

LINCOLN UNIVERSITY

Policy: Sexual Misconduct Policy
Policy Number: HRM 122
Effective Date: February 21, 2015
Next Review Date: February 21, 2016
Reviewing Department: Human Resources and Vice President for Student Affairs
Status: Approved by the Acting President and Board of Trustees

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I. INTRODUCTION

Lincoln University (“University” or “Lincoln”) is committed to providing a work and learning environment that is free from all forms of unlawful discrimination, including sexual harassment, sexual assault, stalking, dating violence, domestic violence, and other forms of sexual misconduct (collectively “sexual misconduct”). This policy provides a mechanism for eliminating sexual misconduct, preventing its recurrence and remedying its effects through education, enforcement, and other measures. In the case of allegations of sexual misconduct, this policy supersedes all other procedures and policies set forth in other University documents.

This policy is intended to create a working and learning environment that promotes respect and dignity for others. This policy is not intended to inhibit the expression of ideas or to use any methods that would infringe on an individual’s constitutional right to free speech.

Every member of Lincoln University community is expected to take an active role in upholding this policy. If you believe that you or someone you know may have been a victim of sexual assault or other sexual misconduct, you are strongly encouraged to report the incident as soon as possible. The University will promptly respond to complaints or reports about prohibited conduct with measures designed to stop the behavior, eliminate any such discrimination, prevent the recurrence of the prohibited conduct, and remediate any adverse effects of such conduct on campus or in University-related programs or activities.

Any person found responsible for violations of this policy will face disciplinary actions up to and including dismissal or expulsion from the University. Acts of sexual misconduct may also be prosecuted under the Pennsylvania Criminal Code.

II. NOTICE OF NONDISCRIMINATION

Title IX of the Education Amendments of 1972 (Title IX), 20 U.S.C. §§ 1681 et seq., and its implementing regulations, 34 C.F.R. Part 106, prohibit discrimination on the basis of sex in the University’s programs or activities. It is the expressed policy of Lincoln University to comply with Title IX.

Questions regarding the application of Title IX may be referred to the University’s Title IX Coordinator, Mr. Gerard Garlic, Room 126B in the Wellness Center, 484-746-0000,

titleix@lincoln.edu. Questions may also be made to the U.S. Department of Education, Office for Civil Rights (“OCR”) via its website <http://www2.ed.gov/about/offices/list/ocr/index.html>) or by phone 1-800-421-3481.

III. ROLE OF THE TITLE IX COORDINATOR

The University’s Title IX Coordinator, Mr. Gerard Garlic, will be informed of all reports and complaints raising Title IX issues, even if the report or complaint was initially filed with another individual or office. She is available to meet with students who have questions regarding this policy or who wish to report sexual misconduct at her office in Room 126B in the Wellness Center, by phone at 484-746-0000, or by email at titleix@lincoln.edu.

The Title IX Coordinator’s responsibilities include:

- Overseeing the school’s response to Title IX reports and complaints and ensuring that complaints are handled through consistent practices and standards.
- Reviewing all sexual misconduct complaints to identify and address any patterns or systemic problems revealed by such complaints.
- Evaluating requests for confidentiality of those who report or complain about sexual misconduct in the context of the University’s responsibility to provide a safe and nondiscriminatory environment for all students. For guidance about your options for confidential reporting, please see section VII of this policy.
- Overseeing the determination and provision of appropriate interim measures for a complainant upon learning of a report or complaint of sexual violence.
- Overseeing or conducting the University’s Title IX investigation into complaints of sexual misconduct.
- Assisting the Department of Public Safety and security employees in understanding the University’s Title IX compliance requirements, including appropriate initial responses to Complainants and ensuring Complainants are provided with the required notices of available resources and reporting options.
- Overseeing the coordination of services with local victim advocacy organizations and service providers, including rape crisis centers.
- Overseeing prevention and awareness training and programming for students, faculty and staff and periodically assessing the value, effectiveness and outcome of these efforts.

Lincoln University will ensure the Title IX Coordinator has the necessary training and authority to fulfill these responsibilities.

IV. APPLICABILITY OF THE POLICY

This policy applies to any allegation of sexual misconduct made by or against a student, an employee of the University or a third party regardless of the sex, gender, sexual orientation, gender identity, or gender expression of any of the individuals involved. This policy applies regardless of where the alleged sexual misconduct occurred, so long as the conduct giving

rise to the report is related to or has continuing effects on the University's academic, educational, athletic, or extracurricular programs or activities.

Although the scope of the policy is broad, the University's ability to issue and enforce disciplinary sanctions may not extend to third parties. Additionally, sexual misconduct that is alleged to have occurred at a significant distance from the University and/or outside the University property may be more difficult for the University to investigate.

V. DEFINED TERMS & PROHIBITED CONDUCT

A. General Terms

- 1. Advisor.** An individual who is chosen by the Complainant or Respondent to provide that person with support, guidance or advice at any meeting or hearing at any stage of the process.
- 2. Campus Security Authority or "CSA."** CSAs include members of the Department of Public Safety, individuals who have responsibility for campus security (e.g., any individual who is responsible for monitoring the entrance into institutional property), an official with significant responsibility for student and campus activities, including, but not limited to, student housing, student discipline and campus judicial proceedings. Examples of employees who are *not* CSAs include clerical staff, staff members who are not responsible for students, and individual faculty with no student activity duties outside the classroom. The Department of Public Safety maintains a list of all designated CSAs, available upon request, and notifies all CSAs of their designation and responsibilities each year.
- 3. Complainant.** An individual who asserts that he or she is the victim of an incident of sexual misconduct.
- 4. Reporter.** An individual who reports an incident of sexual misconduct to the University, whether to a Campus Security Authority or responsible employee, who may or may not be a Complainant or victim.
- 5. Respondent.** The individual who is reported to have committed an act of sexual misconduct.
- 6. Responsible Employee.** Any employee who (a) has the authority to take action to redress sexual violence; (b) has been given the duty of reporting incidents of sexual violence or any other misconduct by students to the Title IX coordinator or other appropriate school designee; or (c) is a person whom a student could reasonably believe has this authority or duty. Lincoln University responsible employees include all Campus Security Authorities, Deans, Directors, non-clerical staff in the Office of the President, Student Health Center medical staff and all faculty.

B. Prohibited Conduct

The following conduct is prohibited. An attempt to commit an act prohibited by this policy, or assisting or willfully encouraging any such act, is also considered a violation of this policy. The definitions provided are consistent with the Clery Act definitions found in the Appendix to 34 C.F.R. § 668(d) and the Pennsylvania Criminal Code.

1. **Dating Violence.** Dating violence means violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the complainant. The existence of such a relationship is determined based on the reporting party's statement with consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship. Dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse. It does *not* include acts covered under the definition of domestic violence.
2. **Domestic Violence.** Domestic violence is any felony or misdemeanor crime of violence committed by: (a) a current or former spouse or intimate partner of the victim; (b) a person with whom the victim shares a child in common; (c) a person who is cohabitating with, or has cohabitated with, the victim as a spouse or intimate partner; (d) a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred; or (e) 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 in which the crime of violence occurred. In Pennsylvania, probable cause exists to arrest for domestic violence in cases involving involuntary manslaughter, simple assault, aggravated assault, reckless endangerment, terroristic threats and stalking against a "family or household member," defined as spouses, former spouses, persons living as spouses or who lived as spouses, parents and children, other persons related by consanguinity or affinity, current or former sexual or intimate partners or persons who share biological parenthood. 18 Pa.C.S. § 2711(a); 23 Pa.C.S. § 6102(a).
3. **Retaliation.** Retaliation is any adverse action, including intimidation, reprisal, threats, coercion or harassment, because a person has filed, supported or provided information in connection with a complaint of sexual misconduct.

Anyone who is aware of possible retaliation or has other concerns regarding the response to a complaint of sexual misconduct should report such concerns to the Title IX Coordinator or designee, who shall take appropriate actions to address such conduct in a prompt and equitable manner.

4. **Sexual Assault.** Sexual assault is actual or attempted sexual contact with another person without that person's consent (as defined in Section VI), including where the person is incapable of giving consent. Sexual assault includes: Rape—vaginal, anal, or oral penetration, however slight, with any body part or object (including oral penetration by a sex organ); Fondling— any non-consensual touching of the private body parts of another for the purpose of sexual gratification; Statutory Rape— sexual intercourse with a person who is under the age of consent (anyone under age 14 and anyone four or more years older than a complainant who is at least 14 and under the age of 16); and Incest- sexual intercourse between persons who are

related to each other within the degrees wherein marriage is prohibited by law. Sexual assault includes acts achieved by the use or threat of force or coercion, where an individual does not consent to the sexual act, or where an individual is incapacitated.

5. **Sexual Exploitation.** Sexual exploitation occurs when an individual takes sexual advantage of another person for the benefit of anyone other than the individual without that person's consent.

Examples of sexual exploitation include, but are not limited to, the following:

- Creating pictures, movies, webcams, recordings, images or audio of another person's sexual activity or state of undress without the person's knowledge and consent;
- Sharing items described in the bullet above beyond the boundaries of consent where consent was given. For example, showing a picture to friends where consent to view it was given for oneself only;
- Observing the sexual behavior or a state of undress of another person without the knowledge and consent of that person (e.g., "peeping tom" behavior);
- Engaging in sexual behavior with knowledge of an illness or disease (HIV or STD) that could be transmitted by the behavior without full and appropriate disclosure to the partner(s) of the disease or illness;
- Prostituting another person, including attempting to engage others in escort or dating services which encourage in any way sexual behavior in exchange for money;
- Inducing incapacitation in another person with the intent to engage in sexual conduct, regardless of whether prohibited sexual conduct actually occurs.

6. **Sexual Harassment.** Sexual harassment is unwelcome sexual advances, requests for sexual favors, and other physical, visual, or verbal behavior of a sexual nature where:

- Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment or education; or
- Submission to or rejection of such conduct by an individual is used as the basis for employment or academic decisions affecting the individual; or
- Such conduct has the purpose or effect of:
 - Unreasonably interfering with an individual's academic or professional performance; or
 - Creating an intimidating, hostile, or demeaning employment or educational environment.

To determine whether a hostile environment exists, the conduct will be evaluated from the perspective of a reasonable person in the alleged victim's position,

considering all of the circumstances. A single isolated incident of sexual harassment may create a hostile environment if the incident is sufficiently severe. The more severe the conduct, the less need to show a repetitive series of incidents to provide a hostile environment, particularly if the harassment is physical.

Sexual harassment includes, but is not limited to, the following examples:

- Repeated sexual remarks, offensive stories, remarks about sexual activity or experiences, sexual innuendoes or other suggestive comments that are unwanted and unwelcome by another;
 - Displaying or showing pictures, cartoons, or other printed materials of a sexual nature in the workplace or in an educational setting where there is insufficient academic relevance;
 - Exposing the private parts of one's body to another person;
 - Unwelcome pressure for a dating, romantic, or intimate relationship;
 - Unwelcome touching, kissing, hugging, or massaging;
 - Obscene gestures;
 - Sexual graffiti, pictures, or posters;
 - Sexually explicit profanity.
7. **Sexual Misconduct.** The term sexual misconduct means any unwelcome conduct of a sexual nature and includes dating violence, domestic violence, sexual assault, sexual exploitation, sexual harassment, sexual violence and stalking.
8. **Sexual Violence.** Sexual violence refers to physical sexual acts perpetrated against a person's will or where a person is incapable of giving consent, including sexual assault, dating violence, domestic violence and stalking.
9. **Stalking.** Stalking is a course of conduct, repeated acts or communication directed at a specific person that would cause a reasonable person to: (a) fear for the person's safety or the safety of others; or (b) suffer substantial emotional distress. For the purpose of this definition: *Course of conduct* means two or more acts, including, but not limited to, acts in which the stalker directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveys, threatens, or communicates to or about a person, or interferes with a person's property; *Reasonable person* means a reasonable person under similar circumstances and with similar identities to the victim; *Substantial emotional distress* means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling.
10. **Reporting False Information.** Any individual who knowingly files a false complaint under this Policy, who knowingly provides false information to University officials, or who intentionally misleads University officials who are involved in the

investigation or resolution of a complaint may be subject to disciplinary action. Submission of a good faith complaint, concern, or report under this Policy, even if found to be unsubstantiated, will not constitute a false report and will not affect a Complainant's employment, grades, academic standing, or work assignments.

VI. CONSENT

Consent is an explicitly communicated voluntary agreement to engage in a particular sexual activity at a particular time.

- Consent must be in clearly understandable words or actions and freely given.
- Consent can **never** be the result of:
 - Force- violence, physical restraint, or the presence of a weapon;
 - Threats- indications of intent to harm, whether direct or indirect;
 - Intimidation or duress- extortion, menacing behavior, bullying;
 - Coercion-undue pressure; or
 - Deception or fraud- misrepresentation or material omission about oneself or the situation in order to gain permission for sexual or intimate activity.
- Consent can **never** be given by a person who is incapacitated, whether as a result of drugs, alcohol or otherwise.
 - A person is incapacitated and incapable of giving consent when he or she is not able to receive and evaluate information effectively and cannot make a rational, reasonable judgment as to the nature of the conduct charged.
 - Some indicators of incapacitation include lack of control over physical movements, being unaware of circumstances or surroundings, or being unable to communicate for any reason.
 - Lincoln's primary concern is student safety and use of alcohol or drugs never makes the victim at fault for sexual violence.
- Consent can **never** be given by a person who is unconscious or asleep;
- Consent can **never** be given by anyone under the age of 13 and may not be given by anyone under the age of 16 by anyone four or more years older than the complainant;
- Consent can **never** be given by a person who by reason of mental disability is unable to make a reasonable judgment;
- Consent can **never** be inferred from:
 - Silence, passivity, or lack of resistance alone;
 - A previous consensual sexual encounter
 - Attire;
- Consent to one form of sexual activity is **not** consent to engage in **all forms** of sexual activity;
- If at any time during a sexual act any confusion or ambiguity is or should reasonably be apparent on the issue of consent, each individual should stop the

activity and clarify the other person's willingness to continue and his or her capacity to consent.

- Consent may be withdrawn by either party at any time. Once withdrawal of consent has been expressed, sexual activity must cease.

VII. CONFIDENTIALITY AND PRIVACY CONSIDERATIONS IN REPORTING

Lincoln University strongly encourages any community member who has experienced sexual harassment or other sexual misconduct to talk with someone about what happened so that they may obtain support and so that the University may respond appropriately. The following information on reporting procedures are in place so that an individual need not navigate the process or feel the effects of an incident alone. To facilitate an informed choice about where to turn for support and assistance, the University provides information about **confidential** reporting options and resources and those resources who are **required** to report information to Public Safety and/or the Title IX Coordinator.

A. Privacy Considerations

The University is committed to protecting the privacy of all individuals involved in a report of sexual assault, sexual harassment or other sexual misconduct. Information related to a report to the University of sexual assault, sexual harassment or other sexual misconduct will be kept private by the University unless disclosure is required by law. To the extent information is shared, it will be relayed only to those University officials with a legitimate interest in order to assist in the investigation and resolution of the complaint. Any accommodations or protective measures provided to the victim will be maintained confidentially to the extent possible in providing those accommodations and protections. Under no circumstances will the University release the name of the Complainant to the general public without the express consent of the Complainant.

B. Confidential Resources

Those who offer confidentiality regarding a report of sexual assault, sexual harassment or other sexual misconduct and who are **not required to report** the information without the Complainant's permission are:

- a. A counselor or therapist at the Counseling Center
- b. University Chaplain, acting in a pastoral capacity

Confidentiality will be maintained by a counselor or therapist under all circumstances **except** when there is an immediate threat of serious harm to a person. These confidential sources can advise individuals about resources, services, and options available both on and off campus. While they will not report the incident to anyone, including the Title IX Coordinator and the Department of Public Safety, they will encourage the Complainant to report the incident. ***Disclosing information to or seeking advice from a confidential resource does not constitute reporting an incident to the University*** and therefore will not result in any formal response or intervention by officials of Lincoln University.

C. **Anonymous Reports**

Although the University encourages Complainants to report directly to a University resource, the University will respond to all anonymous complaints. Anonymous complaints may be reported to the Department of Public Safety via the Anonymous Tip Line at ext. 7799 or by submitting a Clery Incident Report Form, available via the Department of Public Safety and on the University's website at <http://www.lincoln.edu/security/>, to either the Department of Public Safety or the Title IX Coordinator.

All anonymous reports will be referred to the Title IX Coordinator. However, the University's ability to respond effectively may be limited by the level of detail in the information provided.

D. **Clery Act Reporting**

Campus Security Authorities are required to report any incident of dating violence, domestic violence, sexual assault or stalking to the Department of Public Safety, but may do so without providing the Complainant's identifying information. The University will complete all publicly available recordkeeping, including reports and disclosures required by the Clery Act, without including personally identifying information about the Complainant.

All such reports will be shared with the Title IX Coordinator and may result in a Title IX investigation. Students should be aware that off campus organizations may be required by law to report complaints of sexual misconduct and such reports, which can omit or conceal the identity of the Complainant, may trigger an investigation by the University.

E. **Title IX Reporting: Required to Inform the Title IX Coordinator**

Responsible Employees, including all Campus Security Authorities (defined in Section V), ***must report an incident of sexual misconduct to the Title IX Coordinator***. Responsible Employees are required to inform the Title IX Coordinator of the relevant details, including the name of the Complainant, date, time and specific location of the incident. The Department of Public Safety will also be informed of the incident, without identifying information of the Complainant, for inclusion in the University's crime statistics.

A Complainant may request that his or her identity remain confidential and/or that no investigation be conducted or disciplinary action taken. A Complainant should understand that such a request may limit the University's ability to meaningfully investigate the incident and pursue disciplinary action against the Respondent.

The University will weigh such requests against its obligation to provide a safe, non-discriminatory environment for all students and employees, including the

Complainant. The Title IX Coordinator will consider a range of factors, including the following:

- The increased risk that the Respondent will commit additional acts of sexual or other violence, such as:
- whether there have been other sexual violence complaints about the same Respondent;
- whether the Respondent has a known history of violence;
- whether the Respondent threatened further sexual violence or other violence against the Complainant or others;
- whether the sexual violence was committed by multiple perpetrators;
- whether the sexual violence was perpetrated with a weapon;
- whether the Complainant is a minor;
- whether the University possesses other means to obtain relevant evidence of the sexual violence (e.g., security cameras or personnel, physical evidence);
- whether the Complainant's report reveals a pattern of perpetration (e.g., via illicit use of drugs or alcohol) at a given location or by a particular group.

The presence of one or more of these factors could lead the University to investigate and, if appropriate, pursue disciplinary action and/or contact local law enforcement. If the University determines that it cannot maintain a Complainant's request for confidentiality, the University will inform the Complainant prior to starting an investigation. In all cases, to the extent possible, the University will only share information with people responsible for handling the University's response to the report of sexual assault, sexual harassment or other sexual misconduct.

Whether a report is confidential or not, when a Complainant reports an incident of sexual assault, sexual harassment or other sexual misconduct, the University will remain ever mindful of the well-being of the Complainant and protect the Complainant from retaliation.

VIII. MEDICAL ATTENTION & THE IMPORTANCE OF PRESERVING EVIDENCE

Victims of sexual assault should seek immediate medical attention whether or not that individual wishes to make a report to the University or local law enforcement. A medical provider can provide emergency and/or follow-up medical services to diagnose and treat any injury and can properly collect and preserve evidence. Gathering evidence will preserve the full range of options to seek resolution through the University's complaint processes or through the pursuit of criminal action.

There is a limited window of time (typically 72 to 96 hours) following an incident of sexual assault to preserve physical and other forms of evidence that may be helpful in proving a criminal offense or obtaining a protective order. In the event of a report immediately following an incident of sexual assault, a Complainant is encouraged to not shower, bathe, douche, brush teeth, drink, or change clothing prior to seeking medical treatment.

Similarly, any clothing or bedding should remain untouched pending collection by law enforcement.

A forensic exam can be performed by specially trained healthcare providers at Brandywine Hospital (201 Reeceville Rd., Coatesville, PA 19320; 610-383-8000) and Chester County Hospital (701 East Marshall Street, West Chester, PA; 610-431-5000). The University will arrange for transportation to either hospital. The forensic exam is a comprehensive medical exam that involves assessing and documenting injuries associated with the assault. The victim will have the right to refuse any or all parts of the exam which generally includes collection of possible evidence such as blood, semen, saliva, fingernail scrapings, hair and clothing, as well as photographing any injuries.

The Office of Health Services, located in the Wellness Center, is open Monday- Friday, 9 a.m. to 4 p.m. and can provide STD and pregnancy testing.

IX. RESOURCES, SERVICES AND ACCOMMODATIONS AVAILABLE TO VICTIMS

Emotional trauma can be severe after a sexual assault. The resources identified here are specially trained to work with individuals who report sexual misconduct. They have knowledge about additional on and off campus resources and services, including possible interim accommodations and protective measures discussed below. All students and employees will receive written notice of the existing counseling, health, mental health, victim advocacy, legal assistance, visa and immigration assistance, student financial aid, and other services available for victims both within the University and in the community.

A. Confidential Lincoln University Resources

University Counseling Services	484-365-7244
<i>(Wellness Center, Suite 222, Monday – Friday, 9 a.m. -5 p.m.)</i>	
University Chaplain – Reverend Frederick Faison	484-365-8075
<i>(Mary Dod Brown Memorial Chapel)</i>	

B. Lincoln University Resources

Department of Public Safety	484-365-7211
<i>(Azikiwe-Nkrumah Hall – 24 hours a day/7 days per week)</i>	
Title IX Coordinator	484-365-7527
<i>(Wellness Center, Room126B, Monday – Friday, 2 p.m. -9 p.m.)</i>	
University Health Services	484-365-7287
<i>(Wellness Center, Suite 100, Monday – Friday, 9 a.m. – 5 p.m.)</i>	
The Women’s Center	484-365-7244
<i>(Hansberry Hall, Basement Level, by appointment)</i>	
Dean of Students	484-365-7527
<i>(Wright Hall, Suite 300, Monday-Friday, 9 a.m.-5 p.m.)</i>	
Office of Human Resources	484-365-7593
<i>(International Cultural Center, 2nd Floor, M-F, 9 a.m.-5 p.m.)</i>	

C. Off Campus Medical Resources

Hospitals Providing Forensic Exams:

Brandywine Hospital
201 Reeceville Rd., Coatesville, PA 19320 610-383-8000

Chester County Hospital
701 East Marshall Street, West Chester, PA 610-431-5000

Other area Hospitals:

Jennersville Regional Hospital 610-869-1000

NOTE: Under Pennsylvania law, a medical provider may be required to notify law enforcement of a reported sexual assault. Although the medical provider will provide information to law enforcement, the Complainant may decline to speak with a law enforcement officer or participate in a criminal prosecution.

D. Off Campus Resources

Domestic Violence Center of Chester County 610-431-1430/888-711-6270
24 Hour Hotline; Providing counseling services, support groups and legal advocacy

Sexual Assault Crisis Hotline, Crime Victims' Center of Chester County
24 Hour Hotline; 610-692-7273
Provides victim services and resources

Domestic Violence Hotline, Philadelphia 866-723-3014
24-hour resource anonymous and confidential resource for individuals with questions or concerns about domestic violence

Women Against Abuse, Philadelphia 215-386-1280
Provides domestic violence services in Philadelphia, including emergency shelters and legal representation for protection from abuse orders

Women Organized Against Rape (WOAR), Philadelphia
Hotline 215-985-3333
Provides counseling services, resources and court & legal information

The Pennsylvania Coalition Against Rape (PCAR) 888-772-7227
Works to raise awareness about rape and sexual assault and advocates for the rights and needs of victims of sexual assault.

Rape, Abuse and Incest National Network (RAINN) 800-656-HOPE
24 Hour Hotline providing support to sexual assault victims and their loved ones

Gay, Lesbian, Bisexual & Transgender National Hotline 888-843-4564
M-F, 4pm-12am; Sat. 12pm-5pm Hotline provides free and confidential
peer-support, as well as factual information and local resources, on relationship
concerns, bullying

Legal Assistance

The University does not recommend private attorneys, but you may wish to
use the referral services of the Chester County Bar Association Lawyer
Referral and Information Service,
<http://www.chescobar.org/?page=LawyerReferralServ>, 610-429-1500,
which also can provide referrals to attorneys for visa and immigration
services.

E. Accommodations and Protective Measures

Victims of dating violence, domestic violence, sexual assault and stalking will be
provided written notice of their options for accommodations or protective measures in
academic, living, transportation and working situations as appropriate.

Accommodations and protective measures may be requested whether or not the victim
chooses to report the crime to Lincoln University's Department of Public Safety or local
law enforcement. These requests can be made to the Title IX Coordinator
(titleix@lincoln.edu; *Wellness Center, Room 126B*; 484-746-0000); or Human Resources
(*International Cultural Center, Room 112*; 484-365-7593).

Accommodations and protective measures will be provided upon request to the extent
they are reasonably available and efforts will be made to minimize the burden on the
Complainant. These may include:

- Reassignment of classes or housing;
- Providing for extra time to complete or re-take a course or to withdraw without
penalty;
- Providing an escort on campus;
- Assistance from the Department of Public Safety or other college officials in
obtaining a protective order or restraining order;
- Interim suspension of the Respondent pending the outcome of a conduct process
when the Respondent presents a continuing threat to the health and safety of the
community.

X. PREVENTION AND AWARENESS

The University offers prevention and awareness programs and ongoing prevention and
awareness campaigns through the Division of Student Affairs, the Department of Public
Safety, Counseling Services, the Women's Center, the Department of Human Resources, and
the Health Services Center. These programs inform the campus community that the
University prohibits the crimes of dating violence, domestic violence, sexual assault and
stalking, as well as other sexual misconduct as defined in this policy and pursuant to the
Clery Act. They also provide resources to prevent violence, promote safety, and reduce

perpetration of dating violence, domestic violence, sexual assault, stalking and other sexual misconduct. To that end, the University uses a range of strategies with students, faculty and staff with efforts that are sustained over time.

The University programs provide information and resources intended to stop dating violence, domestic violence, sexual assault, and stalking before they occur. These programs promote positive and healthy behaviors that foster healthy, mutually respectful relationships and sexuality, seeking to change behavior and social norms in healthy and safe directions. These programs also encourage safe bystander intervention through identifying safe, positive and effective options that may be carried out by an individual or individuals to prevent harm or intervene when there is a risk of dating violence, domestic violence, sexual assault, and stalking. Bystander intervention includes recognizing situations of potential harm, understanding institutional structures and cultural conditions that facilitate violence, overcoming barriers to intervening, and taking action to intervene.

The University programs also include risk reduction, covering options designed to decrease perpetration and bystander inaction, and to increase empowerment for victims in order to promote safety and to help individuals and communities address conditions that facilitate violence. Self-defense training is also available through the Department of Public Safety.

The University is committed to providing effective programming. Prevention and awareness training is presented as part of freshmen orientation in addition to trainings provided to athletic teams and at mandatory residence hall meetings offered throughout the year. The Title IX Coordinator will periodically assess the value, effectiveness, or outcome of its prevention and awareness efforts.

XI. HOW TO FILE A COMPLAINT OF SEXUAL MISCONDUCT

A Complainant does not have to decide whether or not to request any specific action by the University at the time the report is made, nor is there a time limit on reporting. When a student or employee reports that he or she has been a victim of sexual misconduct under this policy, the University will provide written notice to the Complainant of his or her rights and options pursuant to this policy. The University will promptly respond to all reports in an integrated, consistent manner that treats each individual with dignity and respect and seeks to end the misconduct, prevent its recurrence, and address its effects.

A. Time to File.

A report of sexual misconduct may be made at any time, regardless of the length of time between the alleged incident and the decision to make a report. The University strongly encourages individuals to report promptly because delays in reporting may compromise the subsequent investigation.

C. Option to Notify Law Enforcement: Criminal Complaint and Investigation.

Complainants have the option to:

- (i) Notify proper law enforcement authorities, including the Lincoln University Department of Public Safety and local police;
- (ii) Be assisted by campus authorities in notifying law enforcement authorities if the Complainant so chooses; and
- (iii) Decline to notify such authorities;
- (iv) File a criminal complaint and a Title IX complaint simultaneously; and
- (v) Seek an order of protection, “no-contact” order, restraining orders, or similar lawful orders from a criminal or civil court. The University’s Department of Public Safety will assist in enforcing any such order.

A criminal complaint can be filed with the Department of Public Safety or local law enforcement. Lincoln’s Department of Public Safety is comprised of sworn police officers who are available 24 hours a day, 7 days a week in Azikiwe-Nkrumah Hall on the main campus; 484-365-7211 (7+2=9-1-1).

The Public Safety Department works in collaboration with the Coatesville City Police Department, who patrol the Coatesville Campus, and with both the trained security officers, who patrol the University City Campus, and the Philadelphia Police Department who have jurisdiction over the University City Campus. Incidents at the Coatesville Campus or University City Campus can be reported to law enforcement by contacting the Department of Public Safety or by calling 9-1-1.

D. Option to Notify the University: Title IX Complaint and Investigation.

When the incident is reported to a campus resource, the University will help the individual get to a safe place and assist the Complainant in seeking immediate medical attention, including providing transportation to the hospital. The University will provide information about the University’s resources, complaint process and interim measures, as needed, to help ensure the safety and well-being of the affected parties.

The University also will assist with notification of local law enforcement, if the Complainant wishes. Whether or not criminal charges are filed, a Complainant may file a complaint with the University under this Policy and all reports of domestic violence, dating violence, sexual assault, stalking and other acts of sexual misconduct made to the Department of Public Safety will be relayed to the Title IX Coordinator for investigation regardless of whether the Complainant chooses to pursue criminal charges.

Complaints may be filed with:

- Title IX Coordinator: The University’s Title IX Coordinator is Mr. Gerard Garlic who is available from 2 p.m. until 9 p.m., Monday through Friday. You are strongly encouraged to contact Mr. Garlic by telephone at 484-746-0000 or in

person in Room 126B in the Wellness Center, and at any time by email at titleix@lincoln.edu.

- **Human Resources:** From 9:00 a.m. until 5:00 p.m., Monday through Friday, incidents involving University employees may be reported to the Office of Human Resources, by telephone at 484-365-8059 or in person in room 112 of the International Cultural Center (ICC), and at any time by email at hr@lincoln.edu.

XIII. DISCIPLINARY PROCEDURES

The disciplinary process will include a prompt, fair, and impartial investigation and resolution process from the initial investigation to the final resolution. The University applies a preponderance of the evidence standard of review (more likely than not) at all stages of the disciplinary process.

Investigations. The University will investigate complaints under this policy and will consistently and transparently apply this policy to both the Complainant and the Respondent. The Title IX Coordinator oversees all investigations pursuant to this policy. Complaints against students will usually be investigated by the Title IX Coordinator or designee. Complaints against faculty, staff and third-parties will usually be investigated by the Office of Human Resources. Depending on the nature of the complaint, investigations may be conducted in conjunction with the Department of Public Safety.

Individuals with Disabilities. The University will make arrangements to ensure that individuals with disabilities are provided appropriate accommodations, to the extent necessary and available, to participate in the steps and procedures outlined in this policy. Requests for accommodations must be made to the Title IX Coordinator.

Timely Notice. The Complainant and Respondent will receive timely notice of meetings at which each is entitled to be present. In addition, each will receive, along with appropriate officials, any information that will be used during informal and formal disciplinary meetings and hearings. However, communication and meetings with Complainants concerning accommodations or protective measures to be provided to the Complainant will not be shared with the Respondent.

All notifications regarding the disciplinary process to students, faculty and employees will be made through the official Lincoln email address. Notification to third parties will be provided to an email address designated by the third party. Failure to check email does not entitle a party to postponement.

If a party fails to appear for any disciplinary meeting or hearing after proper notice has been sent, the meeting or hearing will proceed in his or her absence.

Timeframes. The University shall seek to complete the investigation, related disciplinary proceedings and reach resolution within 60 days of receiving a complaint. The University will seek to resolve any appeals within 21 days of filing.

Upon receiving a complaint, the University will take the following steps typically within the timeframes provided:

- a. Notice to an accused of the filing of a complaint, setting forth the charge of violations, will be provided in writing within 3 business days of receiving the complaint.
- b. An investigator will be assigned within 5 business days.
- c. Investigations will normally conclude within 30 business days.
- d. Notice of a meeting or hearing will be provided at least 3 business days prior to the meeting or hearing date.
- e. The final written disposition will be provided within 3 business days after the hearing, if applicable, concludes.
- f. In cases involving a student-respondent, appeals of disciplinary decisions are permitted and must be filed in writing and submitted within 15 days of receiving the final resolution to the Vice President for Student Affairs.

Resolution may take longer where there is a parallel criminal investigation or if the incident occurs shortly before or during breaks in the academic schedule. Extensions may be necessary for good cause depending on the complexity of the investigation, the severity and extent of the alleged misconduct, to ensure the integrity and completeness of the investigation, to comply with a request by external law enforcement, and to accommodate the availability of the Complainant, Respondent or other witnesses. An extension may be sought by writing to the Title IX Coordinator and explaining the reason for the request. The University will notify the parties in writing of any extension of the timeframes and the reason for the extension.

Although cooperation with law enforcement may require the University to temporarily suspend the fact-finding investigation, the University will promptly resume its Title IX investigation as soon as it is notified by the law enforcement agency that the agency has completed the evidence gathering process. The University will not, however, wait for the conclusion of a criminal proceeding to begin its own investigation and, if needed, will take immediate steps to provide interim measures for the Complainant.

Rights of the Complainant and the Respondent.

For all complaints pursuant to this policy, the Complainant and the Respondent shall have:

1. The right to an investigation and hearing process conducted in a manner that is consistent with this policy.
2. The right to an investigation and hearing process conducted by individuals who receive annual training on issues related to domestic violence, dating violence,

- sexual assault, and stalking, and on how to conduct an investigation and hearing process that protects the safety of the victim and promotes accountability.
3. The right to an investigation and hearing process conducted by individuals who do not have a conflict of interest or bias against the Complainant or the Respondent. A request to replace any member of the disciplinary board will be considered and decided by the Vice President for Student Affairs or Director of Human Resources.
 4. The right to be accompanied by an advisor of their choice at any meeting or hearing at any stage of the process.
 - a. An advisor may only consult and advise his or her advisee, but may not speak for the advisee at any meeting or hearing.
 5. The right to have the University investigation and disciplinary process run concurrently with a criminal justice investigation and proceeding, except for temporary delays (normally not more than 10 days) while law enforcement gathers evidence.
 6. The right to options for participating without having to be present in the same room as each other at the same time, including by allowing telephone/videoconferencing or the use of a room partition.
 7. Equal opportunity to present an opening statement, witnesses and other evidence, to review the evidence presented and to present a closing statement.
 - a. No member of the staff, faculty, or administration of Lincoln University may be called as an expert witness by either party.
 - b. Complainants and Respondents will not be permitted to directly question each other, but may ask questions of the investigator and/or hearing board and request the investigator and/or hearing board to ask questions of the Complainant or Respondent and any other witnesses present.
 8. The right to exclude prior sexual history from the hearing process, except for history between the Complainant and Respondent. The University recognizes while this may be relevant to a determination of whether conduct was consensual, the mere fact of a current or previous intimate relationship does not itself imply consent for all conduct or preclude a finding of sexual violence.
 9. The right not to participate in the hearing or to refuse to answer any question.
 10. The right to choose whether to disclose or discuss the outcome of a hearing.

Hearing Process.

Complaints against students will be decided by a hearing before the Sexual Assault Board ("SA Board"). The SA Board shall be comprised of faculty and staff appointed by the Vice President for Student Affairs. SA Board members will receive annual training on issues related to sexual misconduct and on conducting an investigation and hearing process that protects the safety of victims and promotes accountability.

All hearings will be recorded and will be closed to the public. Persons conducting the hearing are prohibited from discussing the proceedings and outcomes of the hearing. In addition, except as otherwise authorized by law, any investigation report and other

documents prepared by or for a University disciplinary hearing board may not be disclosed outside of the adjudication proceedings. Deliberations will be in a closed session. The decision makers will render a decision of responsible or not responsible based on a majority vote and using a preponderance of the evidence standard.

The Complainant and Respondent will simultaneously receive the following notices:

1. The result of any institutional disciplinary proceeding pursuant to this policy, including the rationale for the result to the extent permitted by FERPA and other applicable law;
2. The procedures for appealing the result;
3. Any change to the result prior to it becoming final; and
4. When such results become final.

In compliance with the Clery Act, both the Complainant and the Respondent will be informed simultaneously, in writing of any initial, interim, or final decision by any official or entity authorized to resolve disciplinary matters. This result will include any sanctions imposed, and notwithstanding FERPA, the rationale for the result and the sanctions.

The University will simultaneously issue a written decision by way of a Final Determination Letter to both the Complainant and the Respondent that contains: the name of the respondent; the resolution of responsible or not responsible for any violation(s) of this policy; the rationale supporting this finding; the sanction(s) imposed; and the rationale for such sanction(s). The Final Resolution Letter will also identify any remedial measures implemented with respect to the respondent and/or the University community. The Final Resolution Letter will not contain any individual accommodations or remedies provided to the Complainant.

Complaints against full-time faculty members will be governed by the disciplinary procedures applicable to faculty in the faculty by-laws and collective bargaining agreement for faculty.

Complaints against union staff members will be governed by the disciplinary procedures contained in the applicable collective bargaining agreement.

Complaints against non-union employees will be referred to the officer responsible for the unit employing the Respondent, who, after reviewing the investigative report, will initiate any necessary disciplinary procedures.

Sanctions. Violations of this policy will result in disciplinary sanctions, which can include written warnings, educational workshop participation, mandatory training, loss of privileges, restitution, fines, probation, suspension, demotion, exclusion, expulsion, and termination of employment, including revocation of tenure. The sanction becomes effective immediately unless otherwise specified.

If the initial decision resulted in a suspension, exclusion, expulsion or termination, the Respondent will not be permitted to remain on campus until the appeal is decided.

Students dismissed by recommendation of the SA Board follow the same withdrawal procedure as other students. Any student who leaves or withdraws from the University and seeks readmission while disciplinary action is pending must secure a written clearance from the Vice President for Student Affairs or designee.

Appeals. In cases involving a complaint against a student, the Respondent or Complainant may appeal the decision of the hearing board and the sanction imposed by writing to the Vice President for Student Affairs within 15 days of receiving the decision. A decision regarding a student respondent may be appealed for three reasons: (1) failure to follow the rights provided in this Policy that placed the appellant at a disadvantage; (2) existence of previously unavailable relevant evidence could significantly impact the outcome of a case; or (3) the sanction imposed is unreasonable given the violation. Appeals will usually be decided within 21 days and are final.

In cases involving a complaint against a full-time faculty member or union staff member, a decision may be appealed in accordance with the procedures applicable to faculty and union staff contained in the respective by-laws and collective bargaining agreement.