

LINCOLN UNIVERSITY

Policy:	Sexual and Gender-Based Harassment
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I. POLICY

1. POLICY STATEMENT

Lincoln University, through its policies and procedures, seeks to provide an environment that is free from sexual and gender-based harassment. Such conduct seriously undermines the atmosphere of trust and respect that is essential to a healthy work and academic environment.

Lincoln University will not tolerate sexual or gender-based harassment of students or employees by members of its faculty or staff, its students or by other agents of the University and will respond in a suitable manner to every complaint.

Lincoln University is committed to maintaining a safe and healthy educational and work environment in which no member of the University community is, on the basis of sex, sexual orientation, or gender identity, excluded from participation in, denied the benefits of, or subjected to discrimination in any University program or activity. Gender-based and sexual harassment, including sexual violence, are forms of sex discrimination in that they deny or limit an individual's ability to participate in or benefit from University programs or activities.

This policy applies to all members of the university community, as well as to applicants, clients, customers, and other relevant individuals, in both on-and off-campus Lincoln University sponsored events and activities. All members of the Lincoln community are encouraged to report promptly complaints about sexual or gender-based harassment to the Office of Human Resources or the Office of Institutional Equity. Persons found to be in violation of this policy shall be subject to disciplinary action which may include, but is not limited to, written warning, demotion, transfer, suspension, expulsion, dismissal or termination.

Retaliation against an individual for raising an allegation of sexual or gender-based harassment, for cooperating in an investigation of such a complaint, or for opposing discriminatory practices is prohibited. Submitting a complaint that is not in good faith or providing false or misleading information in any investigation of complaints is also prohibited.

Lincoln University adheres to the principles and traditions of academic freedom, and recognizes that these freedoms must be in balance with the rights of others, including the right of individuals not to be sexually harassed. No provision of this Policy will be interpreted to prohibit conduct that is legitimately related to the course content, teaching methods, scholarship, or public commentary of an individual faculty member or the educational, political, artistic, or literary expression of students in classrooms and public forums, as expressed in the principles of Academic Freedom according to the First Amendment of the United States Constitution.

This Policy is intended to protect members of the University community from discrimination, not to regulate protected speech. This policy is intended to create a working environment that promotes respect and dignity for others.

However, freedom of speech and academic freedom are not limitless and do not protect speech or expressive conduct that violates federal or State anti-discrimination laws.

2. DEFINITIONS

Sexual Harassment

Sexual harassment is discriminatory, unlawful and will not be tolerated at Lincoln University. Sexual harassment may involve the behavior of a person of either sex against a person of the opposite or same sex, and occurs when such behavior constitutes unwelcome sexual advances, request for sexual favors, and other unwelcome verbal or physical behavior of a sexual nature where:

1. Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's education or employment.
2. Submission to or rejection of such conduct by an individual is used as the basis for academic or employment decisions affecting the individual's welfare; or
3. Such conduct has the purpose or effect of substantially interfering with an individual's welfare, academic or work performance, or creates an intimidating, hostile, offensive education or work environment.

Examples of Sexual Harassment:

Acts that constitute sexual harassment take a variety of forms. Examples of the kinds of conduct that may constitute sexual harassment include, but are not limited to:

1. Unwelcome sexual propositions, invitations, solicitations, and flirtations.
2. Threats or insinuations that a person's employment, wages, academic grade, promotional opportunities, classroom or work assignments or other conditions of employment or academic life may be adversely affected by not submitting to sexual advances.
3. Unwelcome verbal expressions of a sexual nature, including graphic sexual commentaries about a person's body, dress, appearance, or sexual activities; the unwelcome use of sexually degrading language, jokes or innuendoes; unwelcome suggestive or insulting sounds or whistles; obscene phone calls.
4. Sexually suggestive objects, pictures, videotapes, audio recordings, computer communications, or literature placed in the work or study area, which may embarrass or offend individuals.
5. Unwelcome and inappropriate touching, patting, pinching, or obscene gestures.
6. Consensual sexual relationships where such relationships lead to favoritism of a student or subordinate employee with whom the instructor or superior is sexually involved and where such favoritism adversely affects other students and/or employees.

Important: Sexual Harassment need not be intentional. Under Lincoln's sexual harassment policies, the intent of the person who is alleged to have behaved improperly is not relevant to determining whether a violation of Lincoln's policy has occurred. The relevant determination is whether a reasonable person could have interpreted the alleged behavior to be sexual.

Gender-Based Harassment

Gender-based harassment is verbal, nonverbal, graphic, or physical aggression, intimidation, or hostile conduct based on sex, sex-stereotyping, sexual orientation or gender identity. Gender-based harassment is not generally motivated by sexual interest or intent. It is more often based on hostility and is often an attempt to make the target feel unwelcome in their environment. When such conduct is sufficiently severe, persistent, or pervasive that it interferes with or limits a person's ability to participate in or benefit from the University's education or work programs or activities. For example, persistent disparagement of a person based on a perceived lack of stereotypical masculinity or femininity or exclusion from an activity based on sexual orientation or

gender identity also may violate this Policy. In some cases, gender-based harassment may look the same as harassment based on sexual orientation, or homophobic bullying.

Quid pro quo sexual harassment can occur whether a person resists and suffers the threatened harm, or the person submits and avoids the threatened harm. Both situations could constitute discrimination on the basis of sex.

A hostile environment can be created by persistent or pervasive conduct or by a single severe episode. The more severe the conduct, the less need there is to show a repetitive series of incidents to prove a hostile environment.

Sexual violence, including rape, sexual assault, and domestic and dating violence, is a form of sexual harassment.

Examples of Gender-Based Harassment

- Demanding hugs.
- Invading personal space.
- Making unnecessary physical contact, including unwanted touching, *etc.*
- Using language that puts someone down and/or comments toward women (or men, in some cases), sex-specific derogatory names.
- Leering or inappropriate staring.
- Making gender-related comments about someone's physical characteristics or mannerisms.
- Making comments or treating someone badly because they don't conform with sex-role stereotypes.
- Showing or sending pornography, sexual pictures or cartoons, sexually explicit graffiti, or other sexual images (including on-line).
- Sexual jokes, including passing around written sexual jokes (for example, by e-mail).
- Rough and vulgar humor or language related to gender.
- Using sexual or gender-related comment or conduct to bully someone.
- Spreading sexual rumors (including on-line).
- Making suggestive or offensive comments or hints about members of a specific gender.
- Making sexual propositions.
- Verbally abusing, threatening or taunting someone based on gender.
- Bragging about sexual prowess.
- Demanding dates or sexual favors.
- Making offensive sexual jokes or comments.
- Asking questions or talking about sexual activities.
- Making an employee dress in a sexualized or gender-specific way.
- Acting paternally in a way that someone thinks undermines their self-respect or position of responsibility.

- Making threats to penalize or otherwise punish a person who refuses to comply with sexual advances (known as reprisal).

Rape

A form of sexual misconduct and is non-consensual sexual intercourse that may also involve the use of threat of force, violence, or immediate and unlawful bodily injury or threats of future retaliation and duress. Any sexual penetration, however slight, is sufficient to constitute Rape. Sexual acts including intercourse are considered non-consensual when a person is incapable of giving consent because s/he is incapacitated from alcohol and/or drugs, is under 18 years old, or if a mental disorder or developmental or physical Disability renders a person incapable of giving consent. The Respondent's relationship to the person (such as family member, spouse, friend, acquaintance or stranger) is irrelevant.

Sexual Assault

A form of sexual misconduct and is an attempt, coupled with the ability, to commit a violent injury on the person of another because of that person's Gender or sex.

In addition, the following conduct may violate this Policy:

- Observing, photographing, videotaping, or making other visual or auditory records of sexual activity or nudity, where there is a reasonable expectation of privacy, without the knowledge and consent of all parties.
- Sharing visual or auditory records of sexual activity or nudity without the knowledge and consent of all recorded parties and recipient(s).
- Sexual advances, whether or not they involve physical touching.
- Commenting about or inappropriately touching an individual's body.
- Requests for sexual favors in exchange for actual or promised job benefits, such as favorable reviews, salary increases, promotions, increased benefits, or continued employment.
- Lewd or sexually suggestive comments, jokes, innuendoes, or gestures.
- Stalking.

Other verbal, nonverbal, graphic, or physical conduct may create a hostile environment if the conduct is sufficiently persistent, pervasive, or severe so as to deny a person equal access to the University's programs or activities. Whether the conduct creates a hostile environment may depend on a variety of factors, including: the degree to which the conduct affected one or more person's education or employment; the type, frequency, and duration of the conduct; the relationship between the parties; the number of people involved; and the context in which the conduct occurred.

Domestic Violence

A felony or misdemeanor crime 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 in which the crime of violence occurred; or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred.

Dating Violence

Violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim. The existence of such a relationship shall be 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.

Stalking

Engaging in a course of conduct directed at a specific person that would cause a reasonable person to (1) fear for the person's safety or the safety of others; or (2) suffer substantial emotional distress.

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, surveils, threatens, or communicates to or about, a person, or interferes with a person's property.

Substantial emotional distress means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling.

Reasonable person means a reasonable person under similar circumstances and with similar identities to the victim.

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 Director of Labor & Employee Relations 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 or gender-based harassment.

The Formal Resolution Process

The formal resolution process involves the filing of a Formal Complaint, an investigation, a determination as to whether one or both of the University Policies has been violated and, as appropriate, the imposition of sanctions and remedial measures.

The Informal Resolution Process

The informal resolution process is designed to empower the parties to an Informal Complaint to reach a mutually satisfactory agreement.

3. CONSENSUAL RELATIONSHIPS

Among Employees and Students

Consensual relationships between employees and students are inconsistent with the mission of the University. This type of behavior risks damaging the student's educational experience, gives the appearance of favoritism, exploitation, and impropriety, harms morale and risks the reputation of the University. Employees are strongly advised to exercise their best professional judgment concerning students. Lincoln University thus prohibits consensual relationships between employees and students.

If a teaching, mentoring, or supervisory relationship exists between individuals with a current or prior consensual relationship, the relationship must be disclosed to the Provost for Academic Affairs or the Vice President for Student Success, and alternative teaching arrangements will be implemented.

Among Employees

The University prohibits employees from supervising, evaluating, or determining the terms and/or conditions of employment of anyone with whom they have or had a close personal relationship. When a current or past close personal relationship exists between any employees in a supervisory relationship, immediate steps must be taken to terminate the supervisory arrangement, and alternative means of supervision will be implemented. The supervisor must disclose this relationship to the Director of Labor and Employee Relations or the Vice President for Human Resources. Either party may request alternative means of supervision.

All employees should understand having a consensual relationship with students and/or with individuals whom they have supervisory responsibilities is a violation of this policy and may lead to disciplinary action by the University, up to and including dismissal and/or potential legal action by complainants.

4. REPORTING RESPONSIBILITY

Sexual and gender-based harassment need not be intentional. Under Lincoln's sexual harassment policies, the intent of the person who is alleged to have behaved improperly is not relevant to determining whether a violation of Lincoln's policy has occurred. The relevant determination is whether a reasonable person could have interpreted the alleged behavior to be sexual.

Individuals who are aware of or have experienced an incident of sexual or gender-based harassment should promptly report the matter to the Office of Human Resources or the Office of Institutional Equity. A third party may also file a complaint under this policy if the sexual conduct of others in the education or work environment has the purpose or effect of substantially interfering with the third party's welfare, academic or work performance.

5. RETALIATION

No employee, applicant for employment, student, or member of the public shall be subject to restraints, interference, coercion or reprisal for action taken in good faith to seek advice concerning a sexual or gender-based harassment matter, to file a sexual or gender-based harassment complaint, or to serve as a witness or a panel member in the investigation of a sexual or gender-based harassment complaint. Acts of retaliation are a violation of this sexual or gender-based harassment policy and will be investigated and adjudicated accordingly.

6. MALICIOUS, FALSE ACCUSATIONS

At any time during the investigation process, it is determined that a complainant, respondent, or witness knowingly gave false or misleading information or filed a complaint in bad faith, it may be recommended that the individual be subjected to disciplinary action, which may include, but is not limited to, written warning, demotion, transfer, suspension, dismissal, expulsion, or termination.

7. FEDERAL AND STATE LAWS AND UNIVERSITY POLICIES

Lincoln University Policy Number: HRM – 122 [Title IX - Sex Discrimination in Education](#) Policy.

Title VII of the Civil Rights Act of 1964

Pennsylvania Human Relations Act

II. PROCEDURES

There is no right or wrong way to respond to a perceived sexual offense. An optional initial course of action for any faculty member, staff member, or student who feels that he or she is being sexually harassed is for that person to tell or otherwise inform the harasser that the conduct is unwelcome and must stop. However, in some circumstances this course of action may not be feasible, may be unsuccessful, or the individual may be uncomfortable dealing with the matter in this manner.

To encourage persons to come forward, the University provides several channels of communication, information, and both informal and formal complaint resolution procedures.

1. INFORMATION, COUNSELING / ADVOCACY

Anyone may seek advice, information or counseling on matters related to sexual harassment without having to lodge an informal or formal complaint. Persons who feel they are being harassed or are uncertain as to whether what they are experiencing is sexual harassment, and/or desire information as to their options in dealing with sexual harassment are encouraged to talk with University resource persons as described in the next section.

2. WHERE TO GO FOR HELP

A. STUDENTS

Students desiring assistance or wishing to report sexually harassing behavior has various avenue of assistance:

On-campus Resources Office/Program	Location	Phone Number	Website
Lincoln University Campus Police	Department of Public Safety Modular	484-365-7211	https://www.lincoln.edu/departments/public-safety
Title IX Coordinator, Gerard Garlic	Office of Institutional Equity, Wright Hall, Room 107	484-365-7755	https://www.lincoln.edu/departments/office-institutional-equity/title-ix
Dean of Students	Student Union Building, Room 136	484-365-7705	-
Office of Human Resources	ICC	484-365-7244	https://www.lincoln.edu/departments/human-resources
OPTIONAL REPORTING:			
Women's Center/Sexual Violence Prevention & Education Program (Confidential)	Thurgood Marshall Learning Living Center (LLC) Room C212	484-365-7839	https://www.lincoln.edu/departments/womens-center
Public Safety - Anonymous Tip Hotline	N/A	484-365-7799	https://www.lincoln.edu/departments/public-safety
Sexual Assault Hotline	N/A	484-746-0000	https://www.lincoln.edu/departments/office-institutional-equity/title-ix
LiveSafe App	N/A	N/A	https://www.lincoln.edu/departments

			s/institutional-equity/livesafe
<u>DEPUTY COORDINATOR S</u>			
Kisha Middleton	Manuel Rivero Gym, Room 205	484-365-7632	-
Jacob Mullins	Manuel Rivero Gym, Room 206	484-365-7386	-
Tamarkius Roby	Wright Hall, Room 112	484-365-7279	
Taylor Dampeer	Wellness Center, Suite 128	484-365-7270	
Jernice Lea	SACE Building	215-590-8231	-
CONFIDENTIAL RESOURCES:			
Counseling Services (Confidential)	Wellness Center, Suite 221	484-365-7244	https://www.lincoln.edu/departments/counseling-services
Health Services (Confidential)	Wellness Center, Suite 120	484-365-7338	https://www.lincoln.edu/departments/health-services
Office of the Chaplain (Confidential)	Mary Dod Brown Memorial Chapel	484 365-8075	https://www.lincoln.edu/departments/religious-activities

Students should also review the University's [Title IX - Sex Discrimination in Education](#) Policy, HRM - 122.

B. STAFF

Staff desiring assistance or wishing to report sexually harassing behavior:

Vice President for Human Resources
Director of Institutional Equity

Staff members who feel they may have been subjected to sexual harassment should report the incident in a reasonable amount of time. The University does not limit the timeframe for filing a complaint. A complaint may be filed at any time, although the University's ability to investigate or take action may be limited by the passage of time,

by changes in the employment relationship of the alleged respondent at the time the report is made, or delayed due to the unavailability of witnesses.

If the Office of Institutional Equity or Office of Human Resources is the initial recipient of the complaint, the staff member will complete a **Complaint Form** regardless of whether the investigation and resolution follow an informal or formal process. If the staff member wishes to pursue the alleged harassment formally, he or she will be referred to the Director of Institutional Equity who will coordinate the investigation.

Responses to allegations of sexual or gender-based harassment by unionized staff members are governed by the Collective Bargaining Agreement.

C. FACULTY

Faculty desiring assistance or wishing to report sexually harassing behavior:

Dean of the Faculty
Director of Institutional Equity

Responses to allegations of sexual or gender-based harassment by a faculty member are governed by the Collective Bargaining Agreement.

3. PROCEDURES FOR COMPLAINTS AGAINST STUDENTS, FACULTY AND STAFF

As noted herein, the University has distinct procedures for the investigation and resolution of:

complaints against students (summarized in the Title IX Policy and the Student Handbook);

complaints against employees (summarized in this Policy and the Employee Handbook).

Any community member may make a complaint pursuant to the policies applicable to them. The applicable procedure for remedying a complaint depends on whether the accused is a student or employee, or someone else. A complaint made against an individual accepted to the University but not yet matriculated will be investigated in accordance with the procedures applicable to students, to the extent possible given the unique facts and circumstances.

The Dean of Students or the Title IX Coordinator may decide to conduct matters that occur prior to matriculation.

Procedures for Complaints against Non-Community Members

Employees may make complaints relating to the conduct of a contractor, visitor or other non-campus member that creates a hostile environment or is otherwise inconsistent with the nondiscrimination standards of this Policy by contacting the Human Resources Office. If harassment is perpetrated by a non-employee assigned by a contractor, the supervisor or other appropriate individual in the chain of command shall investigate and take appropriate remedial action. (Conduct potentially arising to a criminal level, of course, should be immediately reported to the Department of Public Safety.)

Investigation of Complaints

Upon the receipt of a complaint, the University will initiate the applicable procedure to ensure prompt investigation. Generally, investigation of complaints relating to employees are overseen by the Office of Human Resources.

The following clarifies the University's process for investigating complaints by employees against students. A complaint by an employee that a student has committed any act of harassment or discrimination may be made to the Human Resources Office, the Title IX Coordinator, the Department of Public Safety, or Dean of Students. The University will determine, based on the specific circumstances, which office or offices will handle the investigation. In cases involving sexual or gender-based harassment or sexual misconduct that may arise to the level of criminal conduct, Department of Public Safety or the Oxford Police Department conducts the investigation.

Determining Violation(s) of the Policy

Factors to be considered in determining whether and the extent to which behavior(s) could be construed as a policy violation may include, but are not limited to:

Frequency.

Severity or pervasiveness of the conduct.

Whether it is physically threatening.

Degree to which the conduct interfered with an employee's work performance or a student's academic performance and/or full enjoyment of the academic/campus programs and services.

The relationship between the alleged harasser and the subject or subjects of the harassment.

The severity or pervasiveness of the conduct is considered from both subjective and objective perspectives (the conduct is viewed as hostile and abusive by both a “reasonable person” and the person who is subjected to the conduct).

This Policy is intended to comply with and shall be interpreted consistently with all relevant federal, state and local laws.

Remedial Action

The exact nature of responsive action depends on the circumstances, but may include discipline up to and including suspension or dismissal from the University for a student who is found to have violated University policies; and disciplinary action up to and including discharge from employment for a faculty or staff member found to have violated University policies; or a ban from University property. In some cases, remedial action will be considered during the investigation period itself if interim action is necessary. In some cases, at the conclusion of the investigation, there may be lingering effects of discrimination/harassment. The University will remedy those situations as appropriate and will take other steps to prevent further discrimination or harassment.

Informal Complaint Procedure

The goal of the informal complaint procedure is to resolve problems.

Under the informal complaint procedure, complainants may consult with the Human Resources Officer.

Informal complaints may have several outcomes. The person raising the issue may only want to discuss the matter with a neutral party in order to clarify whether discrimination may be occurring and to determine his or her options, including the pursuit of more formal action. In such a situation, the Human Resources Officer will give assistance and offer suggestions as to how the issue might be resolved, without drawing a conclusion as to whether discrimination has occurred. In other cases, the Officer may be asked to serve as a mediator, to talk to the other person(s) to see whether an informal resolution of the issue can be reached. The supervisor or department chairperson of the other person(s) in the dispute may be notified that an informal complaint has been received, but that no investigation has taken place. A written record of this complaint will be made and maintained by the Human Resources Officer.

If a written record is made and/or the supervisor is notified that an informal complaint has been made, the subject of the complaint must be notified and given the opportunity to provide a response for the written record. If resolution is reached by this process, no further action(s) will be taken and the matter will be considered closed. Issues not so resolved may require that further inquiries be made and/or that supervisors or department chairs take a more active role in finding a solution to the problem. Whenever possible complaints will be handled at the lowest level possible.

Implementing Provisions

The University will implement the following:

The University will take appropriate action (i.e., an investigation, adjudication and disciplinary and remedial/corrective steps) in response to a complaint made pursuant to the complaint policies/procedures listed above. The University will make every effort to handle complaints and investigations with sensitivity to both the rights of the person who complains and the rights of the accused.

The University handles complaints discreetly and attempts to maintain privacy throughout the investigatory process, to the extent practicable and appropriate under the circumstances. However, in order to conduct an investigation, it is generally necessary to discuss the allegations with the accused and other potential witnesses. Additionally, the University may have legal obligations to disclose information to law enforcement or in the context of legal proceedings.

Complaints may be made anonymously. While the University endeavors to investigate all complaints, including anonymous complaints, the nature of anonymous complaints makes investigation, determination and remediation more difficult and, at times, impossible. Further, while the University attempts to protect the identity of complainants who do not wish to be identified, this may not always be possible.

Occasionally, an individual makes a complaint and later wishes to revoke or discontinue the investigation or adjudication process. Similarly, it may occur that someone other than the individual subjected to the alleged act of discrimination or harassment reports an incident, and the individual declines to participate in the investigation or adjudication process. In other instances, complaints may be received anonymously and/or the individual may not wish to be personally identified. In these situations, the University attempts to investigate and address complaints in accordance with the individual's wishes. However, the University may not always be able to do so. In order to protect the community, the University may be obligated to investigate and adjudicate serious incidents even where the individual would prefer otherwise. The University reserves the right to take action in response to any incident that comes to its attention.

Failure to Cooperate

Failure to cooperate in the investigation of a formal complaint will be considered a breach of responsibility or insubordination and may result in disciplinary action. Furthermore, silence or lack of cooperation by a complainant, respondent or any witnesses will not prevent a complaint from going forward.

Deliberate Fabrication of Evidence or Bad Faith

If, at the conclusion of an investigation, it is determined that a complainant, respondent, or witness knowingly gave false or misleading information or filed a complaint in bad faith, it may be recommended that the individual be subjected to disciplinary action.

4. ACADEMIC FREEDOM CONSIDERATIONS

These procedures are not intended to inhibit or restrict free expression or exchange of ideas within the bounds of the principles of Academic Freedom.

5. THE FOLLOWING EXTERNAL RESOURCES ARE ALSO AVAILABLE:

PA Human Relations Committee (Title VII)
Ph: 215-560-2496

Equal Employment Opportunity Commission Pennsylvania Office (Title VII)
Ph: 267-589-9700

Office of Civil Rights – Philadelphia Office, U.S. Department of Education
Ph: 215-656-8541

Lincoln University Department of Public Safety/Campus Security
Ph: 484-365-7211

PA Office of Attorney General
Ph: 717-787-3391