

# LINCOLN UNIVERSITY

**Policy:** TITLE IX – SEX DISCRIMINATION IN EDUCATION  
PROHIBITED

**Policy Number:** HRM -122

**Effective Date:** August 14, 2020

**Prior Revision:** July 2018

**Next Review Date:** August 2021

**Review Officer:** Vice President for Human Resources and Vice President  
for Student Success

**Status:** Approved By President and Board of Trustees

## 1. POLICY STATEMENT

Lincoln University is committed to providing a safe and healthy educational and workplace environment for all members of the University community. All students and employees have a right to be treated with dignity and respect; these rights extend to classrooms, workplaces, residences, and the entire University environment. Accordingly, Lincoln University prohibits discrimination, unlawful harassment, including sexual harassment, and any other victimization of individuals based on actual or perceived traits or characteristics, including sex, age, race, religion, national origin, sexual orientation, gender identity, and disability. This “Title IX Policy” outlines the University’s policy and procedures regarding sex discrimination in education as prohibited by Title IX of the Education Amendments of 1972 (and the Pennsylvania Human Relations Act), including sexual harassment. Title IX states that:

***“No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance.”***

Consistent with Title IX, the University prohibits all forms of sex discrimination, including sexual harassment, as defined by Title IX and the Title IX Regulations and as explained in detail in this Policy.

The University is committed to protecting, maintaining, and encouraging both freedom of expression and full academic freedom of inquiry, teaching, service, and research. However, raising issues of academic freedom and freedom of expression will not automatically excuse behavior that constitutes a violation of this Policy or the law. The University will balance the enforcement of this Policy with freedom of speech and academic freedom.

The procedures, including the grievance process, set forth in this Policy apply when a student (or applicant for admission) is either a Complainant or Respondent (as those terms are defined in this Policy). A separate set of procedures administered by the University's Office of Human Resources and outlined in the "Discrimination and Harassment – Employment Policy" applies to situations involving claims of sex discrimination in employment in the forms of sexual harassment and misconduct, when the Complainant and Respondent are employees.

## **2. STATEMENT OF PURPOSE**

This Policy establishes guidelines in accordance with the University's obligations under Title IX. The purposes of this Policy include:

- Defining sexual harassment;
- Educating all students and employees on the different types of behavior that can be considered sexual harassment;
- Explaining procedures for reporting incidents of sexual harassment;
- Explaining the grievance procedures, including, but not limited to, the investigation process, hearings and appeals;
- Explaining training provided by the University to University officials with Title IX responsibilities under this Policy; and
- Identifying the types of disciplinary actions that may be imposed upon persons who violate this Policy and supportive measures that may be put into place.

## **3. APPLICABILITY**

This Policy is applicable to all sexual harassment by and among all members of the University community, including all faculty, staff, temporary employees, students, customers, and other third parties within the University's control involving alleged conduct which may deny an individual equal access to the University's education programs or activities. As noted above in Section 1, the procedures, and grievance process, in this Policy apply whenever a student is either a Complainant or Respondent and a separate set of procedures applies to alleged situations involving claims of sex discrimination in employment, when the Complainant and Respondent are employees. For questions regarding policies applicable when only employees are involved, please contact:

Office of Human Resources  
International Cultural Center  
Telephone: (484) 365-8059  
Address: 1570 Baltimore Pike, Lincoln University, PA 19352

Sexual harassment can be committed by both men and women, and can occur between people of the same or opposite sex, and can occur between strangers or acquaintances, including people involved in an intimate or sexual relationship.

This Title IX Policy has been comprehensively updated, effective August 14, 2020, to incorporate and comply with new requirements and interpretations set forth in updated Title IX Regulations effective on that date, and is intended to treat Complainants and Respondents equitably. Unless otherwise stated, this Policy supersedes and overrides other policies and procedures of the University to the extent they may be inconsistent with this Policy.

#### **4. DEFINITIONS**

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

Formal Complaint: A document filed by a Complainant or signed by the Title IX Coordinator alleging sexual harassment against a Respondent and requesting that the University investigate the allegation of sexual harassment.

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

Sexual Harassment: Consistent with the Title IX Regulations, "Sexual Harassment" for the purposes of this Policy means conduct on the basis of sex that satisfies one or more of the following:

- (i) An employee of the University conditioning educational benefits on participation in unwelcome sexual conduct (sometimes referred to as "*quid pro quo*");
- (ii) Unwelcome conduct that a reasonable person would determine is so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the University's education program or activity; or
- (iii) Sexual assault as defined in the Clery Act, or dating violence, domestic violence, or stalking as defined in the Violence Against Women Act (VAWA).

The Clery Act and VAWA are described below in more detail.

Supportive Measures: Measures that are individualized services reasonably available that are non-punitive, non-disciplinary, and not unreasonably burdensome to the other party while designed to ensure equal educational access, protect safety, or deter sexual harassment.

Title IX Coordinator: The Title IX Coordinator shall be responsible for monitoring compliance with all aspects of this Policy. Accordingly, the Title IX Coordinator must be informed of all reports and complaints raising Title IX issues (subject to the exception for confidential staff described in Section 7), even if the report or complaint was initially filed with another individual or office or if the investigation will be conducted by another individual or office. As of the effective date of this Policy, the Title IX Coordinator's contact information is as follows:

Title IX Coordinator  
Wright Hall 107  
Telephone: (484) 746-0000  
E-Mail: [titleix@lincoln.edu](mailto:titleix@lincoln.edu)  
Address: 1570 Baltimore Pike, Lincoln University, PA 19352

Title IX Regulations: The federal regulations at 34 C.F.R. Part 106, as amended effective August 14, 2020, or as thereafter amended.

University Community: Includes all faculty, adjunct faculty, persons engaged in research, teaching assistants, administrators, staff, students, and persons who conduct business with the University but are not employees.

University Day: For the purposes of this Policy means a day when classes or examinations are scheduled and held in accordance with the official academic calendar of Lincoln University, excluding Saturdays and Sundays.

## **5. RELEVANT FEDERAL LAWS**

The University complies with all applicable laws, federal regulations, and other requirements relating to the prevention of sexual harassment, including those set forth below:

### **5.1 Title IX of the Education Amendments of 1972**

Title IX is a federal civil rights law that prohibits discrimination on the basis of sex in education programs and activities that receive federal funding.

The law provides that “[n]o person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving federal financial assistance.” *Title IX of the Education Amendments of 1972*, 20 U.S.C. § 1681, et seq.

The U.S. Department of Education’s Office for Civil Rights mandates that schools respond promptly to Title IX sexual harassment in a manner that is not deliberately indifferent and is not clearly unreasonable in light of the known circumstances.

Title IX protects all students at recipient institutions in the United States regardless of national origin, immigration status, or citizenship status.

## **5.2 Title VII of the Civil Rights Act of 1964**

Title VII of the Civil Rights Act of 1964, as amended, prohibits employment discrimination based on sex, race, color, religion, or national origin. Accordingly, harassment of an employee on the basis of sex violates this federal law.

NOTE: Cases that involve allegations of harassment in which both the complainant and respondent are employees shall be investigated and handled by the University’s Office of Human Resources and not processed in accordance with the procedures under this Policy.

## **5.3 The Violence Against Women Act (VAWA)**

The Violence Against Women Act (“VAWA”), 42 U.S.C. §§ 13701, et seq., prohibits sexual assault, domestic violence, dating violence, and stalking. This federal legislation is sometimes referred to as the Campus Sexual Violence Elimination (SaVE) Act.

## **5.4 The Clery Act**

The Clery Act, 20 U.S.C. §1092(f), requires all colleges and universities that participate in federal financial aid programs to collect and disclose certain information about crime on or near their campuses, including sex offenses.

## **5.5 Family Educational Rights and Privacy Act (FERPA)**

The Family Educational Rights and Privacy Act (“FERPA”), 20 U.S.C. §1232g, protects the privacy of student educational records. FERPA is designed to ensure that students (and parents of students under the age of 18) may obtain access to the student’s

educational records and challenge the content or release of such records to third parties.

## **6. PROHIBITED CONDUCT**

The following conduct is prohibited by this Policy:

### **6.1 Sexual Harassment**

The University prohibits sexual harassment as defined in the Title IX regulations and Section 4 of this Policy.

*Note: Consensual relationships among members of the University community in which one party exercises academic or administrative authority over the other, even if not in violation of Title IX, may be inappropriate under the particular circumstances because of a perception of power or influence. Any faculty member, teaching associate, administrative staff member, or athletic staff member who engages in such relationships must accept responsibility for assuring that it does not result in a conflict of interest or raise other issues of professional ethics, or violate other applicable policies of the University.*

#### **6.1.1. Examples of Sexual Harassment**

Sexual Harassment for the purposes of Title IX includes, for example, but is not limited to, the following types of misconduct based on sex:

- Rape/Sexual Assault (See Section 6.1.2 below);
- Dating Violence (See Section 6.1.3 below);
- Domestic Violence (See Section 6.1.4 below);
- Stalking (See Section 6.1.5 below);
- Offensive physical contact such as unwelcome touching, fondling, patting, pinching, brushing the body, or obscene gestures;
- Sexually degrading language or remarks of a sexual nature used to describe a person's body or clothing;
- Verbal or physical conduct of a sexual nature made to any employee or student that may threaten or insinuate, either explicitly or implicitly, that an individual's submission to, or rejection of, sexual advances will in any way influence any personnel or academic decisions regarding that person
- Repeated unwelcome sexually oriented conversations or comments, including jokes or anecdotes of a sexual nature, and sexually degrading language, including unwelcome or insulting sounds or whistles, and obscene telephone calls, emails, social media posts, or texts;
- Sexually explicit language or writings, including the content of text messages and emails;
- Display of sexually demeaning and suggestive objects, pictures,

videotapes, audio recordings, computer communications, or literature placed in the work or study area. (Note: Materials with sexual content that are used or displayed in an educational setting must be related to educational purposes);

- Displaying or electronically transmitting lewd pictures;
- Threats that an individual's conditions of academic life may be adversely affected by refusing to submit to sexual advances;
- Promises, implied or expressed, of academic benefits to a person who engages in sexual activities;
- Indecent exposure;
- Invasion of sexual privacy;
- Bullying;
- Quid Pro Quo Sexual Harassment (See Section 6.1.6 below);
- Hostile Educational Environment Harassment (See Section 6.1.7 below); and
- Any other conduct which, when viewed from the perspective of a reasonable person, is sufficiently pervasive, severe, or persistent to alter the conditions of the individual's employment or status as a student and create a hostile working or learning environment.

### **6.1.2 Rape and Sexual Assault**

The University prohibits sexual misconduct against an individual without consent or when an individual is unable to give consent, including rape and other types of sexual assault. "Sexual Assault" is defined for the purposes of Title IX and this Policy as an offense classified as a forcible or nonforcible sex offense under the uniform crime reporting system of the Federal Bureau of Investigation or the Criminal Code of the Commonwealth of Pennsylvania. Rape includes acts of sexual intercourse that takes place against a person's will and that are accompanied by physical coercion or the threat of bodily injury. This includes the sexual penetration of any bodily orifice with a body part or other object. Rape also includes intercourse with a person who is unable to consent as a result of conditions including, but not limited to, those caused by the intake of alcohol or drugs, or because intellectual or other disability prevents the person from having the capacity to give consent.

### **6.1.3 Dating Violence**

Prohibited "Dating Violence" is defined in the Violence Against Women Act, 34 U.S.C. 12291(a)(10), as violence committed by a person—

(A) who is or has been in a social relationship of a romantic or intimate nature with the victim; and

(B) where the existence of such a relationship shall be determined based on a consideration of the following factors:

- (i) The length of the relationship.
- (ii) The type of relationship.

#### **6.1.4 Domestic Violence**

For the purposes of this Policy, prohibited “Domestic Violence” is defined consistently with the Title IX Regulations and the Violence Against Women Act, 34 U.S.C. 12291(a)(8), to include “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 [Commonwealth of Pennsylvania].”

#### **6.1.5 Stalking**

Prohibited “stalking” is defined in accordance with the Title IX Regulations and the Violence Against Women Act, 34 U.S.C. 12291(a)(30), to mean engaging in a course of conduct directed at a specific person that would cause a reasonable person to—

- (A) fear for his or her safety or the safety of others; or
- (B) suffer substantial emotional distress.

#### **6.1.6 Quid Pro Quo Sexual Harassment**

The University prohibits “Quid Pro Quo” sexual harassment, which occurs when an employee of the University conditions the provision of an aid, benefit, or service of the University on an individual's participation in unwelcome sexual conduct.

#### **6.1.7 Hostile Environment Sexual Harassment**

“Hostile Environment” sexual harassment in education in violation of Title IX, the Title IX Regulations, and this Policy occurs when unwelcome conduct of a sexual nature when viewed from the perspective of a reasonable person is so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the recipient's education program or activity.

## **6.2 Retaliation**

Retaliation in violation of Title IX is prohibited by the University. This prohibited conduct includes, but is not limited to, retaliation against a person for: reporting discrimination and harassment; filing a complaint of discrimination or harassment; or participating in, or refusing to participate in, the investigation, grievance or other procedures of this Policy. Retaliation is also prohibited against persons who assist others in bringing a complaint of discrimination or harassment by offering advice and moral support or by giving testimony or documentary evidence in response to a complaint.

Prohibited retaliation includes conduct that may reasonably be viewed to:

- adversely affect an individual's educational, living, or work environment because of his or her good-faith participation, or refusal to participate, in the reporting, investigation, or other procedures in this Title IX Policy; or
- discourage a person from filing a report or complaint of sexual harassment or participating in an investigation or other proceedings under this Policy, or reporting to or participating in procedures with any other local, state, or federal complaint process, such as filing a complaint with the U.S. Department of Education.

Retaliation includes, but is not limited to, acts or words that constitute intimidation, threats, or coercion intended to pressure any individual to participate, not participate, or provide false or misleading information during any proceeding under this policy.

Prohibited retaliation also includes retaliation against a person who reasonably protests against sexual harassment practices within the University.

The University will not charge an individual under a separate policy or Code of Conduct for conduct arising out of the same facts or circumstances reported as sexual harassment for purposes of interfering with Title IX protections. The University is required to keep confidential the identity of complainants, respondents and witnesses, except as where may be required by law, permitted under FERPA or deemed necessary to carry out the Title IX process.

## **6.3 Consent and The Use of Alcohol and/or Other Drugs**

Being intoxicated does not diminish an individual's responsibility to obtain the consent of the other party before engaging in sexual activity. Being intoxicated or under the influence of drugs is never an excuse for sexual misconduct.

## 6.4 Harassment based on Sexual Orientation

This Policy prohibits sex-based harassment and bullying, including harassment based on gender, sexual orientation, and gender identity. The actual or perceived sexual orientation or gender identity of the parties, including lesbian, gay, bisexual, transgender, and queer (LGBTQ), does not change the University's obligations under this Policy.

## 7. REPORTING PROCEDURES AND RESPONSE OBLIGATIONS

### 7.1 Reporting

#### 7.1.1 In The Event of a Sexual Assault

If you or someone you know has recently been assaulted:

- **Immediately get to a safe place.**
- Students and employees who believe that they have been victims of sexual assault or other criminal sexual misconduct are encouraged to report the incident **immediately** to **Public Safety** at (484) 365-7211 (24 hours a day, seven days a week) or to **law enforcement** by dialing 911. In order to best preserve evidence in cases of assault:
  - Try not to wash your face or hands, bathe, brush your teeth, drink or eat, douche, or change clothes if you can avoid it. If you do change your clothes, put all clothing you were wearing at the time of the assault in individual paper bags (not plastic). It is important to preserve as much evidence as possible should you later decide to press criminal charges.
  - Try to preserve all physical evidence.
- **Seek medical attention.** For urgent medical treatment, call 911. The University Health Services also may be contacted by dialing (484)-365-7335. If you have time and desire to do so, you can contact the Title IX Coordinator during regular business hours to assist you and, if needed, provide you with an escort to a health care provider.
  - When you feel ready to do so, please contact the Title IX Coordinator or other resources described in this Policy for ongoing support.

### 7.1.2 Reporting and Filing Complaints with the Title IX Coordinator

Any incident of sexual harassment in violation of Title IX and this Policy may be reported to the Title IX Coordinator. Formal Complaints, which are explained in detail in Section 8 of this Policy, should also be filed with the Title IX Coordinator, whose contact information as of the effective date of this Policy is as follows:

Title IX Coordinator  
Telephone: 484-746-0000  
Email: *titleix@lincoln.edu*  
Location: Wright Hall 107  
1570 Baltimore Pike  
Lincoln University, PA 19352

Forms and procedures for reporting complaints of sexual harassment in violation of Title IX are available in the Office of Institutional Equity, the Office of Human Resources, and on the University's website.

### 7.1.3 Additional Information on Reporting

**Confidential Employees:** Professional licensed counselors, health services professional, and pastoral counselors who provide mental, health, and counseling services to members of the University community are *not* required to report any information without the victim's permission.

**Reports:** When a report is made to the Title IX Coordinator, it is helpful if the report provides all relevant details, including the names of the Complainant and Respondent, any witnesses, and any other relevant facts, including the date, time, and specific location of the alleged incident.

**Anonymous Reporting:** Any member of the University community may report a violation of this Policy by calling the University's reporting hotline (7 days a week, 24 hours a day) at **(484) 365-7799**. Callers will also be able to provide further details as needed anonymously.

**Timing.** There is no time limit for reporting prohibited conduct to the University under this Policy; however, the University's ability to respond may diminish over time, as evidence may erode, memories may fade, and Respondents may no longer be affiliated with the University.

**Deputy Coordinators** have been designated by the Title IX Coordinator to provide assistance with the investigation process. The Deputy Coordinators are:

Jacob Mullins	Assistant Athletic Director for Compliance & Internal Relations
Kisha Middleton	Assistant Athletic Director/SWA
Tamarkius Roby	Director, Office for Veteran Affairs
Taylor Dampeer	Assistant Athletic Director, Wellness & Recreational Services
Jernice Lea	Director, Office of Student Services & Admissions, School of Adult & Continuing Education
Rochelle Gray	Interim Director of Labor and Employee Relations (with respect to matters involving employees)

**Other Non-University Resources.** In addition to the procedures in this Policy for reporting to the Title IX Coordinator, individuals may also contact the Office for Civil Rights (OCR):

U.S. Department of Education  
Office for Civil Rights  
Lyndon Baines Johnson Department of Education Bldg.  
400 Maryland Avenue, SW  
Washington, DC 20202-1100

**Telephone:** 800-421-3481  
**Fax:** 202-453-6012  
**TDD:** 800-877-8339  
**Email:** [OCR@ed.gov](mailto:OCR@ed.gov)

## **7.2 Overview of Response Obligations.**

Upon receiving notice of potential sexual harassment prohibited under Title IX, the University is obligated to promptly respond in a manner that is not *deliberately indifferent* and is not clearly unreasonable in light of the known circumstances.

Mandatory response obligations of the University as required by the Title IX Regulations are as follows:

- University must offer supportive measures to the Complainant.
- The Title IX Coordinator must promptly contact the Complainant confidentially to inform the Complainant of the availability of supportive measures and consider Complainant's requests with respect to supportive measures; inform

the Complainant of the availability of supportive measures with or without the filing of a formal complaint; and explain the formal complaint process.

- The University must follow the grievance process set forth in this Policy before the imposition of any disciplinary sanctions or other actions that are not supportive measures, against a Respondent.
- The University must not restrict rights protected under the U.S. Constitution, including the First Amendment, Fifth Amendment, and Fourteenth Amendment, when complying with Title IX.
- The University must investigate sexual harassment allegations in any formal complaint, whether filed by a Complainant or signed by a Title IX Coordinator.
- The University should respect a Complainant's wishes with respect to whether it investigates the reported incident unless the Title IX Coordinator determines that signing a Formal Complaint to initiate an investigation over the wishes of the complainant is not clearly unreasonable in light of the known circumstances.

## **8. GRIEVANCE PROCESS**

### **8.1 Complaint of Sexual Harassment**

As explained in Section 7 above, informal reports of sex discrimination may be made by anyone, including anonymously, to University's Title IX Coordinator. If that occurs, the Title IX Coordinator will promptly review the allegations to determine if they may constitute sexual harassment in violation of this Policy that may warrant the filing of a Formal Complaint by the Title IX Coordinator.

A **Formal Complaint** may be filed with the University Title IX Coordinator in person, by mail, or by electronic mail, by using the contact information listed in this Policy for the Title IX Coordinator.

Submission to the Title IX Coordinator of a Formal Complaint alleging sexual harassment and requesting investigation will immediately trigger the University's Title IX Grievance Process. For the purposes of this Policy, a "Formal Complaint," consistent with Section 106.30 of the Title IX Regulations, is defined as a document filed by a Complainant or signed by the Title IX Coordinator alleging sexual harassment against a Respondent and requesting that the University investigate the allegation of sexual harassment. (When the Title IX Coordinator signs a Formal Complaint, the Title IX Coordinator is not considered to be a "Complainant.")

At the time of filing a Formal Complaint, a Complainant must be participating in or attempting to participate in an education program or activity of the University in order to initiate the University's Title IX formal grievance process.

## **8.2 Notice of Allegations**

Upon receiving a Formal Complaint, the University must complete a prompt, fair, and impartial investigation of the allegations. The entire grievance process is intended to treat the Complainant and Respondent equitably. Respondents are presumed not responsible for the alleged conduct and no determination regarding responsibility will be made until the conclusion of the grievance process. The investigation shall be handled by one or more investigators appointed by the Title IX Coordinator.

The Respondent (and Complainant) will be promptly provided with a “**Notice of Allegations**” that meets the requirements of Section 106.45(b)(2)(i)(B) of the Title IX Regulations. At a minimum, such Notice shall include the allegations of conduct potentially constituting sexual harassment, including sufficient details known at the time and with sufficient time to prepare a response before any initial interview. Such details include the identities of the parties involved in the incident, if known, the conduct allegedly constituting sexual harassment, and the date and location of the alleged incident, if known. The Notice will include a statement that the Respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility will be made at the conclusion of the grievance process. The Notice will also inform the parties that they may each have an advisor of their choice, who may be, but is not required to be, an attorney, and may inspect and review evidence. The Notice will also inform the parties of any provision in the Lincoln University Code of Conduct that prohibits knowingly making false statements to University officials, including Section 1.11 of the Student Code of Conduct.

The Notice of Allegations shall be provided as soon as reasonably practicable but no more than seven (7) University Days after the receipt of a Formal Complaint.

## **8.3 Investigation by University**

An investigation shall be promptly conducted by the University through one or more investigators (“Deputy Coordinators”) who will not be the Title IX Coordinator. When investigating a Formal Complaint (and throughout the entire grievance process), the University will, in accordance with the Title IX Regulations:

- (i) Ensure that the burden of proof and the burden of gathering evidence is on the University and not on the parties. However, the University cannot access, consider, disclose, or otherwise use a party's medical / psychological records without that party's voluntary, written consent to do so;

- (ii) Provide an equal opportunity for the parties to present witnesses, including fact and expert witnesses, and other evidence;
- (iii) Not restrict the ability of either party to discuss the allegations under investigation or to gather and present relevant evidence;
- (iv) Provide the parties with the same opportunities to have others present during any grievance proceeding, including the opportunity to be accompanied to any related meeting or proceeding by the advisor of their choice, who may be, but is not required to be, an attorney, and not limit the choice or presence of advisor for either the complainant or respondent in any meeting or grievance proceeding;
- (v) Provide, to a party whose participation is invited or expected, written notice of the date, time, location, participants, and purpose of all hearings, investigative interviews, or other meetings, with sufficient time for the party to prepare to participate;
- (vi) Provide both parties an equal opportunity to inspect and review any evidence obtained as part of the investigation that is directly related to the allegations raised in a Formal Complaint, including the evidence upon which the University does not intend to rely in reaching a determination regarding responsibility and evidence whether or not obtained by the University, so that each party can meaningfully respond to the evidence prior to conclusion of the investigation. Prior to completion of the investigative report, the University will send to each party and the party's advisor, if any, the evidence subject to inspection and review in an electronic format or a hard copy, and the parties will be given at least ten (10) calendar days to submit a written response, which the investigator will consider prior to completion of the investigative report. All such evidence will be made available for the parties' inspection and review at any hearing to give each party equal opportunity to refer to such evidence during the hearing, including for purposes of cross-examination; and
- (vii) Create an investigative report that fairly summarizes relevant evidence and, at least ten (10) calendar days prior to a hearing (if a hearing is held) or other time of determination regarding responsibility, send to each party and the party's advisor, if any, the investigative report in an electronic format or a hard copy, for their review and written response.

The investigation stage of the process, ending with the issuance of the Investigation Report shall be completed in no more than sixty (60) University Days, but may be extended in intervals of fourteen (14) University Days, with written notice explaining the reason for the extension.

#### **8.4 Options for Informal Resolution after Formal Complaint is Filed.**

Except in cases where the Respondent is an employee and the Complainant is a student, the University in appropriate situations in which a Formal Complaint has been filed may in its discretion offer and facilitate an ***informal resolution process*** if each party, after being fully informed, voluntarily agrees in writing to participate in such process. The process offered by the University, which would be handled in compliance with Section 106.45(b) of the Title IX Regulations, could involve such informal processes as a mediation or restorative justice.

An informal resolution process may be used only when both the Complainant and Respondent voluntarily agree to participate, and only after a Formal Complaint has been filed. If the parties elect to proceed with an offered informal resolution process, this process would be in lieu of a Formal Hearing (discussed below). No one can be forced to go through the informal resolution process.

If an informal resolution option is offered by the University, both parties prior to making a decision on whether to participate in the informal resolution process will be provided with written notice describing the process and implications of participating. The notice will describe the allegations against the Respondent. It will also describe the informal resolution process, including the right of either party at any time prior to the voluntary agreement to a resolution to withdraw from the informal resolution process and require the matter to resume under the Formal Hearing process, and the consequences of proceeding to a conclusion under the informal resolution process, including the bar to Complainant later pursuing a Formal Complaint arising from the same allegations after a final resolution has been agreed to by the parties.

If in a particular case expulsion is a proposed sanction, it, like all other potential outcomes, can only occur if both parties agree to it as part of resolution.

Any mediators or other individuals offered by the University to facilitate an informal resolution process will be trained, including with respect to, among other things, the definition of sexual harassment under the Title IX regulations, how to conduct the process, and how to avoid conflicts of interest and bias in discharging their duties.

An informal resolution process shall be completed within Seventy-Five (75) University Days of the agreement of all parties to use the informal resolution process, unless an extension of time is agreed to by all parties. If either party withdraws from the informal process, or no mutually agreeable resolution can be reached during the timeframe for the informal resolution process, the formal grievance process shall resume. (The time frames applicable to the formal grievance process shall be put on hold, or “toll,” during any informal resolution process and shall restart if the informal resolution process is terminated without an agreed upon resolution.)

## 8.5 Dismissal of Formal Complaint

If the conduct alleged in the Formal Complaint would not constitute sexual harassment as defined in Section 106.30 of the Title IX Regulations even if proved, did not occur in the University's education program or activity, or did not occur in the United States, then the University will dismiss the Formal Complaint with regard to that conduct for purposes of sexual harassment under Title IX. If the conduct alleged is contrary to Lincoln University's policies but occurred outside the United States in connection with a semester abroad program through the University, the University may nevertheless proceed with non-Title IX disciplinary proceedings regarding such conduct under the University's general procedures regarding student discipline.

In addition, the University may dismiss a Formal Complaint or any allegations therein, if at any time during the investigation or hearing: a Complainant notifies the Title IX Coordinator in writing that the Complainant would like to withdraw the Formal Complaint or any allegations therein; the Respondent is no longer enrolled or employed by the University; or specific circumstances prevent the University from gathering evidence sufficient to reach a determination as to the Formal Complaint or allegations therein.

An ***appeal*** may be taken by either party from a dismissal of a Formal Complaint or any allegations therein within the timeframe and on any of the three grounds specified below in the Appeals section of this Policy.

## 8.6 Live Hearing

Except for cases in which the parties have agreed to proceed with an offered informal resolution process, a live hearing will be held before a panel of trained decision makers appointed by the University. The decision-makers:

- (i) will not be the Title IX Coordinator or the investigator;
- (ii) will be free from conflict of interest or bias, including bias for or against Complainants or Respondents; and
- (iii) will have been trained on topics including how to serve impartially, issues of relevance, including how to apply the rape shield protections provided for complainants, and any technology to be used at the hearing.

At the hearing, each party, in accordance with Section 106.45(b)(6), shall be ***permitted through an Advisor*** of the party's choosing to cross-examine and ask relevant questions of the other party and all witnesses. The Advisor may be, but is not required to be, an attorney. In no event will a party (Complainant or Respondent) be permitted to personally cross-examine another party or witness. If a party does not have an Advisor present at the live hearing, the University will provide without charge to that party, an advisor of the University's choice to conduct cross-examination on behalf of that party.

At the request of either party, the University will provide for the live hearing to occur with the parties located in separate rooms with technology enabling the decision-maker(s) and parties to simultaneously see and hear the party or the witness answering questions. At the discretion of the University, hearings may be conducted with all parties physically present in the same geographic location or any or all parties, witnesses, and other participants appearing at the live hearing virtually, with technology enabling participants simultaneously to see and hear each other.

Before a Complainant, Respondent, or witness answers a cross-examination or other question, the decision-maker(s) will 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 such questions and evidence about the Complainant's prior sexual behavior are offered to prove that someone other than the Respondent committed the conduct alleged by the Complainant, or if the questions and evidence concern specific incidents of the Complainant's prior sexual behavior with respect to the Respondent and are offered to prove consent.

If a party or witness does not submit to cross-examination at the live hearing, the decision-maker(s) is prohibited under the Title IX Regulations from relying on any statement of that party or witness in reaching a determination regarding responsibility. However, no negative inference about the determination regarding responsibility shall be drawn solely on the basis of a party's or witness's absence from the live hearing or refusal to answer cross-examination or other questions.

The University will create an audio or audiovisual recording, or transcript, of any live hearing and make it available to the parties for inspection and review. The University is not required to provide a copy to be taken by the party.

The University uses a "***preponderance of the evidence***" standard to determine responsibility. The same standard of evidence applies for Formal Complaints against students as for Formal Complaints against employees, including faculty.

## **8.7 Determination of Responsibility**

Following the hearing, the decision-maker(s) shall issue a ***written determination*** of responsibility or non-responsibility. The written determination shall be issued as soon as reasonably practicable after the hearing, but in no more than ten (10) University Days, after the close of the hearing.

The written determination will include a least the following items:

- (i) an identification of the allegations potentially constituting sexual harassment;

(ii) 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 other evidence, and hearings held;

(iii) Findings of Fact supporting the determination;

(iv) Conclusions regarding the application of the University's code of conduct to the facts in the event that the University exercises its discretion to apply any University policies and procedures not otherwise required under Title IX;

(v) a statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility, any disciplinary sanctions the University imposes on the Respondent, and whether remedies designed to restore or preserve equal access to the University's education program or activity will be provided by the University to the Complainant; and

(vi) the applicable procedures and permissible bases for the Complainant and Respondent to appeal (as described below).

## **8.8 Appeals**

Either the Complainant or the Respondent may ***appeal*** from either a (1) determination of responsibility/non-responsibility and (2) dismissal of a Formal Complaint or any allegations therein, to both parties, on the following four grounds, and no other grounds:

(i) A procedural irregularity that affected the outcome of the matter;

(ii) 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 matter;

(iii) The 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 matter; and/or

(iv) The disciplinary sanctions or remedies imposed are unreasonable, inappropriate, overly harsh or insufficient given the violation determined and circumstances of the case.

Any such appeal must be filed within (a) three (3) University Days of the issuance of notice of dismissal, in the case of an appeal from a dismissal of a Formal Complaint or Allegation therein; or (b) three (3) University Days of the later of (i) the issuance of a

notice of determination of responsibility or, if later (ii) the date the transcript or recording of a live hearing be made available to both parties by filing a written “**Notice of Intent to Appeal**,” and must be followed within five (5) additional University Days by the filing of a detailed written “**Statement of Appeal**” identifying grounds for appeal and providing an explanation. Failure to timely file either the Notice of Intent to Appeal or the Statement of Appeal with result in the appeal being dismissed.

The University will immediately provide a copy of any Notice of Intent to Appeal and of the appealing party’s Statement of Appeal to the non-appealing party. The non-appealing party will have five (5) University Days from the service of the appealing party’s Statement of Appeal to file, if desired, a written “**Response to Statement of Appeal**.” If such Response to Statement of Appeal is filed, a copy will be immediately provided by the University to the appealing party, but the appealing party shall not have the right to submit an additional statement.

Notices of Intent to Appeal, Statements of Appeal, and Responses to Statements of Appeal must be submitted in writing to the **Office of the President of the University** at the following address:

Vice President, Division of Student Success  
Wellness Center, 127  
Lincoln University  
1570 Baltimore Pike  
Lincoln University, PA 19352

Non-punitive supportive measures, such as mutual class scheduling adjustments and mutual no-contact orders, may be continued during the pendency of an appeal, but any disciplinary sanctions will be stayed until the completion of the appeal process. The President or President’s designee will review the appeal, including all party submissions, and issue a written decision to all parties involved within thirty (30) University Days after receipt of the written Notice of Intent to Appeal.

This is the final step in the University’s Formal Complaint procedure.

## **9. DISCIPLINARY ACTIONS**

Employees and students who violate this Policy are subject to appropriate discipline by the University. If an investigation results in a finding that this Policy has been violated, the mandatory minimum discipline is a written reprimand.

Upon the finding of a serious violation of this Policy, the University reserves the right to take disciplinary measures, up to and including, termination of employment, expulsion or suspension, removal from campus, cancellation of contract, and any other appropriate actions necessary to address the violation.

Appropriate disciplinary actions shall be taken against any person found to have participated in any acts of retaliation. Any attempt to penalize or retaliate against a person for filing a complaint or participating in the investigation of a complaint regarding a violation of this Policy will be treated as a separate and distinct violation of the Policy. Specifically:

- A student found to have retaliated in violation of this Policy shall be subject to measures up to, and including, suspension and/or expulsion.
- A University employee found to have retaliated in violation of this Policy shall be subject to measures up to, and including, termination of employment.
- A University non-employee found to have retaliated in violation of this Policy shall be subject to measures up to, and including, exclusion from school grounds.

Persons who violate this Policy may also be subject to civil damages or criminal penalties.

## **10. SUPPORTIVE MEASURES**

Supportive measures by the University may include, but may not be limited to:

- Providing escorts to ensure that individuals can safely move between classes and activities;
- Ensuring that the Respondent and Complainant do not attend the same classes;
- Moving the Complainant and/or Respondent to a different residence hall;
- Providing counseling and/or medical services;
- Providing academic support services, such as tutoring.

The University may also provide remedies for the broad University community population, including additional training and education.

## **11. SPECIAL RULES AND PROCEDURES WHERE THE RESPONDENT IS A UNIVERSITY EMPLOYEE.**

When the Respondent is an employee of the University and the Complainant is a student, the following special rules and procedures shall apply with respect to such Respondent:

- The Title IX Coordinator shall coordinate the investigation with the University Vice President of Human Resources. The University Vice President of Human Resources, or his or her trained designee, shall act as an investigator in dealing with such employee.
- In no event shall the informal resolution process of this Policy be available when the Respondent is a University employee and the Complainant is a student.
- Employees who are found responsible for violating this Policy shall be subject to disciplinary action, up to and including termination of employment. The disciplinary action other than termination may include, but is not limited to, demotion, reassignment, a suspension without pay from employment, written warnings, and oral warnings.
- Employees subject to discipline based on a determination of responsibility for violating this Policy who are members of a collective bargaining unit represented by a labor union at the University shall have the right, to the extent consistent with federal law, including the Title IX Regulations, to pursue any directly applicable grievance and arbitration procedures under the applicable collective bargaining agreement with respect to such disciplinary action.
- When determined by the University to be appropriate under the circumstances, and to the extent consistent with any applicable collective bargaining agreement, an employee who is a Respondent may be placed on administrative leave during the pendency of a grievance process.

*Note: Complaints of employment sex discrimination or of sexual harassment by one employee, as the complainant, against another employee, as respondent, and not involving any student as either a complainant or a respondent, are investigated and processed by the Office of Human Resources in accordance with the investigatory and disciplinary procedures applicable to violations of employment policies and, to the extent applicable, in accordance with collective bargaining agreements.*

## **12. EDUCATION AND PREVENTION**

### **12.1 Generally**

Education is an essential component in the prevention and elimination of sexual harassment. To accomplish an adequate Title IX educational program, the University shall:

- Educate members of the University community on what constitutes prohibited conduct under this Policy.

- Inform members of the University community of this Policy and training programs to assure their implementation.
- Ensure that the University has sufficiently trained staff to carry out educational programs and training regarding the procedures established by this Policy.

## **12.2 Training**

The Title IX Coordinator shall oversee and coordinate training regarding Title IX and the prevention of sexual discrimination. To the extent training relates to employees, the Title IX Coordinator shall coordinate such training with the Vice President of Human Resources.

## **12.3 Dissemination of the Policy**

A copy of this Policy shall be distributed throughout the campus and shall be published on the University's website.

## **12.4 Public Notification of Clery Act Statistics**

To the extent required by law, including the Clery Act, the University shall collect and annually report statistical information concerning sexual misconduct occurring within its jurisdiction. To promote public safety, the University will alert the campus community of incidents and developments of immediate concern.

## **12.5 Resources**

**Information on Counseling and Victim Services:** For further information on the counseling services available to victims of harassment and sexual assault, contact the **Title IX Coordinator** (see contact information in Section VII) or **The Counseling Department** directly at (484) 365-7224. Other resources include:

**Health Services:** (484)-365-7335

**University Chaplain:** (484) 365-8075

## **12.6 Title IX Recordkeeping**

The University shall maintain for a period of seven (7) years records of:

- Each sexual harassment investigation including any determination regarding responsibility and any audio or audiovisual recording or transcript required under the Title IX Regulations, any disciplinary sanctions imposed on the

respondent, and any remedies provided to the complainant designed to restore or preserve equal access to the recipient's education program or activity;

- Any appeal and the result of the appeal;
- Any informal resolution and the results therefrom;
- All materials used to train Title IX Coordinator, investigators, decision-makers, and any person who facilitates an informal resolution process. These training materials will be publicly available on the Lincoln University website; and
- Any actions, including supportive measures, taken in response to a report or Formal Complaint of sexual harassment, as well as document the bases for the University's conclusions and that it has taken measures designed to preserve access to the University's educational program or activity.

This recordkeeping shall apply even if the Respondent's determination of responsibility has been subjected to an expungement.

## **12.7 Questions/Contact**

If you have questions or are concerned that the University has not met its obligation under this Policy, please contact the Title IX Coordinator.

**LINCOLN UNIVERSITY  
STUDENT/EMPLOYEE  
SEXUAL MISCONDUCT AND HARASSMENT REPORTING FORM**

The information contained in this document is confidential and must be submitted to the Title IX Coordinator, except for matters which only involve employees, with no students involved as Complainant or Respondent. In such cases, the form should be submitted to the Vice President for the Office of Human Resources.

Name:

\_\_\_\_\_

Local Address:

\_\_\_\_\_

Work Phone: \_\_\_\_\_ Local Phone: \_\_\_\_\_ Cell Phone:

\_\_\_\_\_

Date of Incident: \_\_\_\_\_ Time of Incident: \_\_\_\_\_ AM  
\_\_\_\_\_ PM

Location of Incident:

\_\_\_\_\_

Identify the name(s) of the individual(s) against whom you are submitting this complaint:

\_\_\_\_\_

\_\_\_\_\_

Please describe the nature of the incident, providing as much detail as possible to assist with the investigation of this complaint.

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

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