent:** An individual who has been reported to be the perpetrator of conduct that could constitute sexual harassment.

**Responsible Employee:** All DigiPen employees (excluding those with privileged communication) are considered Responsible Employees (sometimes also called mandated reporters) and are required to report all the details of an incident (including the identities of both the reporting party and Respondent) to the Title IX Coordinator. A report from these employees constitutes a report to DigiPen and obligates DigiPen to respond to the alleged incident(s).

**Standard of Evidence (Preponderance of Evidence):** The standard used to determine if a sexual harassment policy violation occurred. DigiPen Institute of Technology uses a "preponderance of evidence" standard, which means that the evidence demonstrated in the grievance process demonstrates that it is more likely than not that the alleged conduct or policy violation occurred.

**Supportive Measures:** Non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the Complainant or Respondent before or after the filing of a formal complaint or where no formal complaint has been filed. Such measures are designed to restore or preserve equal access to DigiPen Institute of Technology's education programs or activities without unreasonably burdening the other party, including measures designed to protect the safety of all parties or DigiPen Institute of Technology's educational environment, or deter sexual harassment. Supportive measures are described in further detail in ***Section III.D.***

**Title IX:** Title IX is a law that protects against gender discrimination and provides for equal opportunity for students to pursue education and have equal and safe access to all of a school's programs and facilities and protects these environments from becoming hostile environments. It is mandated through the Office of Civil Rights in the U.S. Department of Education that institutions receiving federal funds or providing federal financial aid to students must adhere to Title IX's rules and provisions.

## Section V: Procedures

### A. Reporting Sex Discrimination, Sexual Harassment & Sexual Misconduct

Any person may report an incident(s) of sex discrimination, Title IX sexual harassment, or sexual misconduct to the Title IX Coordinator. The reporting party may be the person directly affected by the alleged incident (referred to as “Complainant”) or a third party. Reports of sex discrimination, sexual harassment, and sexual misconduct may be written or verbal and may be made at any time (including nonbusiness hours) in person, by using the telephone number or email address, or by mail to the office address, of the Title IX Coordinator.

The contact information for DigiPen Institute of Technology’s Title IX Coordinator is as follows:

Angela Kugler  
9931 Willows Rd NE  
Redmond, WA 98052  
Phone: (425) 895-4438  
Email: [akugler@digipen.edu](mailto:akugler@digipen.edu)

#### Deputy Title IX Coordinator for Student Cases

Patrick Dezort  
9931 Willows Rd NE  
Redmond, WA 98052  
Phone: (425) 522-5025  
Email: [patrick.dezort@digipen.edu](mailto:patrick.dezort@digipen.edu)

#### Deputy Title IX Coordinator for Employee Cases

Alicia Cappola  
9931 Willows Rd NE  
Redmond, WA 98052  
Phone: (425) 629-5068  
Email: [alicia.cappola@digipen.edu](mailto:alicia.cappola@digipen.edu)

When the Title IX Coordinator receives notice through a report (either written or oral) or formal complaint of an alleged incident of sex discrimination, sexual harassment, or sexual misconduct, the Title IX Coordinator or Deputy Title IX Coordinator will promptly contact the Complainant to:

1. Discuss the availability of supportive measures, as defined in [Section III. D.](#) of this policy;
2. Consider the Complainant’s wishes with respect to supportive measures;
3. Inform the Complainant of the availability of supportive measures with or without filing a formal complaint;
4. Explain to the Complainant:
  - a. DigiPen Institute of Technology’s procedures for handling non-sexual harassment sex discrimination;
  - b. Process for filing a formal complaint under Title IX, as outlined in [Section V.C.](#) of this policy; and/or

- c. Process for filing a complaint under the Institute's Code of Conduct (for incidents involving students) or the process for filing a complaint under the Employee Manual (for incidents involving employees).

The Title IX Coordinator or Deputy Title IX Coordinator will conduct a preliminary assessment of the report to assist the Complainant in determining if the Complainant may initiate a grievance process, if they desire. For more information about the Preliminary Assessment, see [Section V.B.](#)

Note: If a report submitted by a third party does not contain the identity of the reporting party but does contain the identity of the Complainant, upon receipt of the report, the Title IX Coordinator will contact the Complainant to offer supportive measures and explain the process for filing a formal complaint (if applicable). However, if a report does not contain the identity of the Complainant, DigiPen will be unable to contact the Complainant to offer supportive measures. While the Title IX Coordinator will keep confidential the Complainant's identity (unless disclosing the Complainant's identity is necessary to provide supportive measures for the complainant, such as issuing no-contact orders), the Title IX Coordinator must know the identity of the Complainant to offer such supportive measures.

In addition to reporting an incident of sex discrimination, sexual harassment, or sexual misconduct to the Title IX Coordinator, individuals may also report to local law enforcement.

## REPORTING TO RESPONSIBLE EMPLOYEES

In addition to reporting sex discrimination, Title IX sexual harassment, and/or sexual misconduct directly to the Title IX Coordinator, individuals are also invited to report incidents to DigiPen Responsible Employees.

Responsible Employees are also sometimes known as "Mandated Reporters." DigiPen's Responsible Employees are required to report all details of an incident (including the identities of both the reporting party and respondent) to DigiPen's Title IX Coordinator.

Most members of the DigiPen community are considered Responsible Employees and are therefore obligated to report to DigiPen any information they receive about sexual misconduct. Employees who are categorized as Responsible Employees include (but are not limited to):

- DigiPen's Title IX Coordinator and Deputy Title IX Coordinators
- Student Affairs staff
- All faculty members
- Members of DigiPen's general administration staff
- Student Assistants
- Students employed in their work-related positions

Talking with any of these individuals constitutes a report to DigiPen and therefore requires a response from the DigiPen Institute of Technology Title IX Coordinator.

## REPORTING TO CONFIDENTIAL RESOURCES

If you wish to report a violation of this policy but would like your information to remain confidential (and therefore not reported to the Title IX Coordinator), you may choose to report to DigiPen Confidential Resources.

Confidential Resources are DigiPen employees with whom an individual can have a privileged communication. Privileged communications cannot legally be disclosed to another person without the consent of the individual who originally provided the information, except under very limited circumstances such as allegations involving the physical or sexual abuse of a child or vulnerable adult or an imminent threat to the life of any person.

DigiPen's confidential resources are listed as follows:

DigiPen Counseling  
Email: [counseling@digipen.edu](mailto:counseling@digipen.edu)  
Phone: (425) 629-4859

## ANONYMOUS REPORTING

DigiPen permits anonymous parties to report alleged incidents of sex discrimination, sexual harassment, and/or sexual misconduct by telephone or by mail to the office of the Title IX Coordinator, or by using the Incident Report Form.

If the anonymous report contains the identity of the Complainant, upon receipt of the report, the Title IX Coordinator will contact the Complainant to offer supportive measures and explain the process for filing a formal complaint. However, if the anonymous report does not contain the identity of the Complainant, the Institute will be unable to contact the Complainant to offer supportive measures. While the Title IX Coordinator will keep confidential Complainant's identity (unless disclosing the Complainant's identity is necessary to provide supportive measures for the Complainant, such as issuing no-contact orders), the Title IX Coordinator must know the identity of the Complainant to offer such supportive measures.

## REPORTING TO LOCAL LAW ENFORCEMENT

DigiPen Institute of Technology encourages anyone who has experienced sexual harassment or sexual misconduct to pursue criminal action for incidents that may also be crimes under applicable criminal statutes. Law enforcement officers are trained in handling sexual assault and other cases involving sexual harassment. Reporting to law enforcement does not require prosecution of the offense and the reporting party's wishes will be taken into account by law enforcement. The police report and any supporting evidence may be turned over to the appropriate District Attorney's Office, which decides whether there is sufficient evidence to prosecute. Information about the law enforcement process of reporting, the investigation, arrests, filing of charges, hearings, the trial and sentencing will be explained at the time of the report.

DigiPen Institute of Technology employees will assist the reporting party in contacting local law enforcement, if explicitly requested by the reporting party. However, reporting an incident of sexual harassment or sexual misconduct to DigiPen does not in any way equate to reporting the incident to local law enforcement. An individual may decide to report an incident exclusively to DigiPen, exclusively to local law enforcement, or to both DigiPen and local law enforcement.

Contact information for local police departments:

In case of emergency, call 911.

### **Redmond Police**

Address: 8701 160th Avenue NE, Redmond, WA 98052  
Main Phone: 425-556-2500



Should an individual report an incident of sexual harassment or sexual misconduct to both DigiPen and local law enforcement, DigiPen will comply with law enforcement requests for cooperation. Such cooperation may require DigiPen to temporarily suspend its own investigation into the alleged incident while local law enforcement gathers evidence. During this time, DigiPen will continue to offer supportive measures to the Complainant. As soon as local law enforcement or DigiPen determines that a delay is no longer necessary, DigiPen will promptly resume its Title IX or other internal investigation.

DigiPen Institute of Technology policy, definitions, and standard of proof differ from Washington criminal law. Neither law enforcement's determination whether to prosecute a Respondent nor the outcome of any criminal prosecution will determine whether sexual harassment has occurred under this DigiPen policy. Proceedings under this policy may be carried out prior to, simultaneously with or following civil or criminal proceedings off campus.

*In addition to the foregoing, all faculty and staff who become aware of or suspect sexual abuse of a minor (under the age of 16) must report that information to local law enforcement and/or the Title IX Coordinator who shall then inform local, state and/or federal law enforcement officials of such incident as required by law.*

## B. Preliminary Assessment

Upon receiving a report or formal complaint of an alleged incident of sex discrimination, Title IX sexual harassment, or sexual misconduct, the Title IX Coordinator or Deputy Title IX Coordinator will conduct a preliminary assessment to determine DigiPen response using the following threshold criteria:

First, the Title IX Coordinator or Deputy Title IX Coordinator must determine if:

1. The incident occurred in DigiPen Institute of Technology's education program or activity, as defined in [Section IV](#) of this policy; and
2. If the incident occurred in the United States.

If the alleged incident did not occur in an Institute education program or activity and the United States, the alleged incident is not covered under this policy. Complainants may still request supportive measures for reports that do not meet the Institute's jurisdictional requirements.

If the alleged conduct occurred in a DigiPen Institute of Technology education program or activity and in the United States, the Title IX Coordinator or Deputy Title IX Coordinator will then assess if the incident will be considered "Title IX sexual harassment," as defined in [Section III.C.ii](#) of this policy.

The Title IX Coordinator or Deputy Title IX Coordinator will determine if the alleged conduct is considered to be:

- Quid pro quo harassment (involving a DigiPen employee);
- Unwelcome conduct that is so severe, pervasive, and objectively offensive that it effectively denies a person equal access to DigiPen Institute of Technology program or activity; and/or
- Sexual Assault, Dating Violence, Domestic Violence, or Stalking

If the alleged incident may constitute Title IX sexual harassment, as defined above, the Complainant may initiate the [Title IX Formal Complaint and Grievance Process](#).

If the alleged incident does not constitute sexual harassment under Title IX, then the Title IX Coordinator or Deputy Title IX Coordinator will assess the alleged incident to determine if it would be considered sex discrimination or sexual misconduct and respond accordingly:

1. Non-sexual harassment sex discrimination: Incidents of sex discrimination will be addressed using the Student Code of Conduct (for incidents involving students) or the Employee Manual (for incidents involving employees).
2. Sexual Misconduct: Incidents of sexual misconduct will be addressed using the Disciplinary Process and Procedures outlined in the DigiPen Institute of Technology Student Code of Conduct (for incidents involving students) or the Employee Manual (for incidents involving employees).
3. Non-actionable: Complainant may request, and DigiPen may provide, supportive measures as appropriate.

After conducting the assessment, the Title IX Coordinator or Deputy Title IX Coordinator will send a written notification of their preliminary assessment to the Complainant.

The Complainant may appeal the preliminary assessment of the alleged incident to the DigiPen Institute of Technology Title IX Coordinator (if the preliminary assessment was conducted by the Deputy Title IX Coordinator) within five (5) days of receiving written notice of the decision. If a formal complaint is filed, the Respondent may appeal the Deputy Title IX Coordinator's preliminary assessment to the DigiPen Institute of Technology Title IX Coordinator within five (5) days of receiving the notice of the complaint.

Regardless of whether an alleged incident is determined to constitute sexual harassment, sexual misconduct, or sex discrimination, and regardless of whether or not the Complainant files a formal complaint under Title IX, DigiPen will provide supportive measures to the Complainant. For more information about Supportive Measures, see [Section III.D](#).

## C. Title IX Formal Complaint & Grievance Process

### i. Filing a Formal Complaint

To initiate the Title IX grievance process outlined in [Section V.C](#) of this policy, a Complainant must file a formal complaint. The process for filing a formal complaint is outlined below.

#### **What is a Formal Complaint?**

A formal complaint is a document or electronic submission (such as an email or form) that contains the Complainant's physical or digital signature or otherwise indicates that the Complainant is the person filing the complaint.

A formal complaint alleges sexual harassment against a Respondent and requests that DigiPen Institute of Technology investigate the allegation of sexual harassment. Therefore, submitting a formal complaint indicates an intentional decision on behalf of the Complainant to initiate the Title IX grievance process.

#### **Who Can File a Formal Complaint?**

The Complainant or Title IX Coordinator must file the formal complaint.

Third parties cannot file formal complaints. Additionally, fundamental fairness and due process principles require that a Respondent be informed of the details of the allegations made against them, to the extent that the details are known, to provide an adequate opportunity for the Respondent to respond. Therefore, a Complainant cannot remain anonymous and file a formal complaint. However, the Title IX Coordinator will keep confidential the identities of the Complainant and Respondent (and witnesses) from anyone not involved in the grievance process, except as permitted by FERPA, required by law, or as necessary to conduct the grievance process. For more information about confidentiality, see [Section III.D. Privacy, Confidentiality & Privilege](#).

While a formal complaint requires the Complainant's identity, Title IX does not require a Complainant to identify the Respondent in a formal complaint. If a Complainant does not know the Respondent's identity and files a formal complaint, DigiPen is still required to investigate the formal complaint because an investigation may reveal the Respondent's identity. If the Respondent's identity becomes known, DigiPen will send both parties the written notice of allegations (see [Section V.C.ii.](#)), follow the grievance process outlined in this policy, and may impose disciplinary sanctions against the Respondent at the conclusion of the grievance process. However, if a Respondent's identity remains unknown, DigiPen will be unable to comply with the required grievance process outlined in this policy and therefore unable to impose disciplinary sanctions against the Respondent.

Under certain circumstances, the Title IX Coordinator may determine that an investigation is necessary, even when the identity of the Complainant is unknown or the Complainant does not want an investigation. In this case, the Title IX Coordinator may choose to sign a formal complaint and initiate the grievance process. When this occurs, the Title IX Coordinator is not a Complainant or otherwise considered a party included in the grievance process. The alleged victim will remain the Complainant and be treated as a party in the grievance process. However, the Complainant is not required to participate in the grievance process. Respondents are also not required to participate in the grievance process.

### **How to File a Formal Complaint**

Complainants may submit a formal complaint in person, by mail, or by email to the Title IX Coordinator, whose contact information is listed in [Section II.](#) of this policy. Formal complaints cannot be filed by telephone because they require the Complainant's physical or digital signature or otherwise indicates that the Complainant is the person filing the complaint.

### **When Can A Formal Complaint be Filed?**

There is no time limit on a Complainant's decision to file a formal complaint, so the decision to sign and file a formal complaint does not need to occur in the immediate aftermath of an alleged incident or reporting an incident.

However, at the time of filing a formal complaint, the Complainant must be participating in or attempting to participate in a DigiPen Institute of Technology education program or activity.

This requirement does not exclude a Complainant who has graduated or is on a leave of absence if the Complainant intends to apply to a different DigiPen program, intends to remain involved in DigiPen alumni programs and activities, or may intend to re-apply after a leave of absence.

### Dismissal of a Formal Complaint

The investigation of the conduct alleged in the formal complaint may uncover new information about the incident. In accordance with Title IX, DigiPen must dismiss the formal complaint of Title IX sexual harassment if at any point during the investigation or hearing process it is determined that the conduct alleged in the formal complaint:

1. Would not constitute sexual harassment as defined under Title IX (defined in [Section III.C.ii.](#) of this policy), even if proven;
2. Did not occur in the DigiPen Institute of Technology education program or activity; or
3. Did not occur against a person in the United States.

Such dismissal does not indicate that a DigiPen Institute of Technology policy violation did not occur. Therefore, DigiPen may choose to address such incidents within the Institute's jurisdiction using the Disciplinary Process and Procedures outlined in the Student Code of Conduct (for incidents involving students) or complaint procedures outlined in the Employee Manual (for incidents involving employees).

DigiPen Institute of Technology reserves the right to dismiss a formal complaint or allegations therein, if at any time during the investigation or hearing:

1. A Complainant notifies the Title IX Coordinator in writing that the Complainant would like to withdraw the formal complaint or any allegations therein;
2. The Respondent is no longer enrolled or employed by DigiPen Institute of Technology;
3. Specific circumstances prevent DigiPen Institute of Technology from gathering evidence sufficient to reach a determination as to the formal complaint or allegations therein.

Upon dismissal of a formal complaint (either as required or not), DigiPen will promptly send a written notice of dismissal and reason(s) therefor simultaneously to both parties.

The Complainant and Respondent have the right to appeal the DigiPen dismissal of the formal complaint or any allegations therein on several bases. For more information about the bases of appeal, see [Section V.C.ii.](#)

### Consolidation of Formal Complaints

DigiPen Institute of Technology may consolidate formal complaints as to allegations of sexual harassment against more than one Respondent, or by more than one Complainant against one or more Respondents, or by one party against another party, where the allegations of sexual harassment arise out of the same facts or circumstances. Where a grievance process involves more than one Complainant or more than one Respondent, references in this policy to the singular "party," "Complainant," or "Respondent" include the plural, as applicable.

## ii. Grievance Process for Formal Complaints of Sexual Harassment

### General Information

The following grievance process complies with 34 CFR § 106.45 of Title IX. All processes, provisions, and rules stated in this policy apply equally to both parties—Complainants and Respondents.

DigiPen Institute of Technology will treat Complainants equitably by providing the Complainant and Respondent with supportive measures throughout the grievance process, following the grievance process before imposing any disciplinary sanctions (or other actions that are not supportive measures) against a Respondent, and providing remedies to a Complainant where a determination of responsibility for sexual harassment has been made against a Respondent.

DigiPen Institute of Technology grievance process relies upon an objective evaluation of all relevant evidence—including both inculpatory and exculpatory evidence. DigiPen applies the preponderance of the evidence standard which means that it is more likely than not that the alleged conduct or policy violation occurred. DigiPen applies the same standard of evidence for formal complaints against students and employees, including faculty, and applies the same standard of evidence to all formal complaints of sexual harassment.

Determination of a party's credibility will not be based on a person's status as a Complainant, Respondent, or witness. DigiPen presumes that the Respondent is not responsible for the alleged conduct until a determination regarding responsibility at the conclusion of the grievance process.

Individuals may decline to participate in any proceedings.

The role of the Title IX investigator, decision-maker, appeal decision-makers, and/or informal resolution facilitator may be filled by appropriate Institute personnel and/or external parties. All DigiPen Institute of Technology employees and external parties employed by DigiPen involved in the Title IX investigation and grievance process have received the appropriate training to participate in the Title IX grievance process. Training materials have been made publicly available on the DigiPen Institute of Technology website. Training topics include, but are not limited to, the definition of sexual harassment under Title IX, steps to conducting a Title IX investigation and grievance process, and how to serve impartially, including by avoiding prejudgment of facts, conflicts of interest, and bias.

If a Complainant or Respondent believes DigiPen Institute of Technology's treatment of a formal complaint of sexual harassment may constitute discrimination on the basis of sex under Title IX, they may file a report of sex discrimination with the Title IX Coordinator.

### **Conflicts of Interest**

DigiPen Institute of Technology employees participating in the Title IX grievance process including the Title IX Coordinator, investigators, decision-makers, appeal decision-makers, and informal resolution facilitators as well as external parties employed by DigiPen to complete Title IX investigation and adjudication functions (hearings, appeals, and informal resolution options) are prohibited from having a conflict of interest or bias for or against Complainants or Respondents generally or an individual Complainant or Respondent.

In an effort to avoid potential conflicts of interest, DigiPen may provide the names and titles of internal and external Title IX investigators and adjudicators to the parties at the initiation of the investigation, informal resolution process, or hearing. Such information will be provided no less than five (5) days before any meeting or hearing between the party and the investigator or adjudicator. The Complainant or Respondent may request the removal of an investigator or adjudicator on the grounds of personal bias or other conflicts of interest by submitting a written statement to the Title IX Coordinator setting forth the basis for the request no more than three (3) days after receiving notice of the identity of the individual involved in the Title IX grievance process. The Title IX Coordinator will review the written statement and

make a determination if there is a conflict of interest. Appropriate steps will be taken to ensure that no conflict of interest exists on the part of anyone involved in the Title IX investigation, hearing, appeals, or informal resolution processes.

If a conflict of interest exists, another individual will be assigned to the appropriate role. If a conflict of interest exists between the Complainant or Respondent and the Title IX Coordinator, reports should be directed to the DigiPen Institute Chief Operating Officer.

### **Timelines for the Grievance Process**

DigiPen Institute of Technology aims to complete the Title IX grievance process, including appeals and informal resolution processes, in a reasonably prompt time frame. Generally, DigiPen will conclude the grievance process within ninety (90) days.

DigiPen Institute of Technology reserves the right to allow for the temporary delay of the grievance process or the limited extension of time frames for good cause with written notice to the complainant and the respondent of the delay or extension and the reasons for the action. Good cause may include considerations such as the absence of the party, a party's advisor, or a witness; concurrent law enforcement activity; or the need for language assistance or accommodation of disabilities.

### **Right to an Advisor**

All parties are entitled to an advisor of their choosing to assist them throughout the Title IX grievance process. The advisor may be a friend, counselor, faculty member, family member, attorney or any other individual a party chooses to advise them who is eligible and available to serve during the grievance process. Any person who may be called as a witness may not serve as an advisor.

Parties are entitled to be accompanied by their advisor in all meetings, interviews, hearings, and appeals at which the party is entitled to be present during the grievance process. Parties are required to have an advisor present at the live hearing. If a party does not have an advisor available to be present at the live hearing, DigiPen Institute of Technology will provide the party with an advisor of DigiPen's choice in the Institution's sole discretion, who may or may not be an attorney.

DigiPen Institute of Technology cannot guarantee equal advisory rights. Consequently, if one party selects an advisor who is an attorney, but the other party does not or cannot afford an attorney, DigiPen is not obligated to provide an attorney or other advisor, except at the hearing. DigiPen is not required to provide an attorney as an advisor at the hearing.

All advisors are subject to the same DigiPen Institute of Technology rules whether they are attorneys or not. Advisors may not present on behalf of their advisee in a meeting or interview. Additionally, advisors may not actively participate in the investigation or informal process. Advisors must conduct all cross examination of the other party and all witnesses in a live hearing even in the event that the advisee is not present at the live hearing.

Advisors should request or wait for a break in the interview, hearing, or meeting if they wish to interact with DigiPen Institute of Technology Title IX personnel. Advisors may confer quietly with their advisees as necessary, as long as they do not disrupt the process. For longer or more involved discussions, the parties and their advisors should ask for breaks or step out of meetings to allow for private conversation. Advisors may be given an opportunity to meet in advance of any interview or hearing with the DigiPen Institute of Technology Title IX personnel during the grievance process.

Any advisor who fails to follow the guidelines established by DigiPen Institute of Technology in the grievance process will be provided an oral warning. If the advisor continues to disrupt or otherwise fails to follow those guidelines, the advisor will be asked to leave the proceeding. If an advisor is asked to leave, the meeting, interview, hearing or other proceeding will be suspended until the party's advisor is reinstated; the party secures another advisor to accompany them at that meeting, interview, hearing or proceeding; or DigiPen provides the party with another advisor for the hearing.

If an advisor is asked to leave a proceeding, the Title IX Coordinator will determine whether the advisor may be reinstated or must be replaced by a different advisor for the remainder of the grievance process. The parties must advise the Title IX Coordinator of the identity of their advisor at least two (2) business days before the date of their first meeting with Title IX Coordinator and scheduled hearing. The parties must provide subsequent timely notice to the Title IX Coordinator if they change advisors at any time. No audio or video recording of any kind other than as required by institutional procedure is permitted during meetings with Institute officials.

The grievance process for incidents of sexual harassment under Title IX is as follows:

**a. Written Notice**

Upon receipt of a formal complaint, DigiPen Institute of Technology will provide a written notice of allegations to both parties, if known, simultaneously. The notice includes the following information:

- A.** Notice of the allegation of sexual harassment, as defined in [Section III.C.ii.](#) of this policy, containing sufficient details known at the time, including:
  - a. Identities of the parties involved in the incident (if known);
  - b. Conduct allegedly constituting a policy violation;
  - c. Date and location of the alleged incident (if known).
- B.** Sufficient time for each party to prepare a response before any initial interview.
- C.** Explanation of each party's right to an advisor of their choice, who may be, but is not required to be, an attorney. The advisor may participate during the grievance process, subject to limitations established by DigiPen Institute of Technology.
- D.** Explanation of each party's right to inspect and review all evidence gathered during the investigation.
- E.** Reference to the sections of this policy which prohibit knowingly making false statements or knowingly submitting false information during the grievance process.
- F.** Statement that the respondent is presumed not to be responsible for the alleged conduct unless and until a determination of responsibility is final.
- G.** Statement that a determination of responsibility will be made at the conclusion of the grievance process.
- H.** Provide a copy of DigiPen Institute of Technology Sexual Harassment and Sexual Misconduct Policy, which outlines the grievance process utilized to address alleged incidents of sexual harassment under Title IX.
- I.** List of on-campus and off-campus support resources for Complainants.



If, during the course of the investigation, DigiPen decides to investigate allegations about the Complainant or Respondent that are not included in the initial notice provided to the parties, DigiPen will provide written notice of the additional allegations to the parties whose identities are known.

**b. Investigation of Formal Complaints**

DigiPen Institute of Technology is obligated to investigate formal complaints of sexual harassment. Generally, DigiPen will complete the Title IX investigation within sixty (60) days. DigiPen will inform the parties of the name and title of the assigned investigator in the written notices of investigative interview issued to the parties.

**Role of DigiPen Institute of Technology & the Parties**

During the investigation, the burden of proof and the burden of gathering evidence sufficient to reach a determination regarding responsibility rests on DigiPen Institute of Technology and not on the parties. Both parties are provided with an equal opportunity to present witnesses, including fact and expert witnesses, and other inculpatory and exculpatory evidence during the grievance process. DigiPen will not restrict the ability of either party to discuss the allegations under investigation or to gather and present relevant evidence.

DigiPen Institute of Technology is prohibited from accessing, considering, disclosing, or otherwise using 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 DigiPen obtains the party's voluntary, written consent to do so for the grievance process outlined in this policy.

**Participation of the Parties in the Investigation Process**

DigiPen Institute of Technology will provide written notice to a party who is invited and expected to participate in any investigative interviews, hearings, or other meetings. This written notice will include the date, time, location, names of participants, and purpose of the meeting and be provided not less than five (5) days prior to the meeting, providing the party with sufficient time to prepare.

Investigative interviews may be recorded with the consent of the parties or witnesses.

Parties may not attend interviews of any other party or witness or any meeting or hearing related to the investigation, unless invited and expected to participate by DigiPen.

Prior to completion of the investigative report at the conclusion of the investigation, all parties have the opportunity to have not more than one other person present during any grievance proceeding, including the opportunity to be accompanied to any grievance-related meeting or proceeding by an advisor of their choice, who may be an attorney. A party may only be accompanied by their advisor during the live hearing. DigiPen does not limit the choice or presence of advisor for either the Complainant or Respondent in any meeting or grievance proceeding, including investigative interviews. However, DigiPen reserves the right to establish restrictions regarding the extent to which the advisor may participate in the proceedings, which will apply equally to both parties.



All parties and their advisors will be given an equal opportunity to inspect and review all evidence gathered during the investigation that is directly related to the allegations raised in the formal complaint, including evidence upon which DigiPen does not intend to rely in reaching a determination regarding responsibility as well as inculpatory and exculpatory evidence, regardless of the source. The evidence subject to inspection and review will be provided either in electronic format or hard copy to the parties and their advisors, if any. The parties will have ten (10) days to submit a written response regarding the investigation evidence. The investigator will consider the parties' responses prior to completion of the investigative report.

DigiPen Institute of Technology may redact confidential portions of the investigation file or require the parties and their advisors to execute nondisclosure agreements to preserve the confidentiality of confidential information prior to release of the investigation file to the parties and their advisors.

All of the evidence which was provided to the parties for inspection and review will be made available at any hearing related to the formal complaint to provide each party the equal opportunity to refer to such evidence during the hearing, including for purposes of cross-examination.

The parties may submit any additional evidence prior to the investigator finalizing the investigative report with a copy provided to the other party and their advisor.

### **Investigative Report**

The Title IX investigator will create an investigative report that fairly summarizes relevant evidence.

Upon completion, the investigator will send the investigative report to each party and the party's advisor, if any, at least ten (10) days prior to a scheduled hearing, in electronic format or hard copy. Upon review, the parties may submit a written response to the decision-maker not less than five (5) days prior to the scheduled hearing, with a copy to the other party and their advisor. The other party may submit a written reply to the written response at least two (2) days prior to the scheduled hearing, with a copy to the other party and their advisor.

The investigator may include recommended findings or conclusions in the investigative report, but the decision-maker is under an independent obligation to objectively evaluate relevant evidence in making a determination.

### **c. Hearing Process**

Live hearings are a mandatory part of the Title IX grievance process. A single hearing officer or panel of hearing officers will act as the decision-maker(s) at the DigiPen Institute of Technology Title IX hearings and must not be the same person as the Title IX Coordinator or investigator. DigiPen will provide specific procedural rules for the live hearing to the parties and their advisors at least ten (10) days prior to the scheduled hearing.

Live hearings may be conducted with all parties physically present in the same geographic location. In this instance, at the request of either party, DigiPen will arrange for the live hearing to occur with the parties located in separate rooms with technology enabling the

decision-maker(s) and the parties to simultaneously see and hear the party or witness answering the questions.

DigiPen Institute of Technology also reserves the right to require or permit any or all parties, witnesses and other participants to appear at the live hearing virtually, with technology enabling participants to simultaneously see and hear each other.

DigiPen Institute of Technology will create an audio recording, audiovisual recording, or transcript of any live hearing and make it available to the parties for inspection and review.

Both parties have the right to present relevant fact and expert witnesses as well as inculpatory and exculpatory evidence at the hearing. A written summary of any evidence not included in the investigation file, copies of the documents they intend to submit as evidence, as well as a list of witnesses they intend to call during the formal hearing should be provided to the decision-maker and the other party and their advisor no less than five (5) days prior to the hearing.

### **Cross-Examination**

During the live hearing, involved parties are encouraged to give opening and closing statements, but the parties' advisors may present the opening and closing statements, if necessary.

During the live hearing, the decision-maker will permit each party's advisor to ask the other party and any witnesses any relevant questions and follow-up questions, including questions which challenge credibility. The decision-maker may also ask parties and witnesses questions.

Cross-examination at the live hearing must be conducted directly, orally, and in real time by the party's advisor, and cross-examination may never be conducted by a party personally.

Only relevant cross-examination and other questions may be asked of a party or witness. Before a complainant, respondent, or witness answers a cross-examination or other question, the decision-maker(s) must first determine whether the question is relevant and explain any decision to exclude a question as not relevant.

Questions and evidence about the Complainant's sexual predisposition or prior sexual behavior are not relevant, unless: 1.) 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 2.) 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.

If a party or witness does not submit to cross-examination at the live hearing, the decision-maker(s) may not rely on any statement of that party or witness in reaching a determination regarding responsibility. However, the decision-maker(s) may not draw an inference about the determination regarding responsibility based solely on a party's or witnesses' absence from a live hearing or refusal to answer cross-examination or other questions.

### Hearings & Advisors

Apart from the advisor's role in cross-examination, DigiPen Institute of Technology reserves the right to restrict the extent to which advisors may participate in the proceedings.

If a party does not have an advisor present at the live hearing, DigiPen will provide, without fee or charge to that party, an advisor of DigiPen's choice to conduct cross-examination on behalf of that party. The advisor may be, but is not required to be, an attorney.

DigiPen Institute of Technology will include details regarding the role of the advisors in the hearing procedural rules provided to the parties at least five (5) days prior to the scheduled hearing.

#### d. Determination Regarding Responsibility

Following the live hearing, the decision-maker(s) will issue a written determination. To reach the determination, the decision-maker(s) will apply the preponderance of the evidence standard of evidence, as defined on in [Section IV](#) of this policy.

The decision-maker(s) will issue the written determination to the parties simultaneously no more than fifteen (15) days after the conclusion of the live hearing. Copies will be sent to the parties and their advisors by email, certified mail, or overnight delivery service such as Federal Express, with receipt of acknowledgement.

The written determination will include the following information:

- A. Identification of the allegations potentially constituting sexual harassment, as defined in [Section III.C.ii](#) of this policy;
- B. A description of the procedural steps taken from the receipt of the formal complaint through the determination, including any notifications to the parties, interviews with parties and witnesses, site visits, methods used to gather evidence, and hearings held;
- C. Findings of fact supporting the determination;
- D. Conclusions regarding the application of DigiPen Institute of Technology's Student Handbook, Code of Conduct and/or Employee Manual and/or this policy to the facts;
- E. A statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility, any disciplinary sanctions to be imposed on the respondent, and whether remedies designed to restore or preserve equal access to DigiPen Institute of Technology education program or activity will be provided by DigiPen to the Complainant; and
- F. DigiPen Institute of Technology's procedures and permissible bases for the complainant and respondent to appeal.

The determination is final either:

- 1. On the date DigiPen Institute of Technology provides the parties with the written determination of an appeal, if an appeal was filed; or
- 2. The date for filing an appeal expires without an appeal having been filed.

e. Appeals

Either Complainant or Respondent may file a written notice of appeal of a determination of dismissal of a formal complaint within five (5) days after receiving the written determination or notice of dismissal. The notice of appeal must be delivered to the Title IX Coordinator within such five (5) day period by email, personal delivery, certified mail or overnight delivery service.

A party may appeal from a) determination regarding responsibility, and b) DigiPen's dismissal of a formal complaint or any allegations therein, on the following bases:

- A. Procedural irregularity that affected the outcome of the process;
- B. New evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made, that could affect the outcome of the process; and
- C. The Title IX Coordinator, Deputy Title IX Coordinator, 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 process.

In the event that a party files an appeal, generally the appeal decision-maker(s) will be the COO - Redmond, though DigiPen has the right to engage an external appeal decisionmaker.

The appeal decision-maker will be free of bias as well as conflict of interest and will not be the Title IX Coordinator, investigator involved in the investigation, or decision-maker who reached the determination regarding responsibility or dismissal. The appeal decision-maker will have received required training under Title IX.

DigiPen Institute of Technology will notify the other party in writing when an appeal is filed and implement appeal procedures equally for both parties, including a reasonable, equal opportunity to submit a written statement in support of, or challenging, the outcome.

The appealing party must submit a statement to the appeal decision-maker in support of the appeal within five (5) days of filing the notice of appeal with a copy to the other party and their advisor. Although the other party is not obligated to respond to the appealing party, should the other party wish to respond, the other party must submit a written response to the statement filed by the appealing party to the appeal decision-maker within five (5) days of receipt of the appealing party's statement with a copy to the other party and their advisor.

No oral arguments will be held on the appeal unless so directed by the appeal decision-maker, in which case both parties' advisors will be given an equal opportunity to present oral arguments.

The appeal decision-maker will issue a written decision simultaneously to both parties, describing the result and the rationale of the decision generally within ten (10) days of receiving the final written statements from the parties.

**f. Informal Resolutions**

At any time following the filing of a formal complaint and prior to reaching a determination regarding responsibility, DigiPen Institute of Technology offers Complainants and Respondents informal resolution

options such as mediation, restorative justice, or other forms of alternative dispute resolution, which do not involve or require a full investigation and hearing process. In order for DigiPen Institute of Technology to proceed with informal resolution options, DigiPen will:

- A.** Provide the parties with a written notice disclosing the following:
  - i. The allegations;
  - ii. The requirements of the informal resolution process, including the circumstances under which the informal resolution process would preclude the parties from resuming a formal 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 grievance process with respect to the formal complaint; and
  - iii. Any consequences resulting from participating in the informal resolution process, including the records that will be maintained or could be shared;
- B.** Obtain voluntary, written consent from the parties to the informal resolution process

DigiPen Institute of Technology will provide the parties with the specific guidelines corresponding to the various informal resolution options prior to the parties signing a written consent to the informal resolution process.

DigiPen Institute of Technology is prohibited from offering informal resolution options in cases which involve a DigiPen employee's sexual harassment of a student.

DigiPen Institute of Technology is prohibited from requiring 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 complaints of sexual harassment as outlined in this policy. Additionally, DigiPen cannot require the parties to participate in an informal resolution process and cannot offer an informal resolution process unless a formal complaint has been filed.

**g. Recordkeeping**

DigiPen will maintain for a period of seven years the records regarding the following:

- A.** Each sexual harassment investigation, including any determination regarding responsibility, the audio recording, audiovisual recording, or transcript of the hearing, any disciplinary sanctions imposed on the respondent, as well as any remedies provided to the complainant designed to restore or preserve equal access to the DigiPen Institute of Technology's education program or activity;
- B.** Any appeal and the result therefrom;
- C.** Any informal resolution and the result therefrom; and

- D. All materials used to train Title IX Coordinators, Deputy Title IX Coordinators, investigators, decision-makers, and informal resolution facilitators. DigiPen Institute of Technology will make these training materials publicly available on its [\*website\*](#).

For each response to a report or formal complaint of sexual harassment, DigiPen will create and maintain for a period of seven years, records of any actions, including any supportive measures taken. In each instance, DigiPen will document the basis for its conclusion that its response was not deliberately indifferent and document that it has taken measures designed to restore or preserve equal access to DigiPen Institute of Technology's education program or activity. If DigiPen does not provide a complainant with supportive measures, then DigiPen will document the reasons why such a response was not clearly unreasonable in light of the circumstances.

## Off-Campus Resources

### Local Resources

**Evergreen Health Emergency Department**

Address: 8980 161st Avenue NE, Redmond, WA 98052

Main Phone: 425-899-1111

**King County Sexual Assault Resource Center 24 Hour Resource Line**

Phone: (888) 998-6423

### National Resources

**National Sexual Assault Hotline**

Phone: 1 (800) 656-HOPE (4673)

**Rape & Sexual Assault Crisis Line**

Phone: 1-888-421-1100

**Rape Abuse and Incest National Network (RAINN)**

Phone: 1-800-656-HOPE

Website: [www.rainn.org](http://www.rainn.org)

The RAINN hotline offers free, confidential counseling and support 24 hours a day, from anywhere in the country.

**National Resource Center on Domestic Violence Hotline (24 hours)**

Phone: 800-799-SAFE

**National Domestic Violence Hotline**

Phone: 1-800-799-SAFE

**National Domestic Violence Hotline Spanish**

Phone: 1-800-942-6908

# DigiPen Institute of Technology Sex Discrimination, Sexual Harassment, and Sexual Misconduct Incident Report

If this is an emergency, call 911.

DigiPen Institute of Technology encourages individuals with knowledge or concerns of an incident of sex discrimination, sexual harassment, or sexual misconduct to report the incident to our Title IX Coordinator.

In accordance with the ***DigiPen Institute of Technology Sexual Harassment and Sexual Misconduct Policy***, any person may report an incident(s) of sex discrimination, sexual harassment, or sexual misconduct to the Title IX Coordinator. The reporting party may be the person directly affected by the alleged incident or a third party. Detailed information about filing this report can be found in the section titled “***What Do I Need to Know About Filing an Incident Report***” in this document.

In this form you will see the following terms:

Complainant: An individual who is alleged to be the victim of conduct that could constitute sexual harassment.

Respondent: An individual who has been reported to be the perpetrator of conduct that could constitute sexual harassment.

We encourage you to complete and ***Incident Report online***; however, once you are ready to complete a report, please submit via email, mail, orally, or deliver to the office of the Title IX Coordinator. The contact information for DigiPen Institute of Technology’s Title IX Coordinator and Deputy Title IX Coordinators is as follows:

Angela Kugler  
9931 Willows Rd NE  
Redmond, WA 98052  
Phone: (425) 895-4438  
Email: [akugler@digipen.edu](mailto:akugler@digipen.edu)

## **Deputy Title IX Coordinator for Student Cases**

Patrick Dezort  
9931 Willows Rd NE  
Redmond, WA 98052  
Phone: (425) 522-5025  
Email: [patrick.dezort@digipen.edu](mailto:patrick.dezort@digipen.edu)

## **Deputy Title IX Coordinator for Employee Cases**

Alicia Cappola  
9931 Willows Rd NE  
Redmond, WA 98052  
Phone: (425) 629-5068  
Email: [alicia.cappola@digipen.edu](mailto:alicia.cappola@digipen.edu)



## What Do I Need to Know About Filing an Incident Report?

DigiPen Institute of Technology is committed to the principles of equal opportunity and seeks to establish and maintain an environment which ensures equal access to education for all DigiPen Institute of Technology community members including students, applicants for admission, employees, applicants for employment, guests, and visitors. To foster this environment, DigiPen encourages individuals with knowledge or concerns of an incident of sex discrimination, sexual harassment, or sexual misconduct to report the incident to our Title IX Coordinator.

In accordance with the ***DigiPen Institute of Technology Sexual Harassment and Sexual Misconduct Policy***, any person may report an incident(s) of sex discrimination, sexual harassment, or sexual misconduct to the Title IX Coordinator. Forms of sexual harassment include sexual assault, dating violence, domestic violence, and stalking. The reporting party may be the person directly affected by the alleged incident (referred to as “Complainant”) or a third party.

For more information about prohibited forms of conduct at the Institute, supportive measures, and DigiPen Institute of Technology’s response to incidents, refer to the ***Sexual Harassment and Sexual Misconduct Policy***. You may find additional resources on DigiPen’s website.

Reports of sex discrimination, sexual harassment, and sexual misconduct may be written or verbal and may be made at any time (including non-business hours) online, in person, by using the telephone number or email address, or by mail to the office address of the Title IX Coordinator. Individuals may also submit this ***Incident Report*** by email, mail, or in person directly to the Title IX Coordinator.

## What Happens After I Complete the Incident Report?

Once you have completed this report, please email, mail, or deliver to the Title IX Coordinator/Deputy Coordinator. After submitting this incident report form, the Title IX Coordinator will contact the Complainant to discuss supportive measures and explain how to file a formal complaint, if applicable and desired by the complainant. Supportive measures will be available to complainants regardless of whether or not they wish to file a formal complaint to initiate a grievance process or a complaint to initiate other procedures at the Institute.

See the ***Sexual Harassment and Sexual Misconduct Policy*** for more information about DigiPen Institute of Technology’s formal complaint and grievance process.

Reports submitted anonymously will be reviewed by the Title IX Coordinator and included in campus safety assessments. If a report is submitted by an unnamed third-party and contains the identity of the Complainant, the Title IX Coordinator will contact the Complainant to inquire about the incident, offer supportive measures, and explain the process for filing a formal complaint. If a report does not contain the identity of the Complainant, the Institute will be unable to contact the Complainant and offer supportive measures. While the Title IX Coordinator will keep confidential the identity of the Complainant (unless disclosing the Complainant’s identity is necessary to provide supportive measures such as no-contact orders), the Title IX Coordinator must know the identity of the Complainant to offer supportive measures.

## Incident Report Versus Formal Complaint

This Incident Report provides community members with the opportunity to notify the Title IX Coordinator of prohibited conduct. However, this report form is not a formal complaint and does not initiate the Title IX formal grievance process outlined in the ***Sexual Harassment and Sexual Misconduct Policy***, the Disciplinary Process and Procedures outlined in the Student Code of Conduct (for incidents involving students) or the complaint procedures outlined in the Employee Manual (for incidents involving employees). Individuals who wish to file a formal complaint under Title IX may review the key elements of a formal complaint, as outlined in the Sexual Harassment and Sexual Misconduct Policy, and discuss this option when contacted by the Title IX Coordinator.

As this is not a formal complaint, generally the Respondent will not be contacted without the consent of the Complainant. However, should the Institute undertake an individualized safety and risk analysis and determine that the Respondent poses an immediate threat to the physical health or safety of any student or other individual based on the allegations contained in this report, DigiPen Institute of Technology may remove the party from campus on an emergency basis.

The Respondent may be contacted in the event that the Complainant requests specific supportive measures (i.e. no-contact orders) and will be contacted if a formal grievance or complaint process is initiated.

**Privacy:** DigiPen Institute of Technology will keep private the identity of any individual who reports sex discrimination, sexual harassment, and or sexual misconduct. DigiPen will also keep private the identity of any Complainant (if not the reporting party), any individual who has been reported to be the perpetrator of sex discrimination, any Respondent, and any witness, except as may be permitted by the FERPA statute or regulations, 20 U.S.C. 1232g and 34 CFR part 99, or required by law, or to carry out the purposes of 34 CFR part 106, including implementing supportive measures and the conduct of any investigation, hearing, or judicial proceeding arising thereunder.