



LAKE FOREST
COLLEGE

Sexual Misconduct Complaint Resolution Procedures

The College provides a prompt and impartial resolution of alleged violations of the College's *Sexual Discrimination and Misconduct Policy* ("the Policy") in accordance with the procedures below.

- 1. Resolution Time Frame.** The College will make a good faith effort to resolve all sexual misconduct reports and appeals (where applicable) as expeditiously as possible. Most matters are resolved within sixty (60) calendar days, though this may vary based on factors including availability of parties and witnesses, complexity of the case, and any simultaneous law enforcement investigation. The Title IX Coordinator or designee will regularly update the parties on the status of the proceedings throughout their duration.
- 2. Relevant Definitions.** For purposes of these complaint resolution procedures, the Complainant is the party alleging sexual misconduct or to whom sexual misconduct was directed. The Respondent is the party accused of sexual misconduct. An individual who reports sexual misconduct occurring between other individuals is referred to as a Reporting Party.
- 3. Title IX Initial Review and Assessment.** Upon receipt of a report of sexual misconduct, the Title IX Coordinator will assess the nature of the allegations, the safety of the involved individuals and the College community, the Complainant's expressed preference for resolution and/or request for confidentiality, and the necessity for any protective measures to maintain the safety of the Complainant or the College community. During the initial review, the Title IX Coordinator will provide the Complainant with a written statement of rights and options under the College's Policy, information about these complaint resolution procedures, and information relating to support resources.

If, during this assessment, it is determined that there is insufficient information to move forward or that the alleged conduct, even if true, would not constitute sexual misconduct under the College's Policy, the Title IX Coordinator may refer the matter to the appropriate campus office for resolution, close the matter with no further action, or take other action in support of the goals of the Policy, including targeted and/or broad-based training and educational programming for relevant individuals and groups.

Where there is reasonable cause to believe sexual misconduct may have occurred, the College will proceed, in consultation with the Complainant, as set forth below.

- 4. Supportive Measures.** Where there is reasonable cause to believe sexual misconduct may have occurred, the Title IX Coordinator or designee will, upon request, provide prompt, appropriate, and reasonably available measures to support and protect the parties and prevent any further acts of misconduct, harassment, or retaliation prior to the final resolution of the allegations. Supportive measures may be available regardless of whether formal resolution is sought by the Complainant, may be provided on an interim basis pending resolution, and may also be available to respondents. Supportive measures may include, but are not limited to:
 - Referral to the Health and Wellness Center (students) or the Employee Assistance Program (employees);
 - Alteration of housing (students);

- Modification of work arrangements and/or scheduling;
- Dining accommodations;
- Campus escorts and/or changes to campus transportation arrangements;
- College “No Contact Orders” between the parties;
- Campus “No-Trespass Orders” against employees, students, and third parties;
- Academic programming or scheduling adjustments; and/or
- Assistance in obtaining and/or enforcing a court-issued Stalking No Contact or other Orders of Protection.

In cases where the Respondent is a student or student organization and considered a threat to persons or property, the Dean of Students may impose interim measures such as suspension and/or loss/cancellation of other privileges prior to or during the resolution of sexual misconduct allegations. In cases where the alleged Respondent is an employee and considered a threat to persons or property, the Director of Human Resources and/or the Dean of the Faculty may impose interim measures such as suspension (with or without pay) during the resolution of sexual misconduct allegations. The College will keep supportive measures private and will share information only with those needed in order to implement the measures.

The College will provide written information to Complainants and Respondents about counseling, health, mental health, victim advocacy, confidential advisors, legal assistance, visa and immigration assistance, student financial aid, and other relevant College and community resources.

Violation(s) of a directive and/or supportive measure may result in disciplinary action separate from any sanctions issued for a determination of sexual misconduct.

- 5. Party Support Persons.** The Complainant and Respondent are both permitted to bring a support person of their choice, at their expense, to any meeting or interview in connection with a report of sexual misconduct. The support person may be a friend, professor, mentor, family member, attorney, or any other person a party chooses, except that an individual who will be serving as a witness in the matter may not also serve as support person in the same matter without express prior permission from the Title IX Coordinator. Both parties will be provided with timely written notification of meetings or interviews at which they may/must be present. The College reserves the right to proceed with a pre-arranged meeting or interview regardless of a support person’s availability.

The College cannot guarantee the equality of support person representation. This means that if one party selects an attorney as a support person, but the other party does not, or cannot afford an attorney, the College is not obligated to provide one. The role of the support person is non-participatory, and a support person may not speak on a party’s behalf. A support person who disrupts or otherwise fails to observe these limits will be asked to leave the meeting/interview, and the meeting/interview may continue without the support person present. Subsequently, the Title IX Coordinator will determine whether the support person may be reinstated or replaced.

Support persons are expected to maintain the privacy of any information shared during the sexual misconduct complaint resolution process. Such information may not be shared with third parties, disclosed publicly, or used for purposes not explicitly authorized by the College. The College may restrict the role of any support person who fails to abide by these privacy expectations.

- 6. Privacy.** The College treats sexual misconduct complaints as private matters and only shares information with persons who have a need to know in order for the College to respond. The College will request that, in order to protect the privacy interests of the parties and the integrity of the complaint resolution process, the

parties keep information related to the investigation and resolution private. Witnesses and support persons are expected to maintain the privacy of the investigation and resolution, and, unless prohibited by law, may face disciplinary action for disclosure of information from the investigation.

- 7. Disability Accommodation in Complaint Resolution Process.** The College is committed to providing individuals with disabilities reasonable accommodations needed in order to have full and equal access to the complaint resolution process. Requests for accommodations or support should be directed to the Title IX Coordinator, who will review the request with the Disability Services (for students) and Human Resources (for staff and faculty), to determine whether and what accommodations are appropriate.
- 8. Informal Resolution.** Where appropriate, the College may work to informally resolve sexual misconduct allegations by taking action to stop the alleged misconduct, address its effects, and prevent recurrence without a formal investigation and determination of a College policy violation. Informal resolution may include the range of supportive measures in Section 4 above, advisory conversations, voluntary resolution agreements, as well as targeted and/or broad-based training and educational programming for relevant individuals and groups and/or any other action that will achieve the goals of the College's Policy. Participation in informal resolution is voluntary and either party can request to end an informal resolution process and request formal resolution at any time prior to the conclusion of informal resolution. When appropriate, parties will be asked to sign a document acknowledging a mutually agreed upon informal resolution and closing the matter. Pursuing an informal resolution does not preclude later use of formal resolution if the informal resolution fails to achieve a resolution acceptable to the parties and the College, if additional alleged sexual misconduct occurs after informal resolution, if the terms of an informal resolution agreement are violated, or if the College obtains new information necessitating further action on the matter.
- 9. Formal Resolution.**
 - a. Investigation.** When informal resolution is not requested or inappropriate, or when a report of sexual misconduct cannot be informally resolved, a formal resolution process will be initiated. Formal resolution includes a prompt, thorough, and impartial investigation into the allegations of sexual misconduct. Parties shall have equitable procedural rights during the investigation process.
 - i. Participation of Parties.** In most cases, the Complainant will need to participate in an investigation and the Complainant's identity will need to be disclosed to the Respondent in order for the College to conduct the formal resolution process. Respondents are expected to participate in the investigation. If a Respondent declines to participate, the College will proceed with the resolution process without the Respondent's participation. All parties are expected to be truthful and to cooperate with the process.
 - ii. Notice to Respondent.** In cases to be resolved through formal resolution, the Title IX Coordinator will provide the Respondent with written notification of the investigation, including a brief description of the alleged sexual misconduct and College policies allegedly violated, as well as a written statement of the Respondent's rights and options under the Policy and these complaint resolution procedures, as well as information about support resources.
 - iii. Investigator.** Investigations will be conducted by the Title IX Coordinator and/or other internal or external investigator(s) designated by the Title IX Coordinator. All investigators will receive at least eight hours of training annually regarding how to conduct a prompt, equitable, and thorough investigation of sexual misconduct allegations in a way that protects the rights of all parties and complies with state and federal law.

iv. Interviews and Evidence. Investigations may include one or more interviews with the Complainant, Respondent, and fact witnesses. Character witnesses and expert witnesses without factual information about the allegations are generally not relevant or permitted. Interviews may take place in person, by phone, or through electronic means. Timely notice will be provided to Complainants and Respondents of all interviews or meetings at which they may/must be present, and both parties will be provided with timely and equitable access to information. Interviews are not electronically recorded by the College and may not be recorded by any participant. Investigations may also include the gathering and analysis of physical, documentary, and/or other relevant evidence.

Complainants and Respondents may provide written statements, identify fact witnesses, or submit other evidence to the investigator. The parties may also provide the investigator with questions they request that the investigator ask the other party or witnesses. It is in the investigator's discretion whether to interview all witnesses identified by the parties, whether to interview additional witnesses not identified by the parties, and whether to ask the parties and witnesses the questions requested by the parties.

- v. Prior Sexual History.** In general, a Complainant's prior sexual history is not relevant and will not be admitted as evidence during an investigation. However, where there is a current or past relationship between the Complainant and the Respondent and the Respondent alleges that consent for sexual activity was given, the prior sexual history between the parties may be relevant to assess the manner and nature of communications between the parties. The mere fact of a current or previous dating or sexual relationship, by itself, is insufficient to constitute consent. Any prior sexual history of the Complainant with other individuals is typically not relevant and will not generally be considered. The investigator may consider prior or subsequent allegations of, or findings of responsibility for, similar conduct by the Respondent to the extent such information is relevant to the existence of a pattern of perpetration.
- vi. Standard of Proof.** The investigator will determine whether or not there is sufficient information to establish, by a preponderance of the evidence, a violation of the College's *Sexual Discrimination and Misconduct Policy*. There is a preponderance of the evidence when the information provided during the investigation supports a determination that it is "more likely than not" that a violation of the Policy occurred.
- vii. Consolidation of Claims.** The College may consolidate for investigation and resolution multiple complaints alleging sexual misconduct against the same respondent, as well as cases where parties have made sexual misconduct claims against each other.
- viii. Concurrent Criminal Investigations.** Some instances of sexual misconduct may also constitute criminal conduct. In such instances, the complainant is also encouraged to file a report with the appropriate law enforcement authorities and, if requested, the College will assist the complainant in doing so. The pendency of a criminal investigation, however, does not relieve the College of its responsibilities under Title IX. Therefore, to the extent doing so does not interfere with any criminal investigation, the College will not delay, and will proceed with its own investigation and resolution of the complaint as provided in these procedures.

ix. Dismissal of Complaint During Investigation. If at any point during the investigation it is determined that there is no reasonable cause to believe that sexual misconduct may have occurred, the Title IX Coordinator may conclude the investigation and refer the matter to the appropriate campus office for resolution, close the matter with no further action, or take other actions in support of the goals of the Policy, including targeted and/or broad-based training and educational programming for relevant individuals and groups. At any time during the investigation, the Complainant may submit a written request to withdraw the complaint to the Title IX Coordinator, who will weigh such request against the College's need to ensure a safe, non-discriminatory environment.

x. Admission of Wrongdoing. If at any time during the formal process, a respondent wishes to admit responsibility for a policy violation, the Title IX Coordinator may conclude the investigation and refer the matter to the appropriate sanctioning official, as identified below.

b. Investigative Report. After the investigation has been completed, the investigator will prepare a Preliminary Report generally containing: procedural background, summaries of testimony and evidence (e.g., a description of other relevant information collected, such as written statements, photographs, physical evidence, electronic records, and/or forensic evidence and supporting documentation, where appropriate); and a statement of material facts. The Preliminary Report will not contain findings or a determination. The investigator will provide this Preliminary Report to both parties for review. The parties may submit comments, additional evidence, or suggested corrections to the investigator within seven (7) calendar days of receiving the Preliminary Report. Any written response should be reasonable in length.

The investigator will then make any needed revisions, incorporate any additional relevant information into the report, and will prepare findings of fact and a determination as to whether or not there is sufficient information to establish, by a preponderance of the evidence, that a violation of the College's Policy occurred, and the rationale for such determination. The investigator will issue the Final Report to the Complainant and Respondent simultaneously upon its completion. If a finding of a policy violation is made, the report will also be provided to the designated sanctioning official, as set forth below, for possible sanctions.

c. Sanctions and Remedies. If the investigator finds, based on a preponderance of the evidence, that the Respondent violated the Policy, the final report will be provided to the appropriate sanctioning official for a determination of sanctions.

- When the Respondent is a student, the Dean of Students serves as the sanctioning official.
- When the Respondent is a faculty member, the Dean of the Faculty serves as the sanctioning official.
- When the Respondent is a staff member, the Director of Human Resources serves as the sanctioning official.

Each sanctioning official receives at least eight hours of training annually regarding issues related to sexual misconduct and how to conduct the complaint resolution process in a fair and equitable way that protects the rights of all parties and complies with state and federal law. Disciplinary sanctions for violation of the College's Policy may include:

- Verbal or written warning;
- Mandatory training, programming, or educational assignments;

- Required psychological assessments;
- Revocation of offer of employment or admission;
- Community service;
- Disciplinary hold on academic and/or financial records;
- Probation;
- Removal from housing or other campus programs/activities/leadership positions;
- Restrictions regarding entering certain buildings or areas of campus;
- Loss of privileges;
- No-contact directive (with respect to individuals) or no-trespass order (with respect to campus locations);
- Performance improvement/management process (employees only);
- Transfer (of employment);
- Demotion or loss of pay increase;
- Loss of oversight, teaching, or supervisory responsibility;
- Suspension from school or employment (with or without pay, in the case of employees);
- Degree revocation;
- Termination of contract (contractors) or revocation of tenure (faculty) with the College; and/or
- Termination, expulsion, or other separation from the College.

Corrective action may also be taken, including those remedies set forth in the supportive measures section (Section 4 above) and any other appropriate targeted or broad-based remedial action.

Not all acts of sexual misconduct are equally serious offenses. Therefore, the designated sanctioning official may impose such sanctions as the sanctioning official believes are fair and proportionate to the finding of violation. The sanctioning official may consider the Respondent's record of past violations of the College's Policy or other policies, as well as the nature and severity of such past violation(s) and any other aggravating or mitigating factors in determining the appropriate sanctions. The sanctioning official will also determine whether to implement the sanctions immediately or to stay the sanctions if a party appeals the determination.

Within ten (10) calendar days after receiving the investigator's report, the sanctioning official will notify both parties simultaneously, in writing, of the sanctions issued, the date the sanctions will be implemented, and relevant information regarding the appeals process. The sanctioning official will also provide a copy of this written notice to the Title IX Coordinator. The time periods referenced in this section can be extended as necessary by the sanctioning official with notice to the parties.

- d. **Student-Respondent Withdrawal While Complaints Are Pending.** Student-Respondents with pending sexual misconduct matters may not withdraw from the College. Should a student-Respondent decide to leave and not participate in the investigation and other portions of the procedures set forth herein, the process will nonetheless proceed to a reasonable resolution in the student-Respondent's absence. The student-Respondent will not be permitted to return to the College until any sanctions issued have been satisfied. Consistent with Section 11 below, sanctions of suspension or separation from the College will be permanently recorded on a student's transcript.
- e. **Student-Respondent Failure to Complete Sanctions.** Student-Respondents who fail to complete issued sanctions may be placed on academic hold and prohibited from registering for classes, acquiring transcripts, and accessing student accounts and/or grade reviews.

f. **Appeals.** Either party may appeal the investigator's determination and/or any sanctions issued by submitting a written request for appeal to the Chair of the Sexual Misconduct Appellate Board, within five (5) calendar days of the date of receipt of the investigator's final report or the written notice of sanctions, whichever is later. The appeal must be in writing and contain a detailed statement of the basis for the appeal including the specific facts, circumstances, and argument in support of the appeal.

i. **Grounds for Appeal.** Appeals will only be considered on the following three grounds:

- The existence of procedural error(s) significant enough to alter the outcome;
- Existence of new and significant evidence which was not reasonably available at the time of the initial investigation and would likely alter the outcome; and/or
- The sanctions imposed are substantially disproportionate to the violation.

Mere disagreement with the decision is not grounds for appeal.

ii. **Appointment of Appellate Panel.** Within five (5) calendar days of receiving a request for appeal, the Chair of the Sexual Misconduct Appellate Board will appoint three (3) members of the Sexual Misconduct Appellate Board to sit as an appellate panel to decide the appeal based on majority rule. The Sexual Misconduct Appellate Board is a standing committee of eight (8) voting members and a non-voting Sexual Misconduct Appellate Board Chair, drawn from the College's faculty and/or full-time staff members. The College President appoints members of the Sexual Misconduct Appellate Board for three-year terms, which can be renewed. Both parties will be notified simultaneously in writing of the individuals appointed to their appellate panel.

iii. **Notice to Non-Appealing Party and Other Relevant Officials.** Upon receipt of an appeal, the Chair of the Sexual Misconduct Appeals Board will forward the appeal and its supporting documentation to the non-appealing party. Additionally, the Chair will forward a copy of the appeal and supporting documentation to the Title IX Coordinator and sanctioning official (where applicable).

iv. **Non-Appealing Party Response.** The non-appealing party may submit a written response and supporting documentation to the Chair of the Sexual Misconduct Appellate Board within five (5) calendar days from the date of the party's receipt of the appeal. In cases where the appeal is based upon procedural error or the existence of additional evidence not available at the time of the investigation, the Title IX Coordinator may submit to the appellate panel any relevant clarifying information within the same timeline. In cases where the appeal is based upon disproportionality of the sanctions, the sanctioning official may submit to the appellate panel any clarifying information within the same timeline. Upon receipt (or expiration of the five days) the Chair will forward the appeal and responsive and/or clarifying documentation, the investigator's report and the written sanction notice (if applicable) to the appointed appellate panel for review.

v. **Burden of Proof.** In any request for an appeal, the burden to demonstrate procedural error, new evidence, or disproportionate sanction lies with the party requesting the appeal.

vi. **Appellate Panel Options:** After considering all the relevant documentation, the appellate panel may:

- Deny the appeal because the reason for appeal does not fall within the stated ground for appeal, i.e., procedural error, new evidence or disproportionate sanctions;
- Uphold the original finding and/or sanction;
- Remand the case to the original investigator for reconsideration of the findings in light of new evidence or procedural error;
- Request appointment of a new investigator to conduct a new investigation where significant procedural error occurred during the course of the original investigation; or
- Refer the case back to the sanctioning official for reconsideration of the sanction (with or without recommendations).

vii. Timeline for Appellate Determination. The appellate panel will make a determination within ten (10) calendar days of receipt of the appeal materials. The Chair of the Sexual Misconduct Appellate Board will notify the parties simultaneously in writing of the outcome of the appeal within three (3) calendar days of the date of the determination. **Appellate panel decisions are final.**

All appellate time periods set forth in this section can be extended as necessary for good cause by the Chair of the Sexual Misconduct Appellate Board with notice to the parties.

viii. Training of the Sexual Misconduct Appellate Board. The Chair and all members of the Sexual Misconduct Appellate Board will receive at least eight hours of training annually regarding issues related to sexual misconduct and guidance for conducting the complaint resolution process in a fair and equitable way that protects the rights of all parties and complies with state and federal law.

10. Conflict of Interest. The College requires any individual participating in the investigation, resolution, sanctioning or appeal of sexual misconduct matters to disclose any potential or actual conflict of interest or other bias that would impact their ability to provide a fair process. If a Complainant or Respondent believes that an investigator has a conflict of interest or other bias that would impact their ability to fairly investigate the case, the party should submit a request to replace the investigator to the Title IX Coordinator. If the Title IX Coordinator is the individual believed to have a conflict or bias, the party should submit such request to the Dean of Students (when requesting party is a student) or Director of Human Resources (when requesting party is an employee). In cases where a party believes that one of the appointed appellate panel members has a conflict of interest or bias, a request to replace the appellate panel member should be submitted to the Chair of the Sexual Misconduct Appellate Board. In cases where a party believes that the sanctioning official has a conflict of interest or bias, a request to replace the sanctioning official should be submitted to the President of the College.

In all cases, requests to replace an individual due to conflict of interest or other bias must be submitted (to the above referenced individuals) within three (3) days of a party's notice of the individual's participation. The written request must include a description of the conflict or bias. If it is determined that a conflict of interest or other bias that would impact the individual's ability to provide a fair process exists, the College will take steps to address the conflict or bias as appropriate to maintain an impartial process.

11. Records. The investigator's report, the notice of sanction, and/or appellate determination, will be maintained by the Office of Student Affairs as part of a student-Respondent's conduct record and with the Director of Human Resources and/or Dean of Faculty as part of an employee-Respondent's employment file. Suspension and dismissal are permanently noted on a student's transcript. The conduct files of students who have been suspended or dismissed from the College are maintained by the Office of Student Affairs for

no fewer than seven (7) years after the student's departure from the College. Employment records are maintained consistent with the Illinois Personnel Record Review Act and all other state and federal requirements.

12. Non-Disclosure Agreements. The College will not require a party to abide by a nondisclosure agreement, in writing or otherwise, that would prevent the disclosure of information related to the outcome of the proceeding.

Enacted: August 28, 2015

Last Amended: August 27, 2019