

Title IX and Sexual Misconduct Policy

Responsible Administrator: AVP of Diversity, Equity, Inclusion & Compliance/Title IX Coordinating

Responsible Office: Office of the General Counsel

Effective Date: January 9, 2025

I. Policy Statement

Lincoln University is committed to fostering an environment that is safe, secure and free from sex discrimination and sexual harassment, sexual violence, dating and domestic violence, and stalking among all forms of sexual misconduct. Lincoln University takes prompt and appropriate action to address misconduct, end a hostile environment if one has been created, and prevent the recurrence of a hostile environment.

II. Reason for the Policy

Applicable federal and state laws prohibit discrimination and harassment based on sex in the workplace and in education programs and activities and may require Lincoln University to respond in particular ways to disclosures of such discrimination or harassment.

III. Applicability

This policy applies to the entire Lincoln University community, including, but not limited to, students, student organizations, faculty, administrators, and staff, whether on or off campus, and third parties such as guests, visitors, volunteers, invitees, and alumni when they are on Lincoln University's campus or participating in Lincoln University-sponsored activities.

The requirements and protections of this policy apply equally regardless of sex, sexual orientation, gender identity, gender expression, age, race, nationality, class status, ability, religion, or other protected classes covered by federal or state law. All requirements and protections are equitably provided to individuals regardless of such status or status as a Complainant, Respondent, or Witness.

Alleged incidents of Prohibited Conduct under this Policy occurring on or after the original effective date of this policy will follow the protocols and procedures outlined in this Policy. Resolution of reports made under this Policy shall follow the protocols and procedure in effect at the time the report is made. However, the definitions of Prohibited Conduct in effect at the time of the incident will govern, unless otherwise directed by the Title IX Coordinator.

Obligations in this policy assigned to a particular title, such as the Title IX Coordinator, may be designated as appropriate by Lincoln University.

Sex discrimination other than Title IX Prohibited Conduct in this Policy, such as allegations of pay discrimination or limitations on access to services or benefits based on sex, are to be addressed under Lincoln University's Harassment & Sexual Misconduct Policy

IV. Prohibited Conduct Under this Policy

This section includes the conduct prohibited by this Policy that can be resolved through the available processes described in this Policy.

- A. Title IX Sexual Harassment is conduct on the basis of sex that satisfies one or more of the following:
 - 1. A Lincoln University employee conditions the provision of an aid, benefit, or service of the Lincoln University on an individual's participating in unwelcome sexual conduct; or
 - 2. Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the Lincoln University's education program or activity; and Sexual Assault, Dating Violence, Domestic Violence, Stalking, and Retaliation, as defined below.

- B. Non-Title IX Sexual Harassment is unwelcome conduct based on sex or gender that is so severe and/or pervasive that it has the purpose or effect of unreasonably interfering with a person's employment, academic performance or participation in the Lincoln University's programs or activities, or creates a working, learning, program or activity environment that a reasonable person would find intimidating, hostile or offensive.

- C. Sexual Assault is having or attempting to have sexual contact with another individual without consent or where the individual cannot consent because of age or temporary or permanent mental incapacity (see below for definition of consent and incapacitation). Sexual contact includes:
 - 1. sexual intercourse (anal, oral, or vaginal), including penetration with a body part (e.g., penis, finger, hand, or tongue) or an object, or requiring another to penetrate themselves with a body part or an object, however slight;
 - 2. sexual touching of the private body parts, including, but not limited to, contact with the breasts, buttocks, groin, genitals, or other intimate part of an individual's body for the purpose of sexual gratification.
 - Sexual touching may be over or under clothing and may include the Respondent touching the Complainant, the Respondent making the Complainant touch the Respondent or another person, or the Respondent making the Complainant touch the Complainant's own body.

- D. Dating Violence includes any 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; (iii) the frequency of interaction between the persons involved in the relationship.
- E. Domestic Violence is felony or misdemeanor crimes of violence committed by a person who is a current or former spouse or intimate partner of the victim under the family or domestic violence laws of the jurisdiction of the school, or a person similarly situated to a spouse of the victim; is cohabitating or has cohabited with the victim as a spouse or intimate partner; shares a child in common with the victim; or commits actions against a youth or adult victim who is protected from those acts under the family or domestic violence laws of the jurisdiction.
- F. Stalking is engaging in a course of conduct on the basis of sex directed at a specific person that would cause a reasonable person to fear for the person's safety or the safety of others, or suffer substantial emotional distress.

Course of conduct means two or more instances including but not limited to unwelcome acts in which an individual 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.

Stalking includes the concept of cyber-stalking, a particular form of stalking in which electronic media such as the internet, social networks, blogs, cell phones, texts, or other similar devices or forms of contact are used.

- G. Sexual Coercion is the application of unreasonable pressure, including emotionally or physically manipulative actions or statements, or direct or implied threats, in order to compel the person to engage in sexual activity.
- H. Sexual Exploitation is the abuse or exploitation of another person's sexuality without consent, for the perpetrators own advantage or benefit, or for the benefit or advantage of anyone other than the one being exploited. Sexual Exploitation includes, without limitation, causing or attempting to cause the incapacitation of another person in order to gain a sexual advantage over that person; causing the prostitution of another person; electronically recording, photographing, or transmitting intimate or sexual utterances, sounds or images of another person; allowing third parties to observe sexual acts; engaging in voyeurism; distributing intimate or sexual information about another person; and/or knowingly transmitting a sexually transmitted infection, including HIV, to another person.

- I. Retaliation is any adverse action taken against an individual because they were involved in the disclosure, reporting, investigation, or resolution of a report of Prohibited Conduct. Retaliation includes threats, intimidation, harassment, coercion, violence, or any other conduct that would discourage a reasonable person from engaging in activity protected under this Policy. Activity protected under this Policy may include an individual's right to make a report and/or file a complaint that Prohibited Conduct has taken place, an individual's ability to participate in the complaint resolution process, and/or an individual's good faith effort to intervene as a bystander.

The prohibition against retaliation applies to any individual who has made a report or complaint of sex discrimination, including any individual who has made a report or filed a formal complaint of sexual harassment, any complainant, any individual who has been reported to be the perpetrator of sex discrimination, any respondent, any witness, or any other individuals who participate (or refuse to participate) in any manner in an investigation, proceeding, or hearing.

Retaliation may occur even where there is a finding of "not responsible" under this Policy. Good faith actions lawfully pursued in response to a report of Prohibited Conduct are not Retaliation. Retaliation should be promptly reported to the Title IX Coordinator and will be investigated and resolved by Human Resources or Student Conduct, as applicable.

- J. Prohibited Conduct Specific to Pennsylvania Sexual Harassment in Employment Situations In the State of Pennsylvania, the following definition of sexual harassment will be applied to situations involving employees when the definitions above (specific to Title IX) are not applicable, as determined by the Title IX Coordinator:

Sexual harassment is unlawful when it subjects an individual to inferior terms, conditions, or privileges of employment. Harassment need not be severe or pervasive to be unlawful and can be any harassing conduct that consists of more than petty slights or trivial inconveniences. Sexual harassment includes unwelcome conduct which is either of a sexual nature, or which is directed at an individual because of that individual's sex when:

1. Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile or offensive work environment, even if the reporting individual is not the intended target of the sexual harassment;
2. Such conduct is made either explicitly or implicitly a term or condition of employment; or
3. Submission to or rejection of such conduct is used as the basis for employment decisions affecting an individual's employment

- K. PA workplace sexual harassment can take a variety of forms. Examples include, but are not limited to:
1. Unwelcome sexual propositions, invitations, solicitations, and flirtations;
 2. Non-consensual sexual intercourse or other sexual contact;
 3. Coercive behavior, unreasonable pressure, or manipulation to compel a person to engage in sexual activity;
 4. Threats or insinuations that a person's employment, wages, promotional opportunities, work assignments, academic grade, classroom assignments, or other conditions of employment or academic or other collegiate life may be adversely affected by not submitting to sexual advances;
 5. 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, mail, or email;
 6. Sexually suggestive objects, pictures, videotapes, audio recordings or literature, placed on the work or study area, if not used solely for a legitimate educational purpose;
 7. Non-consensual touching, grabbing, groping, pinching, or other physical contact;
 8. Spreading sexual rumors; distributing intimate or sexual information about another person;
 9. Causing or attempting to cause the incapacitation of another person in order to gain a sexual advantage over that person;
10. Electronically recording, photographing, or transmitting intimate or sexual utterances, sounds or images of another person.

V. Definitions

- A. Affirmative Consent ("Consent"): a knowing, voluntary, and mutual decision among all participants to engage in sexual activity. Consent can be given by words or actions, as long as those words or actions create clear permission regarding willingness to engage in the sexual activity. Silence or lack of resistance does not in and of itself, demonstrate consent. The definition of consent does not vary based upon a participant's sex, sexual orientation, gender identity or gender expression. Consent to any sexual act or prior consensual sexual activity between or with any party does not necessarily constitute consent to any other sexual act. Consent is

required regardless of whether the person initiating the act is under the influence of drugs and/or alcohol. Consent may be initially given but withdrawn at any time. Consent cannot be given when it is the result of any coercion, intimidation, force, or threat of harm. When consent is withdrawn or can no longer be given, sexual activity must stop. [Children under 17 years of age cannot legally consent under Pennsylvania State law to having sex or sexual contact with an adult (i.e., someone who is 17 years of age or older)]

[Review relevant state laws or current institutional policies/definitions]

- B. Coercion and Force: Consent cannot be procured by the use of physical force, compulsion, threats, intimidating behavior, or coercion. Sexual activity accompanied by coercion or force is not consensual.
 - Coercion refers to unreasonable pressure for sexual activity. When someone makes it clear that they do not want to engage in sexual activity or do not want to go beyond a certain point of sexual interaction, continued pressure beyond that point can be considered coercive. The use of coercion can involve the use of pressure, manipulation, substances, and/or force. Ignoring objections of another person is a form of coercion.
 - Force refers to the use of physical violence and/or imposing on someone physically to engage in sexual contact or intercourse. Force can also include threats, intimidation (implied threats), or coercion used to overcome resistance.
- C. Complainant
Any individual who has reported being or is alleged to be the victim of Prohibited Conduct under this policy.
- D. Education Program or Activity
Lincoln University's "education program or activity" includes:
 - Any on-campus facility, property, or building owned or controlled by the Lincoln University;
 - Any off-campus program or activity that Lincoln University has substantial control over;
 - Any off-campus premises that Lincoln University has substantial control over. This includes buildings or property owned or controlled by a recognized student organization; and
 - Activity occurring within computer and internet networks, digital platforms, and computer hardware or software owned or operated by, or used in the operations of Lincoln University's programs and activities over which Lincoln University has substantial control.
- E. Formal Complaint
"Formal complaint" means a written document (hard copy or electronic) that alleges

that a Respondent committed Prohibited Conduct and requests initiation of the procedures consistent with the Policy to investigate the allegation of the conduct. A “Formal Complaint” can only be filed by a Complainant with a signature or other indication that the complainant is the person filing the formal complaint or signed by the Title IX Coordinator.

- F. Incapacitation: Someone who is incapacitated cannot consent. A person is incapacitated when the person cannot make a rational, reasonable decision because the person lacks the ability to understand their decision. A person can become incapacitated as a result of, among other things, physical or mental impairment, involuntary physical constraint, sleep, unconsciousness, or consumption of alcohol or other drugs.
 - Where alcohol or other drugs are involved, incapacitation is a state beyond drunkenness or intoxication. The impact of alcohol and other drugs varies from person to person; however, warning signs that a person may be approaching incapacitation may include slurred or incomprehensible speech, vomiting, unsteady gait, combativeness, or emotional volatility. Evaluating incapacitation also requires an assessment of whether a Respondent knew or should have been aware of the Complainant’s incapacitation based on objectively and reasonably apparent indications of impairment when viewed from the perspective of a sober, reasonable person in the Respondent’s position. Being intoxicated or impaired by drugs or alcohol is never an excuse for committing Prohibited Conduct and does not diminish one’s responsibility to obtain informed and freely given consent. In other words, consent is required regardless of whether the person initiating the act is under the influence of drugs and/or alcohol.

[Review relevant state laws or current institutional policies/definitions]

G. Party or Parties

Referring to Complainant(s), Respondent(s), or both Complainant(s) and Respondent(s).

H. Respondent

Respondent, sometimes called the Accused, means any individual who has been reported to have engaged in Prohibited Conduct under this policy.

- I. Title IX Prohibited Conduct includes the following, as defined in Section IV Prohibited Conduct: Title IX Sexual Harassment, domestic violence, dating violence, and stalking, when such violations are alleged to have occurred within the Educational Program or Activity and inside of the United States.

v. Policy

A. The Title IX Coordinator

The Title IX Coordinator is charged with monitoring compliance with Title IX; providing education and training; overseeing complaints; and coordinating Lincoln University's investigation, response, and resolution of all reports of Prohibited Conduct under this policy. The Title IX Coordinator is available to meet with any Student, Employee, or Third Party to discuss this policy or the accompanying procedures and can be contacted at:

Employee Reporting Obligations [Pennsylvania]

Other than those serving in the capacity of Confidential Resources, described in section VII in this policy, all Lincoln University Employees must immediately report possible violations of this policy to the Title IX Coordinator.

This report must include the employee's name and contact information, and all known details about an incident, including dates, times, locations, names of involved individuals and the nature of the incident. Aside from this reporting obligation, employees will, to the fullest extent possible, maintain the privacy of an individual's information.

As per Pennsylvania state law, managers and supervisors are required to report any workplace complaint of sexual harassment that they receive, or any workplace harassment that they observe in the to the Title IX Coordinator.

All employees, contractors, and volunteers who are employed or engaged by Lincoln University and interact with, supervise, chaperone, or otherwise oversee minors, whether during the program or in any Lincoln University-sponsored activity, must immediately report any suspected cases of abuse, maltreatment, and/or neglect in accordance with Pennsylvania State law. Employees who fail to comply with their reporting obligation may be subject to discipline up to and including termination.

B. Student Bill of Rights [Pennsylvania]

All Lincoln University students have the right to:

- Make a report (or decline to report) to local law enforcement and/or state police;
- Have disclosures of Sexual Assault, Domestic Violence, Dating Violence, and Stalking and all other forms of Prohibited Conduct treated seriously;
- Make a decision about whether or not to disclose a crime or violation and participate in the complaint resolution process and/or criminal justice process free from pressure by the institution;

- Participate in a process that is fair, impartial, and provides adequate notice and a meaningful opportunity to be heard;
- Be treated with dignity and to receive from the Lincoln University courteous, fair, and respectful health care and counseling services, where available;
- Be free from any suggestion that the Complainant is at fault when these crimes and violations are committed, or should have acted in a different manner to avoid such crimes or violations;
- Describe the incident to as few representatives of the Lincoln University as practicable and not be required to unnecessarily repeat a description of the incident;
- Be protected from retaliation by the Lincoln University, any student, the Respondent, and/or their friends, family and acquaintances within the jurisdiction of the Lincoln University;
- Access to at least one level of appeal of a determination;
- Be accompanied by an Advisor of choice who may assist and advise a Complainant or a Respondent during any meetings and hearings under the Policy and procedures; and
- Exercise civil rights and practice of religion without interference by the investigative, criminal justice, or complaint resolution process of the Lincoln University.

c. Amnesty

The health and safety of every student at Lincoln University is of the utmost importance. Lincoln University recognizes that students who have been drinking and/or using drugs (whether such use is voluntary or involuntary) at a time that violence (including but not limited to domestic

violence, dating violence, stalking, or sexual assault) occurs may be hesitant to report such incidents due to fear of potential consequences for their own conduct. Lincoln University strongly encourages students to report domestic violence, dating violence, stalking, or sexual assault to Lincoln University officials. A bystander or complainant acting in good faith who discloses any incident of domestic violence, dating violence, stalking, or sexual assault to Lincoln University officials or law enforcement will not be subject to discipline under Lincoln University's Policy Against Drugs and Alcohol for violations of alcohol and/or drug use policies occurring at or near the time of the commission of the domestic violence, dating violence, stalking, or sexual assault. This policy does not provide amnesty for drug dealers or those who use drugs or alcohol as a weapon or to facilitate Prohibited Conduct. Under Lincoln University's Amnesty for Drug and Alcohol Policy, personal drug use and possession, whether it is intentional or accidental, will not form the basis of faculty student disciplinary charges.

D. Requesting Accommodations

This policy does not alter any Lincoln University obligations under federal disability laws including the Americans with Disabilities Act of 1990, and Section 504 of the Rehabilitation Act of 1973.

Parties may request reasonable accommodations for disclosed disabilities to the Title IX Coordinator at any point before or during the grievance process. Accommodations will be granted if appropriate and that do not fundamentally alter the Process. The Title IX Coordinator will not affirmatively provide disability accommodations that have not been specifically requested by the Parties, even where the Parties may be receiving accommodations in other Lincoln University programs and activities.

Requests for accommodations in connection with allegations of Prohibited Conduct should be made to the Lincoln University's Title IX Coordinator. The Lincoln University will provide information about the employee's request for accommodation only to those having a need to know such information in order to implement the accommodations.

E. Effect of Criminal Proceedings

Sexual misconduct may constitute a violation of both law and Lincoln University policy. The Lincoln University encourages students to report alleged sexual misconduct promptly to local law enforcement agencies. Criminal investigations may be useful in the gathering of relevant evidence, particularly forensic evidence. The standards for finding a violation of criminal law are different from the standards for finding a violation of this policy. Therefore, criminal investigations or reports are not determinative of whether Prohibited Conduct, for purposes of the policy, has occurred. In other words, conduct may constitute Prohibited Conduct under this policy even if law enforcement agencies lack sufficient evidence of a crime and decline to prosecute.

The filing of a complaint of Prohibited Conduct under this policy is independent of any criminal investigation or proceeding. The Lincoln University will not wait for the conclusion of any criminal investigation or proceedings to commence its own investigation or take any necessary interim measures to protect the complainant and the Lincoln University community. However, the Lincoln University may temporarily delay its investigation to enable law enforcement to gather evidence and to engage in a preliminary investigation of sexual misconduct matters that may also violate the state criminal code. Such delay should not last longer than ten (10) days except when law enforcement requests and justifies a longer delay.

F. Additional/Alternative Rights for Union Employees

Lincoln University employees who are represented by a union may have other procedural rights pursuant to the respective collective bargaining agreement. Please refer to the collective bargaining agreement and/or contact your union representative for further information.

VI. Procedures

This section contains the procedures to report Prohibited Conduct, as well as options for resolution, including investigations and adjudications.

A. Disclosing and/or Reporting Prohibited Conduct

This section includes information about how to make confidential disclosures, non-confidential disclosures, how to report to law enforcement and/or public safety, as well as how to report to the Title IX Coordinator.

Reporting individuals may choose any or all of these options free from retaliation, and may receive assistance and supportive measures from Lincoln University regardless of which options are exercised.

1. Confidential Disclosure Options

The following officials may provide confidentiality. This means that disclosing Prohibited Conduct to these resources will not lead to an investigation. Professional, licensed counselors and pastoral counselors (ordained clergy) whose official responsibilities include providing mental health counseling to Lincoln University students, including those who act in that role under the supervision of a licensed counselor, are not required to disclose any information about an incident of sexual misconduct to the Title IX coordinator without a victim's permission.

State law requires professional counselors to report: (i) when a patient is likely to engage in conduct that would result in serious harm to the patient or others; (ii) if there is reasonable cause to suspect that a minor has been sexually abused.

- Confidential Resources for Students

- Confidential Resources for Employees

- Non-Confidential Campus Resources

2. Reporting to Law Enforcement and Public Safety

Under Pennsylvania law, victims of sexual misconduct have the right to notify or decline to notify law enforcement.

Timing is a critical factor in collecting and preserving evidence that may assist in proving that the alleged misconduct occurred

or may be helpful in obtaining protection or restraining orders from the police. The Department of Public Safety and other Lincoln

University representatives indicated below are available to assist in notifying law enforcement of an incident of sexual misconduct

and in contacting law enforcement or legal service organizations to learn about these remedies.

For local Police and Emergency Assistance dial 911

For Public Safety:



3. Disclosing or Reporting to the Title IX Coordinator

Any person may disclose sex discrimination, including sexual harassment (whether or not the person reporting is the person alleged to be the victim of conduct that could constitute sex discrimination or sexual harassment), in person, by mail, by telephone, or by electronic mail, using the contact information listed for the Title IX Coordinator, or by any other means that results in the Title IX Coordinator receiving the person's oral or written report.

A disclosure may be made at any time (including during non-business hours) by using the telephone number or electronic mail address, or by mail to the office address listed for the Title IX Coordinator. Please click [here](#) to report any misconduct related to the Title IX and Sexual Misconduct policy.

Upon receipt of a disclosure of Prohibited Conduct, the Title IX Coordinator or their designee will promptly contact the Complainant to discuss the availability of supportive measures, consider the Complainant's wishes 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 to the Complainant the process for filing a Formal Complaint. The Title IX Coordinator will make an initial assessment of the reported information and respond to any immediate safety or well-being concerns raised by the report.

In this intake assessment, the Title IX Coordinator will conduct a preliminary assessment and:

- Inform the Complainant of the right to seek medical treatment, and explain the importance of obtaining and preserving forensic and other evidence;
- Inform the Complainant of the right to contact law enforcement, decline to contact law enforcement, and/or seek a protective order;
- Inform the Complainant about campus and community resources, including no-contact orders;
- Inform the Complainant of the right to file a Formal Complaint and the right to seek Alternative Resolution after filing a Formal Complaint; ascertain the Complainant's expressed preference for resolution (Alternative Resolution, Formal Resolution, or neither); and discuss with the Complainant any concerns or barriers to participating in any investigation and resolution by Lincoln University;
- Explain Lincoln University's prohibition against Retaliation and that Lincoln University will take prompt action in response to any act of Retaliation;
- Assess the nature and circumstances of the report, including whether it provides the names and/or other information that personally identifies the Complainant, the Respondent, any witness, and/or any other third party with knowledge of the reported incident;
- Ascertain the ages of the Parties, and if either of the parties is a minor (under 18), and follow any applicable reporting protocols;
- Coordinate with appropriate officials regarding Clery Act reporting, if applicable;
- Ensure that the Complainant receives a written explanation of all available resources and options, and is offered the opportunity to meet and discuss the resources and options;
- Assess any threat to the safety or well-being of the Complainant or the Lincoln University community. A non-exhaustive list of safety factors to be considered by Lincoln University includes a Respondent's prior history, use of a weapon, use of physical violence, age of the Complainant, and other aggravating circumstances.

Where the Complainant requests that personally-identifying information not be shared with the Respondent, that no investigation be pursued, and/or that no further action be taken, the Title IX Coordinator will seek to honor the preferences of the Complainant wherever possible taking into consideration the safety factors listed above and its legal obligations. The Title IX Coordinator will determine whether the Title IX Coordinator will sign a Formal Complaint even if the Complainant declines to do so. Where the Title IX Coordinator has determined that the Lincoln University must proceed with a Formal Complaint despite a Complainant's request to the contrary, the Title IX Coordinator will make reasonable efforts to protect the privacy of the Complainant. However, Lincoln University's investigation will involve speaking with the Respondent and others who may have relevant information, in which case the Complainant's identity may have to be disclosed. In such cases, the Title IX Coordinator will notify the Complainant that Lincoln University intends to proceed with the Formal Complaint, but that the Complainant is not required to participate in the investigation or in any other actions undertaken

by Lincoln University. In all cases, the initial report, intake assessment, and the determinations of the Title IX Coordinator will be documented and retained by Lincoln University in accordance with applicable law.

1. Bystander Reports

If the Lincoln University receives a report of alleged sexual misconduct by someone other than the alleged victim (e.g., by a friend or coworker, roommate, resident advisor) or from an anonymous source, the Lincoln University's Title IX Coordinator will promptly notify the alleged victim of the report, and inform the alleged victim of the available resources and assistance. To the extent possible, the Lincoln University will respond to the report of sexual misconduct as if the victim had made the initial report.

2. Reports with Employee Respondents

Generally, allegations of Prohibited Conduct against an employee will be addressed by the Title IX Coordinator in partnership with the Lincoln University's Office of Human Resources. This includes student-employees when the Prohibited Conduct is alleged to have occurred in the context of their employment.

3. Reports with Third-Party Respondents

Any Respondent who is not an Lincoln University student, faculty member, or staff member is generally considered a Third Party. The Lincoln University's ability to take appropriate corrective action against a Third Party may be limited, and will depend on the nature of the Third Party's relationship, if any, to the Lincoln University. The Lincoln University Title IX Coordinator will determine which office(s) will address allegations against all other Third-Party Respondents.

B. Available Supportive and Interim Measures

1. Supportive Measures

Complainants who report allegations that could constitute Prohibited Conduct under this policy have the right to receive supportive measures from Lincoln University regardless of whether they desire to file a Formal Complaint, which may include Counseling Services, Health Services, academic adjustments or modifications, reasonable assistance from Public Safety as appropriate. Supportive measures are non-disciplinary and non-punitive. Supportive Measures are also available to Respondents.

Any individual who has been the victim of sexual misconduct may request assistance in changing academic, living, transportation, and working situations, as applicable. The Lincoln University will grant such modifications, provided they are reasonable and available, regardless of whether the victim chooses to report the crime to law enforcement.

2. Interim Measures

Interim measures and/or adjustments may be made to ensure safety, prevent retaliation, and avoid an ongoing hostile environment. During the fact-finding and investigatory phase, the Lincoln University will offer and implement as applicable appropriate remediation measures including, but not limited to interim suspension, housing or academic accommodations, safety escorts and/or No Contact orders to ensure the safety of the community.

A No Contact Order is a document issued by a Lincoln University administrator that is designed to limit or prohibit contact or communications between the parties.

3. Emergency Removal

Lincoln University retains the authority to remove a respondent from the Lincoln University's program or activity on an emergency basis, where Lincoln University (1) undertakes an individualized safety and risk analysis and (2) determines that an immediate threat to the physical health or safety of any student or other individual arising from the allegations of covered sexual harassment justifies a removal.

If Lincoln University determines such removal is necessary, the respondent will be provided notice and an opportunity to challenge the decision immediately following the removal, by notifying the Title IX Coordinator in writing. The Lincoln University will designate an individual, not otherwise involved in the case, to consider the challenge to the removal and determine if the emergency removal was reasonable.

4. Administrative Leave

If necessary, Lincoln University retains the authority to place a non-student employee respondent on administrative leave, suspension, or other discipline during a pending complaint process under this policy, with or without pay as appropriate, consistent with Lincoln University policy and/or the respective CBA.

c. Advisor of Choice and Participation of Advisor of Choice

Each party has the right to choose and consult with an Advisor of their choice. The Advisor may be any person, including an attorney.

Parties in this process may be accompanied by an Advisor to any meeting or related hearing to which they are required or are eligible to attend. The Advisor is not an advocate. Except where explicitly stated by this Policy, Advisors shall not participate directly in the process, with exception that only an Advisor may conduct cross-examination during a live hearing.

Lincoln University will provide the parties equal access to advisors; any restrictions on advisor participation will be applied equally.

A union-represented employee may also be entitled to having a union representative present in addition to their advisor of choice. The advisor and/or union representative may consult with the

party that they are assisting at appropriate times, but may not interfere with the investigation or complaint resolution process.

D. Confidentiality

Lincoln University values the privacy of its students, employees, and other community members. Community members should be able to seek the assistance they need without fear that the information they provide will be shared more broadly.

Confidentiality refers to confidential resources who are not required to redisclose Prohibited Conduct to law enforcement or Lincoln University officials without the disclosing party's permission, except for extreme circumstances, such as a health and/or safety emergency or child abuse. References made to privacy mean Lincoln University offices and employees who cannot guarantee confidentiality, but will maintain privacy to the greatest extent possible, such that information disclosed will be relayed only as necessary to investigate and/or seek a resolution and to notify the Title IX Coordinator or designee, who is responsible for tracking patterns and spotting systemic issues. Lincoln University will limit the disclosure as much as practicable.

Lincoln University's offices and employees who cannot guarantee confidentiality will maintain the individual's privacy to the greatest extent possible. Information provided to a non-confidential resource will only be relayed as necessary for the Title IX coordinator to investigate and/or seek a resolution.

Note that Lincoln University will maintain as confidential any supportive measures provided to a party, to the extent that maintaining such confidentiality would not impair the ability of the Lincoln University to provide the support measures. Lincoln University will keep confidential who has made a report or complaint of sex discrimination, including sexual harassment, as well as any respondent or witness, outside of necessary disclosures of information to comply with federal and state law, and to conduct an investigation or hearing under this Policy.

As to matters involving students, under federal privacy laws, the investigation report, statements of one party that are shared with the other party in the resolution process, and any documents prepared by Lincoln University, including documents by or for the adjudicators in advance of the hearing and the hearing transcript, constitute education records which may not be disclosed outside of the proceedings, except as may be required or authorized by law. Access to materials will be provided only by a secure method and parties and advisors are not permitted to make copies of any documents shared or make use of the documents outside of the processes described in this policy. Inappropriately sharing materials provided during this process may constitute retaliation and result in disciplinary action.

E. Resolution Processes

Resolution processes, including Investigations and adjudications, including Alternative Resolution, are initiated with a Formal Complaint. This section describes how to file a Formal Complaint and the investigation and resolution processes available depending on the type of Prohibited Conduct alleged to have occurred. All Lincoln University notices described in this policy will be sent to Parties through their Lincoln University email, if applicable. It is the responsibility of Parties to maintain and regularly check their Lincoln University accounts.

1. Formal Complaint

a. How to File a Formal Complaint

To file a Formal Complaint, a complainant must provide the Title IX Coordinator a written, signed complaint describing the facts alleged.

If a complainant does not wish to make a Formal Complaint, the Title IX Coordinator may determine a Formal Complaint is necessary. Lincoln University will inform the complainant of this decision in writing, and the complainant need not participate in the process further but will receive all notices issued under this policy.

A complainant who files a Formal Complaint may elect, at any time, to address the matter through the Alternative Resolution process described in this Policy.

b. Initial Review of Formal Complaint

The Title IX Coordinator will review the Formal Complaint and determine which resolution processes are available given the type of Prohibited Conduct and the status of the Parties. For example, Alternative Resolution of a complaint of Title IX Prohibited Conduct is not available when the Respondent is an employee and the Complainant is a student.

If new information requires the Title IX Coordinator to amend the determination about available resolution processes, the Title IX Coordinator will advise the Parties in writing.

c. Consolidation

The Lincoln University may consolidate Formal Complaints as appropriate, for example, if there are multiple Formal Complaints where the allegations of Prohibited Conduct arise out of the same facts or

circumstances.

The Lincoln University may consolidate complaints alleging Prohibited Conduct against more than one Respondent, or by more than one Complainant against one or more Respondents, or by one party against the other party, where the allegations of Prohibited Conduct arise out of the same facts or circumstances.

Lincoln University reserves the right to use this Policy to adjudicate other allegations and conduct charges as defined by policies outside of the scope of this Policy in instances when the conduct is associated with an alleged issue of Prohibited Conduct.

d. Dismissal of a Formal Complaint

The Title IX Coordinator may dismiss a Formal Complaint brought under this Policy, or any specific allegations raised within that Formal Complaint, at any time during the investigation or hearing, if:

- i. A complainant notifies the Title IX Coordinator in writing that they would like to withdraw the Formal Complaint or any allegations raised in the Formal Complaint;
- ii. The respondent is no longer enrolled or employed by Lincoln University; or
- iii. If specific circumstances prevent Lincoln University from gathering evidence sufficient to reach a determination regarding the Formal Complaint or allegations within the Formal Complaint.

If the Formal Complaint is dismissed before the respondent is notified about the Formal Complaint, the respondent will not be notified about the Formal Complaint. Lincoln University will promptly send written notice of the dismissal of the Formal Complaint or any specific allegation within the Formal Complaint, and the reason for the dismissal, to the Complainant. The Complainant may appeal the dismissal using the appeal process in this policy.

If the Formal Complaint is dismissed after the respondent is notified about the Formal Complaint, either party may appeal the dismissal using the process in this policy. Lincoln University will promptly send written notice of the dismissal of the Formal Complaint or any specific allegation within the Formal Complaint, and the reason for the dismissal, simultaneously to the parties.

2. Timeframe

The timeframe for the formal resolution process begins with the filing of a Formal Complaint. The resolution process will be concluded within a reasonably prompt manner. The Lincoln University will inform all parties in writing of an explanation for and need of an extension. Below

are the general timeframes for the major stages of the grievance process. “Days” are business days where Lincoln University is open.

- a. Investigation Stage
 - About 60 days for the investigation
 - 10 days to review the preliminary report and to submit any response or additional information or questions
 - 5 days to respond to new evidence provided by the other party during their review of the preliminary report
 - At least 10 days between receipt of the final investigation report by the Parties and the hearing
- b. Decision & Appeals
 - Parties receive written notice of outcome 10 days or less after the hearing takes place, if applicable
 - Appeals from the Parties are due 5 days from the notice of outcome
 - If someone appeals, Lincoln University has 3 days to notify the other party in writing
 - The non-appealing party has 5 days to respond or submit their own appeal
 - The Appeals Panel will issue its decision within 10 days

Each party may request a one-time delay in the resolution process of up to five (5) days for good cause (granted or denied in the sole judgment of the Title IX Coordinator or designee) provided that the requestor provides reasonable notice and the delay does not overly inconvenience other parties.

For example, a request to take a five day pause made an hour before a hearing for which multiple parties and their advisors have traveled to and prepared for shall generally not be granted, while a request for a five day pause in the middle of investigation interviews to allow a party to obtain certain documentary evidence shall generally be granted. The Title IX Coordinator shall have sole judgment to grant further pauses in the process.

3. Notice of Allegations

The Title IX Coordinator will draft and timely provide the Notice of Allegations to all Parties. The Lincoln University will provide sufficient time for the parties to review the Notice of Allegations and prepare a response before any initial interview.

The Notice of Allegations will include the following:

- Notice of the allegations potentially constituting Prohibited Conduct, and sufficient details known at the time the Notice is issued, such as the identities of the Parties, if known; the conduct allegedly constituting Prohibited Conduct; and the date and location of the alleged incident, if known;
- Notice of the applicable policies and procedures;

- The Student Bill of Rights;
- How to challenge participation by the Title IX Coordinator for bias or conflict of interest – which the Assistant Vice President for Student Life will resolve in their sole discretion.
- How to challenge participation by the Investigator for bias or conflict of interest – which the Title IX Coordinator will resolve in their sole discretion.
- A statement that the respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility is made at the conclusion of the grievance process;
- A statement that the parties may have an advisor of their choice, who may be any person including a friend, relative, colleague, or an attorney;
- A statement that before the conclusion of the investigation, the parties may inspect and review evidence obtained as part of the investigation that is directly related to the allegations raised in the Formal Complaint, including the evidence upon which the Lincoln University does not intend to rely in reaching a determination regarding responsibility, and evidence that both tends to prove or disprove the allegations, whether obtained from a Party or from any other source;
- A statement that the Lincoln University prohibits knowingly making false statements or knowingly submitting false information to the Lincoln University.
- A statement that retaliation is prohibited.

The Lincoln University will issue an amended Notice of Allegations as needed if additional allegations are discovered during the course of the investigation. The parties will be provided sufficient time to review the additional allegations to prepare a response before any initial interview regarding those additional charges.

4. Notice of Meetings and Interviews

Lincoln University will provide parties with written notice of the date, time, location, participants, and purpose of meetings to which they are invited, including hearings, investigative interviews, or other meetings, with sufficient time for the party to prepare to participate.

5. Investigations

The Lincoln University will perform an investigation under a reasonably prompt timeframe of the conduct alleged to constitute covered sexual harassment after issuing the Notice of Allegations.

Lincoln University and not the parties, has the burden of proof and the burden of gathering evidence, i.e. the responsibility of showing a violation of this policy has occurred. This burden does not rest with either party, and either party may decide not to share their account of what occurred or may decide not to participate in an investigation or hearing. This does not shift the burden of proof away from Lincoln University and does not indicate responsibility.

a. Relevance in Evidence and Questions

“Relevant” evidence and questions refer to any questions and evidence that tends to make an allegation of sexual harassment more or less likely to be true.

The following are not relevant:

- Evidence and questions about the complainant's sexual predisposition or prior sexual behavior unless:
 - They are offered to prove that someone other than the respondent committed the conduct alleged by the complainant, or
 - They concern specific incidents of the complainant's prior sexual behavior with respect to the respondent and are offered to prove consent.
- Evidence and questions that constitute, or seek disclosure of, information protected under a legally recognized privilege.
- Any party's medical, psychological, and similar records unless the party has given voluntary, written consent.

All parties must submit any evidence they would like the investigator to consider prior to when the parties' time to inspect and review evidence begins.

Lincoln University cannot access, consider, or disclose medical records without a waiver from the party (or parent, if applicable) to whom the records belong or of whom the records include information.

b. Inspection and Review of Evidence

At the conclusion of all interviews and fact gathering, and when the evidence has been gathered, the Investigator will provide each party the opportunity to review all of the evidence gathered that is directly related to the allegation(s). This will include both inculpatory and exculpatory evidence and may include evidence that is not relied upon in making a determination. The purpose of the inspection and review process is to allow each party the equal opportunity to meaningfully respond to the evidence prior to conclusion of the investigation.

Given the sensitive nature of the information provided, Lincoln University will facilitate this review in a secure manner. Neither the parties nor their advisors may copy, remove, photograph, print, image, videotape, record, or in any manner otherwise duplicate or remove the information provided. Any student or employee who fails to abide by this may be subject to discipline. Any Advisor who fails to abide by this may be subject to discipline and/or may be excluded from further participation in the process.

The Parties have ten (10) business days after reviewing the preliminary report and the evidence packet to submit a response in writing to the Investigator, if they choose. Such a response may include additional comments or information, identify additional witnesses or evidence, or submit any further questions to be directed by the Investigator to other parties or witnesses. The Investigator will incorporate any response provided by the parties into the Final Investigative Report.

Upon receipt of each party's response to the evidence reviewed, the Investigator will determine if any additional investigation is needed. If new relevant evidence is provided by either party, or gathered by the Investigator, the newly gathered evidence (including answers to clarifying questions) will be made available for review by each party. Each party will have five (5) business days in which to respond to the new evidence. Each may provide a response in writing, or orally, to the Investigator. The Investigator will incorporate any oral and/or written response provided by the parties into the Investigation Report.

The Lincoln University will provide access to copies of the parties' written responses to the investigator to all parties and their advisors, if any.

Any evidence subject to inspection and review will be available at any hearing, including for purposes of cross-examination.

c. Final Investigation Report

The Investigator designated by the Title IX Coordinator will create a Final Investigation Report. The Investigation Report is not intended to catalog all evidence obtained by the investigator, but only to provide a fair summary of that evidence.

Only relevant evidence (including both inculpatory and exculpatory – i.e. tending to prove and disprove the allegations – relevant evidence) will be summarized referenced in the Investigation Report.

6. Live Hearing Adjudication Process

In cases involving Title IX Prohibited Conduct with a student or employee respondent, and in cases involving Prohibited Conduct (including retaliation) with a student respondent, formal resolution includes a live hearing. All participants shall be subject to Lincoln University's Rules of Decorum. Lincoln University will not threaten, coerce, intimidate or discriminate against any party in an attempt to secure a person's participation.

a. Initiating the Hearing

Within ten (10) calendar days prior to the date of the hearing, the Title IX Coordinator will notify the parties in writing of the specific charge, the date, time, and location of the hearing, the name of the Decision-Maker, and how to challenge participation by the Decision-Maker for bias or conflict of interest – which the Title IX Coordinator will resolve in their sole discretion. Lincoln University may, at the discretion of the Title IX Coordinator, postpone the hearing or determine that multiple hearing sessions are necessary for a continuance. Good causes for extension may include the unavailability of the parties, the timing of semester breaks or holidays designated by Lincoln University, or other extenuating circumstances requiring more time. Any extension, including the reason for the extension, will be shared with the parties in writing. The Complainant or the Respondent may seek to postpone the hearing. Permission to postpone a hearing may be granted provided that the request to do so is based on a compelling need and

communicated to the Title IX Coordinator prior to the time of the hearing.

b. Hearing Format

The live hearing may be conducted with all parties physically present in the same geographic location, or, at Lincoln University's discretion, any or all parties, witnesses, and other participants may appear at the live hearing virtually through a video conferencing option. This technology will enable participants simultaneously to see and hear each other. At its discretion, Lincoln University may delay or adjourn a hearing based on technological errors not within a party's control.

A typical hearing may include brief opening remarks by the Complainant and/or Respondent, with follow-up questions posed by the Decision-Maker, information presented by the parties or witnesses deemed relevant by the Decision-Maker, with follow-up question for the parties or witnesses by the Adjudicator and the parties' Advisors for cross-examination, and brief concluding remarks by the Complainant and Respondent.

c. Attendance by and Participation of Parties

All Parties have a right to be present at the hearing. Parties may be accompanied in the hearing by an Advisor of their choice and must provide the name of their Advisor to the Title IX Coordinator at least three (3) calendar days prior to the hearing.

Lincoln University may still proceed with the live hearing in the absence of a party and/or witness(es) may reach a determination of responsibility in their absence. If a party does not attend the live hearing, the party's advisor may appear and conduct cross-examination on their behalf. If neither a party nor their advisor appear at the hearing, Lincoln University will provide an advisor to appear on behalf of the non-appearing party.

The Decision-Maker cannot draw an inference about the determination regarding responsibility based solely on a party's absence from the live hearing or refusal to answer cross examination or other questions.

d. Attendance by and Participation of Witnesses

The parties may submit to the Title IX Coordinator a list of witnesses they believe have relevant information to the outcome of the hearing. The Decision-Maker/s will review the parties' requested witnesses and consider any other witnesses. The Decision-Maker has discretion to determine which witnesses are relevant and may decline to hear from witnesses where they conclude that the information is not necessary for the review. Witnesses will only be permitted to attend the hearing during their own testimony.

e. Recording & Transcripts

All proceedings will be audio recorded. A transcript of the recording will be made available to the parties for inspection and review. This will be the sole recording of the hearing; no Party, Advisor, or witness is permitted to record the hearing, or any portion of the hearing. Any unauthorized recording may result in disciplinary action.

f. Expectations of Decorum

The following Expectations of Decorum are to be observed in the hearing, during cross-examination questioning, and as applicable to any meetings associated with resolution of a Formal Complaint; and applied equally to all parties and Advisors. The Title IX Coordinator will have the authority to remove from the meeting, process, or hearing an involved party and/or Advisors who do not comply with the Expectations of Decorum.

- Questions must be conveyed in a neutral tone.
- Parties and Advisors will refer to other parties, witnesses, Advisors, and Lincoln University staff using the name and gender used by the person and shall not intentionally mis-name or mis-gender that person in communication or questioning.
- No party may act abusively or disrespectfully during the hearing toward any other party or to witnesses, Advisors, or Adjudicators.
- While an Advisor may be an attorney, no duty of zealous advocacy should be inferred or enforced within this forum.
- The Advisor may not yell, badger, or physically “lean in” to a party or witness’ personal space. Advisors may not approach the other party or witnesses without obtaining permission from the Adjudicator.
- The Advisor may not use profanity or make irrelevant ad hominem attacks upon a party or witness. Questions are meant to be interrogative statements used to test knowledge or understand a fact, they may not include accusations within the text of the question.
- The parties may not ask repetitive questions. This includes questions that have already been asked by the Adjudicator, the Advisor in cross-examination, or the party or Advisor in direct testimony. When the Adjudicator determines a question has been “asked and answered” or is otherwise not relevant, the parties must move on.
- Parties and Advisors may take no action at the hearing that a reasonable person in the shoes of the affected party would see as intended to intimidate that person (whether party, witness, or official) into not participating in the process or meaningfully modifying their participation in the process.

g. Newly-Discovered Evidence

As a general rule, no new evidence or witnesses may be submitted during the live hearing.

If a party identifies new evidence or witnesses that were not reasonably available during the investigation and could affect the outcome of the matter, the party may request that such evidence or witnesses be considered at the live hearing.

The Decision-Maker/s will consider this request and make a determination regarding:

- whether such evidence or witness testimony was unavailable by reasonable effort prior to the hearing, and
- whether such evidence or witness testimony could affect the outcome of the matter. The party offering the newly-discovered evidence or witness has the burden of establishing these questions by the preponderance of the evidence.

If the Decision-Maker/s answers in the affirmative to both questions, then the parties will be granted a reasonable pause in the hearing to review the evidence or prepare for questioning of the witness. Alternatively, should the newly-discovered evidence require additional fact-gathering, the Decision-Maker/s may send the case back to the investigator for any further investigation as may be required. In this case, the investigator will issue an amended Investigation Report, to which the Parties shall have an opportunity to respond. Depending on the amount of new evidence, the Lincoln University may shorten the second review and response period, as determined by the Title IX Coordinator. The amended Investigation Report, along with any response(s), shall then be provided to the Parties, their Advisor, and to the Decision-Maker/s.

h. Hearing Advisors

As per this policy, in the event that a party does not have an Advisor present at the live hearing, the Lincoln University must provide an Advisor, without fee or charge to that party, who may be, but is not required to be, an attorney to conduct cross-examination on behalf of that party. At the hearing, the Adjudicator will permit each party's Advisor to ask the other party and any witnesses all relevant questions and follow-up questions, including those challenging credibility. Such cross-examination at the live hearing must be conducted directly, orally, and in real time by the party's Advisor of choice and never by a party personally. Advisors provided by the Lincoln University will be adults with an understanding of the purpose of cross-examination, and may be attorneys or have training commensurate to attorneys with respect to conducting cross-examination.

i. The Decision-Maker

At Lincoln University's discretion, the Decision-Maker will be a single adjudicator

or a hearing panel of three (3) individuals, with one panel member serving as chairperson. The Decision-Maker will not be the case Title IX Coordinator, Title IX Investigator, or advisor to any party in the case, nor may any Decision-Maker serve on the appeals body in the case.

The Decision-Maker determines responsibility regarding whether the policy was violated, and determines which sanctions will apply if any. Where a student is found responsible for a violation of this Policy, the Title IX Coordinator will designate an appropriate administrator from the Lincoln University to provide a record of disciplinary history to the Decision-Maker. The Decision-Maker will then determine the appropriate sanction(s).

The Decision-Maker may not have a conflict of interest or bias in favor of or against complainants or respondents generally, or in favor or against the parties to the particular case.

j. Cross-Examination

Before any cross-examination question is answered, the Decision-Maker/s will determine if the question is relevant. Cross-examination questions that are duplicative of those already asked, including by the Decision-Maker may be deemed irrelevant if they have been asked and answered.

Should a party or the party's advisor choose not to cross-examine a party or witness, the party shall affirmatively waive cross-examination through a written or oral statement to the Decision-Maker/s.

The Decision-Maker shall have the authority to determine whether questions shall be submitted in writing (whether by using a "chat" feature of the video-conferencing platform, email, or a similar mechanism), prior to being asked, so as to facilitate the Decision-Maker's ability to understand the question before making any determination of relevance.

k. Standard of Proof

Lincoln University uses the preponderance of the evidence standard for investigations and determinations regarding responsibility of Formal Complaints covered under this policy. This means that the investigation and hearing determine whether it is more likely than not that a violation of this policy occurred.

l. Impact Statement

Previous disciplinary action of any kind involving the Respondent may be considered in determining an appropriate sanction upon a determination of responsibility, aligned with the

University's use of a progressive discipline system. This information is only considered at the sanction stage of the process, and is not shared until then. The parties may each submit a written impact statement prior to the hearing for the consideration of the Decision-Maker(s) at the sanction stage of the process (if the process progresses to sanctioning) after a determination of responsibility is reached.

m. Notice of Outcome

The notice of outcome is a written determination regarding responsibility that will be issued simultaneously to all parties. If there are no extenuating circumstances, the determination regarding responsibility will be issued by Lincoln University within ten (10) business days of the completion of the hearing.

The notice of outcome will include:

- Identification of the allegations potentially constituting covered sexual harassment;
- 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;
- Findings of fact supporting the determination;
- Conclusions regarding which section of this policy or other Lincoln University policy, if any, the respondent has or has not violated.
- For each allegation:
 - i. A statement of, and rationale for, a determination regarding responsibility;
 - ii. A statement of, and rationale for, any disciplinary sanctions the recipient imposed on the respondent; and
 - iii. A statement of, and rationale for, whether remedies designed to restore or preserve equal access to Lincoln University's education program or activity will be provided by Complainant, except that the remedies provided shall not be shared with the Respondent; and
- Lincoln University's procedures and the permitted reasons for the complainant and respondent to appeal.
- How to challenge participation by the Appeal Panel for bias or conflict of interest – which the Title IX Coordinator will resolve in their sole discretion.

If the Parties do not file an appeal, the determination is final at the expiration of the time to file an appeal. If any of the Parties file an appeal, the determination regarding responsibility becomes final on the date that the Lincoln University provides the Parties with the appeal determination.

n. Appeals

Each party may appeal (1) the dismissal of a Formal Complaint or any included allegations and/or (2) a determination regarding responsibility. To appeal, a party must submit their written appeal within five (5) business days of being notified of the decision, indicating the grounds for the appeal. The notice of outcome will include instructions on how to submit the written appeal.

The limited grounds for appeal available are as follows:

- Procedural irregularity that affected the outcome of the matter (i.e. a failure to follow the Lincoln University's own procedures);
- 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;
- The Title IX Coordinator, Investigator(s), or Decision-Maker, including a hearing panel member, had an actual conflict of interest or demonstrated bias for or against an individual party, or for or against complainants or respondents in general, that affected the outcome of the matter.
- The sanction is objectively unreasonable in light of the facts and circumstances.

When an appeal is submitted, any sanction is placed on hold until the appeal is resolved. Interim Measures remain in effect and Supportive Measures remain available while the appeal is pending.

If a party appeals, the other party will be notified, in writing, and will then have five (5) business days to respond to the appeal or submit their own appeal, if they wish. The appeals process is documentary only, and no hearing is held.

Appeals will be decided by an appeals panel, appointed by the Title IX Coordinator, who will be free of an actual conflict of interest and/or demonstrated bias, and who have not served as investigator, Title IX Coordinator, or Decision-Maker in the same matter.

The outcome of the appeal, including the rationale for the decision, will be provided in writing simultaneously to both parties ten (10) business days from the date submissions were due from the parties.

o. Transcript Notation

Consistent with the Student Conduct Policy, the Lincoln University will make a notation on the transcripts of students found responsible for Prohibited Conduct or withdraw with the Formal Complaint pending if the Prohibited Conduct constitutes a crime of violence.

As applicable, the AVP for Student Life or Title IX Coordinator will direct the Lincoln University's Registrar to make a notation on a student's transcript when that student is found responsible for crimes of violence, or withdraws pending a charge for a crime of violence. Crimes of violence are criminal homicide, rape, incest, fondling, robbery, aggravated assault, burglary, motor vehicle theft, and arson.

The notation will state that the student was "suspended after a finding of responsibility for a code of conduct violation" or "expelled after a finding of responsibility for a code of conduct violation." If a student withdraws with charges pending, the notation will read "withdrew with conduct charges pending."

Notations following an expulsion are permanent. One year after the conclusion of the suspension, Respondents who have been suspended may appeal to an appeals panel, requesting the removal of the notation. A Respondent may appeal the notation regarding suspension no more than one time per year by writing to the AVP for Student Life or Title IX Coordinator as applicable, who will submit the appeal to the panel for review and determination.

7. Adjudication Process for Employee Respondents – Non-Title IX

The following details the next steps after the investigation in cases with employee respondents that do not involve Title IX Prohibited Conduct.

Upon completion of the investigation, the Investigator will provide to the Assistant Vice President of Human Resources a written statement of the determination and recommended actions, including any discipline of an employee.

a. Employee Sanctions

The Assistant Vice President of Human Resources or their designee will determine the appropriate sanction for any employee who is determined, after an investigation, to have engaged in a violation of this policy. Sanctions may include oral or written warning, reprimand, withholding of a promotion, demotion, re-assignment, suspension with or without pay, compensation adjustment, or discharge.

In determining an appropriate sanction, the Assistant Vice President of Human Resources, in consultation with the appropriate Lincoln University personnel, will consider the nature and severity of the violation as well as any prior discipline or record of past violations of Lincoln University policies, as well as the nature and severity of such past violation(s).

Within five (5) business days from the completion of the investigation and determination, the Lincoln University will communicate the findings and intended actions to the complainant and respondent. The determination letter will contain only the following information: (i) the name of the respondent; (ii) whether the respondent has been found responsible or not responsible for specific violation(s) of the sexual misconduct policy; (iii) the sanction imposed, if any; (iv) the

Lincoln University's appeal process; (v) any change to the results that occurs prior to the time that the results become final; and (vi) when the results become final.

b. Appeals

Either party may appeal the determination of the Investigator and/or the disciplinary decision of the Assistant Vice President of Human Resources. A party has three grounds under which to appeal: a) there is new evidence that was not reasonably available at the time of the investigation or hearing, b) procedural errors were committed in the investigation of the complaint that had an impact on the determination, and/or c) the sanctions are not consistent with past practices or the severity of the alleged sexual misconduct.

A party wishing to appeal may file an appeal in writing, including the basis for the appeal, with the Title IX Coordinator within ten (10) business days after the date the decision is rendered.

The Title IX Coordinator will promptly provide the non-appealing party with an opportunity to view the appeal. The non-appealing party may file a written response to the appeal within 10 business days of viewing the appeal.

Within ten (10) business days of the filing of the appeal, or, if the non-appealing files a response to the appeal, within ten (10) business days of the filing of such response, the President or his/her designee will review the record and findings to determine if there is a legitimate basis of appeal under one of the reasons outlined above. If not, the appeal will be denied. If there is a basis for appeal, there may be further inquiry. Except for appeals brought under (a) above, the entire appeal inquiry process will be based on the appealing party's appeal, the non-appealing party's response, and the investigator's record of the case. Otherwise, no additional evidence is allowed, and no additional witnesses may be heard. The President or his/her designee will make a final determination based on the record of the investigation and the appeal and issue final determination letters to the respondent and the complainant concurrently.

8. Alternative Resolution

a. Background

Alternative resolution is a voluntary, remedies-based, structured interaction between or among affected parties that balances support and accountability. Alternative resolution is designed to eliminate the Prohibited Conduct, prevent its recurrence, and remedy its effects in a manner that meets the needs of the complainant while maintaining the safety of the campus community. Alternative resolution may not be used in cases where an employee is alleged to have committed Title IX Sexual Harassment against a student. Alternative Resolution will not be used to impose disciplinary action against the Respondent and will not be reported to third parties; however, it may be taken into consideration in the event of future findings of responsibility for Prohibited Conduct or other violations of Lincoln University's policies.

b. Availability of Alternative Resolution Process

The Parties may elect to enter Lincoln University's alternative resolution process at any time after the filing of the Formal Complaint by making a written request to the Title IX Coordinator.

Alternative Resolution is not available to resolve a student Complainant's allegation that an employee has engaged in Title IX Prohibited Conduct.

Use of the alternative resolution process is voluntary, and both the Complainant, Respondent, and Title IX Coordinator must agree to use of the Alternative Resolution process. No Party may be required to participate in alternative resolution, and Lincoln University will not condition enrollment, employment, or enjoyment of any other right or privilege upon agreeing to alternative resolution.

At any time after the commencement of the alternative resolution process, the Title IX Coordinator or designee may determine that the alternative resolution process is not an appropriate method for resolving the matter, and may require that the matter be resolved through the formal process.

Factors that the Title IX Coordinator or designee may weigh in considering the appropriateness of the alternative resolution process include, but are not limited to, the gravity of the allegations, whether there is an ongoing threat of harm or safety to the campus, whether the respondent is a repeat offender, and whether the Parties are participating in good faith. The Title IX Coordinator's determination on whether Alternative Resolution is appropriate is not subject to appeal.

c. Exiting the Alternative Resolution Process

Either Party, or the Title IX Coordinator, may end the Alternative Resolution Process, at which time the investigation and/or adjudication will return to the formal process. Information disclosed or obtained for purposes of the alternative resolution process may be incorporated into the formal investigation and live hearing, if applicable, provided that this information is disclosed and reviewed by the Parties under the investigatory and hearing procedures described in the resolution process.

d. Required Written Notice

If a party requests the initiation of an alternative resolution process and the Title IX Coordinator agrees that the matter is appropriate for alternative resolution, each party will receive a written notice that discloses:

- The allegations.
- The requirements of the alternative resolution process, including the circumstances under which it precludes the parties from resuming a formal complaint arising from the same allegations;

- The parties' right to withdraw from alternative resolution and resume or initiate disciplinary resolution with respect to the formal complaint; and
- Information about maintenance of records or how records could be shared.

e. Available Restorative Approaches

With approval from the Title IX Coordinator, after consultation and intake with the alternative resolution coordinator, the complainant and the respondent may voluntarily agree on the process(es) that best meets the interests and needs of the parties, including:

Facilitated Dialogue: A structured and facilitated conversation between two or more individuals, most often the complainant, the respondent, and/or other community members. The focus is often on providing a space for voices to be heard and perspectives to be shared. Depending on stated interests, the participants may sometimes work towards the development of a shared agreement, although working towards an agreement is not always the intended outcome.

Restorative Circle or Conference Process: A facilitated interaction where the individuals who have experienced harm can come together with an individual(s) who assumes responsibility for repairing the harm (to the extent possible). A circle or conference may include multiple members of the community to explore individual and community impact, harm, obligations, and opportunity for repairing them. Parties must agree on all those who will be present.

Shuttle Negotiation: An indirect, facilitated conversation (either verbally, or through written communications) individually with the complainant, the respondent, and/or other participants to discuss experience and perspective and explore interests while working towards meeting expressed needs. This negotiated process does not require direct interaction between the parties or the parties and other participants, but rather, independently, with a coordinator.

f. Role of the Facilitator

Alternative resolution processes are managed by facilitators, who may not have a conflict of interest or bias in favor of or against complainants or respondents generally or regarding the specific Parties in the matter. The Title IX Coordinator may serve as the facilitator, subject to these restrictions.

All facilitators must have training in the definition of sexual harassment under 34 C.F.R. § 106.30(a), the scope of the institution's education program or activity, how to conduct alternative resolution processes, and how to serve impartially, including by avoiding prejudgment of the facts at issue, conflicts of interest, or bias.

g. Written Alternative Resolution Terms

The terms of the Alternative Resolution will be in writing. Once the Parties, and the Title IX Coordinator, have agreed, in writing, to the terms of the Alternative Resolution, the agreement is considered final, and is not subject to withdrawal or appeal. Both Parties are equally bound to follow the terms of the Alternative Resolution agreement.

h. Outcomes of Alternative Resolutions

Measures that may be agreed to as a result of the alternative resolution process may include:

- Alcohol education classes for the respondent;
- Regular meetings for a Respondent with an appropriate Lincoln University individual, unit, or resource;
- Permanent extension of a (one-way, or mutual) no contact directive;
- Restriction from participation in specific clubs and/or organizations;
- Respondent restriction from participation in particular events;
- Respondent completion of an educational plan with regular meetings with the applicable resolution coordinator or other appropriate Lincoln University staff or faculty member.

i. Confidentiality

In entering the alternative resolution process, the Parties agree that any testimony and evidence (including admissions of responsibility) they share or receive during the alternative resolution process concerning the allegations of the Formal Complaint is confidential while the parties are participating in the alternative resolution process. No evidence concerning the allegations obtained within the alternative resolution process may be disseminated to any person, provided that any Party to the alternative resolution process may generally discuss the allegations under investigation with a parent, friend, advisor, or other source of emotional support, or with an advocacy organization.

vii. Internal and External Inquiry Resources

Inquiries about Lincoln University's application of Title IX and its implementing regulations, Title VII of the Civil Rights Act of 1964, the Clery Act, as amended by VAWA, and, in [state], the [applicable agency], under this policy may be addressed to Lincoln University's Title IX Coordinator. Inquiries concerning the Clery Act or VAWA may also be referred to the United States Department of Education, Clery Act Compliance Division. Inquiries concerning the application of Title IX and its implementing regulations may be referred to the United States Department of Education, Assistant Secretary, Office for Civil Rights, at OCR@ed.gov or (800) 421-3481.

viii. Revisions to this Policy

Lincoln University has the right to revise this Policy at any time. Any new or revised Policy shall be deemed to be in effect upon being published on the Lincoln University's Office of Title IX and Nondiscrimination website. Any matters already under way shall continue under the procedures in effect as of the date of the written Notice of Allegations, unless the Parties are otherwise provided written notice that a different policy or procedure shall apply.