

# **POLICY AGAINST DISCRIMINATION AND HARASSMENT AND COMPLAINT RESOLUTION PROCEDURES**

## **I. POLICY STATEMENT**

Lake Forest College (the “College”) is committed to providing and maintaining a teaching, learning, and working environment free from all forms of discrimination and harassment as based on one more “Protected Categories” specified in this policy. The College prohibits students, employees, contractors, volunteers, and visitors (collectively, “community members”) from engaging in discrimination and harassment based on race, color, religion, national origin, ancestry, sex, pregnancy, sexual orientation, gender identity, gender expression, parental status, marital status, age, disability, citizenship status, work authorization status, military or veteran status, unfavorable discharge from military service, order of protection status, arrest record, genetic information, or any other characteristic protected by federal, state, or local laws and regulations (“Protected Categories”).

This policy applies to all of the College’s educational programs and activities including admissions as well as to all employment actions, including but not limited to recruiting, hiring, promotion, demotion, compensation, benefits, termination, and all other terms and conditions of employment.

## **II. APPLICABILITY AND SCOPE**

This policy applies to “Harassment” and “Discrimination” (as defined below) that occurs within the College’s employment and education programs or activities and that is committed by an employee, student, contractor, guest, or other member of the College community. This policy covers non-Title IX Sexual Harassment related acts.

Complaints alleging conduct that would constitute Title IX Sexual Harassment as defined in the College’s (“Title IX Policy”) Sex Discrimination and Sexual Misconduct Policy are not within the scope of this policy and will be addressed pursuant to procedures set forth in the College’s Interim Title IX Sexual Harassment Complaint Resolution Procedures. Complaints alleging all other forms of sex discrimination and sexual misconduct, as defined in the Sex Discrimination and Sexual Misconduct Policy, will be addressed pursuant to the procedures in this policy.

Complaints of Discrimination and Harassment based on disability will be processed pursuant to the procedures below, which constitute the College’s Section 504 grievance procedures.

Complaints alleging all other forms of Discrimination and Harassment will also be processed pursuant to the procedures set forth below.

Complaints alleging conduct of a discriminatory or harassing nature may also implicate other College policies. In addition, complaints alleging conduct that does not fall within the scope of this policy, including conduct that could not constitute Harassment or Discrimination as defined in this policy, may be referred for review and action under other applicable policies.

The following policies and procedures may be relevant to complaints of discrimination or harassment and used by the College to address the underlying allegations of misconduct:

- Student Code of Conduct
- Employee Standards of Conduct

- Bias Incident Response Process

If more than one College policy or procedure may apply to some or all of the conduct at issue in a complaint, the College will determine in its discretion what policy and procedure to use in addressing and resolving the complaint.

### III. KEY DEFINITIONS

- A. **Discrimination:** Treating someone differently because of their membership in a Protected Category (or a perception that someone is a member of a Protected Category) in matters of admissions, employment, housing, services, or in the educational programs or activities the College operates. In determining whether discrimination occurred, the College examines whether there has been an adverse impact on the individual's work or educational environment, and whether individuals outside of the protected class received more favorable treatment. If so, the College considers whether there is no legitimate, non-discriminatory reason for the action.
- B. **Harassment:** Unwelcome verbal or physical conduct (including conduct using technology) directed toward an individual because of their membership in a Protected Category (or a perception that someone is a member of a Protected Category) that has the purpose or effect of substantially interfering with the individual's educational or work performance, or creating an intimidating, hostile, or offensive working or academic environment. *Quid pro quo* harassment occurs where submission to or rejection of prohibited conduct is used, explicitly or implicitly, as the basis for decisions adversely affecting an individual's education, employment, or participation in a College program or activity.

A person's subjective belief that behavior is intimidating, hostile, or offensive does not make that behavior Harassment. The behavior must create a hostile environment from both a subjective and objective perspective and must be so severe, persistent, or pervasive that it unreasonably interferes with, limits, or deprives a member of the community of the ability to participate in or to receive benefits, services, or opportunities from the College's education or employment programs and/or activities. In determining whether a hostile environment exists, the College examines the context, nature, scope, frequency, duration, and location of incidents, as well as the relationships of the persons involved. Conduct that does not meet the definition of Harassment may still violate other policies or expectations for appropriate/professional conduct and may result in discipline.

**Specific examples** of conduct prohibited under this policy are presented below. These examples are provided to illustrate the kind of conduct prohibited by this policy where the conduct is based on membership in a Protected Category (or a perception that someone is a member of a Protected Category). This list is not exhaustive.

- Verbal conduct such as slurs, epithets, ridicule, mockery, teasing, kidding, practical jokes, flirting, advances, comments about an individual's appearance or sexual activity, or lewd, vulgar, or obscene remarks.
- Visual conduct such as leering, making sexual gestures, or circulating or displaying lewd, vulgar, or obscene written materials, posters, cartoons, or photographs; and

- Physical conduct such as assault, touching or other unwelcome physical contact, or blocking normal movement.
- C. **Retaliation:** Materially adverse action taken against a person because the person made a good faith report of Harassment or Discrimination or participated in the investigation or adjudication of a report of Harassment or Discrimination, such as by serving as a witness or support person.
- D. **Complainant:** An individual who is reported or alleged to be the victim of conduct that could constitute Harassment or Discrimination in violation of this policy.
- E. **Respondent:** An individual who has been reported or alleged to be the perpetrator of conduct that could constitute Harassment or Discrimination in violation of this policy.

#### **IV. REPORTING OPTIONS**

Complaints alleging Discrimination or Harassment in violation of this policy, or questions regarding the policy and complaint resolution procedures, should be directed to the following offices and Designated College Officials.

##### **Disability Complaints**

Agnes Stepek, Director of Human Resources & Section 504 Coordinator  
555 North Sheridan Rd.  
Lake Forest, IL 60045  
Phone: 847-735-5036  
Email: [stepek@lakeforest.edu](mailto:stepek@lakeforest.edu)

##### **Sex Discrimination / Harassment Complaints**

LaShun McGhee, Title IX Coordinator  
Rosemary House  
Lake Forest College  
555 N. Sheridan Rd.  
Lake Forest, IL 60045  
Phone: 847-735-6009  
Email: [titleix@lakeforest.edu](mailto:titleix@lakeforest.edu)

##### **All Other Discrimination / Harassment Complaints**

Agnes Stepek, Director of Human Resources & Section 504 Coordinator  
555 North Sheridan Rd.  
Lake Forest, IL 60045  
Phone: 847-735-5036  
Email: [stepek@lakeforest.edu](mailto:stepek@lakeforest.edu)

Complaints may be made orally or in writing. While there is no time limit for reporting, the College strongly encourages prompt reporting so that an investigation can be conducted, and appropriate action taken in a timely manner. Complaints will be kept confidential to the extent possible, and information will be shared only on a need-to-know basis. Anonymous complaints may be made via the Campus Conduct hotline, 866-943-5787 or the online anonymous report.

The College will conduct a prompt, fair, equitable, and impartial investigation of all complaints of Discrimination and Harassment. If an individual is found to have violated this policy, the College

will take appropriate action to prevent recurrence of the Discrimination and/or Harassment and take steps to correct its discriminatory effects on the Complainant and others, if appropriate.

## **V. THIRD-PARTY REPORTING**

Any individual may make a report of Discrimination or Harassment. The report may be made without disclosing the identities of the parties involved. However, the College's ability to respond to the third-party report may be limited by the amount of information provided.

## **VI. EMPLOYEE REPORTING**

All employees are strongly encouraged to report Discrimination or Harassment that could violate this policy when they receive a report of such conduct or witness such conduct. The report should be made to the appropriate office or Designated College Official listed in Section IV above and should include all known relevant details of the alleged Discrimination or Harassment.

Employees with supervisory authority over other employees are required to report Discrimination or Harassment that could violate this policy about which they have information, except mental health counselors or other employees with a professional license that requires confidentiality. Failure to report in accordance with this policy may be grounds for discipline, up to and including termination.

## **VII. COMPLAINT RESOLUTION PROCEDURE**

- A. When the College receives a complaint of Harassment or Discrimination, the appropriate Designated College Official or their designee (who may either be a College employee or someone who is not employed by the College) will conduct a preliminary assessment to determine if the conduct, as alleged, falls within the scope of this policy or should be handled under a different policy or procedure. If the complaint falls within the scope of this policy, the Designated College Official or designee will commence, or assign it for investigation.
- B. The Designated College Official (or designee) will strive to notify the Respondent within seven (7) business days of receiving a formal complaint and assigning it for investigation or as soon thereafter as is possible. Written notice to the Respondent will include a copy of this policy and sufficient details known at the time so that the Respondent may prepare for an initial interview with the investigator (who may either be a College employee or someone who is not employed by the College), to include the identities of the parties involved (if known), the conduct allegedly violating this policy, and the date and location of the alleged incident(s) (if known).
- C. The investigation may include individual interviews with the parties involved and, where necessary, with individuals who may have observed the alleged conduct or have relevant knowledge. Both the Complainant and Respondent will have an equal opportunity to identify and have considered witnesses and other relevant evidence. The investigator may adapt and modify the investigatory procedure in the investigator's discretion, based on the nature of the complaint and the conduct at issue.
- D. All individuals covered under this policy are required to cooperate with the College's investigation into suspected Discrimination or Harassment and are required to

provide truthful and complete answers to any questions asked by the investigator.

- E. The College will strive to conclude the investigation no later than 90 calendar days after the start of the investigation unless good cause exists to extend the period for investigation. Both parties will be provided periodic updates of the status of the investigation and will be notified if the period for investigation has been extended.
- F. The College will use a preponderance of the evidence (i.e., more likely than not) standard in determining responsibility for Discrimination or Harassment.
- G. At the conclusion of the investigation, the investigator will prepare a preliminary investigation report. The preliminary report will contain a summary of the conduct alleged to violate this policy; a summary of the response to the allegations; a summary of the scope of the investigation; a summary of the relevant exculpatory and inculpatory evidence; and a summary of material facts on which the parties agree and disagree. The report will include copies of all relevant evidence received and considered during the investigation. Both parties will be provided a copy of the preliminary report and have seven (7) business days to respond to it in writing.
- H. If, after receiving the written responses regarding the preliminary investigation report, the investigator determines that no further inquiry is required, the investigation will be deemed complete and final. If, in the sole discretion of the investigator, further inquiry is necessary, the investigator will follow up on the information and ask any clarifying questions of the parties and witnesses before finalizing and completing the investigation. Any additional relevant information received and/or answers to clarifying questions will be included in the final investigation report.
- I. The investigator will issue a final investigation report simultaneously to both parties that includes a statement of, and rationale for, each allegation that constitutes a separate potential violation of this policy, including a determination regarding responsibility for each separate potential incident or alleged policy violation. The written decision shall articulate findings of fact, made under a preponderance of the evidence standard, that support the determination. The written decision shall also include notice of the procedures to file an appeal. The investigator will provide a copy of the final investigation report to the Designated College Official or designee.
- J. When a preponderance of the evidence supports a finding that this policy has been violated, the matter will be referred for appropriate disciplinary and remedial action as outlined below.
- K. When there is insufficient evidence to find a violation of this policy, the complaint will be closed.

## **VIII. CORRECTIVE AND DISCIPLINARY ACTION**

If the investigation determines that a Respondent violated this policy, any sanctions will be determined by the following College sanctioning officials:

- The Designee for the Vice President of Student Affairs and Dean of Students when the Respondent is a student.
- The Designee for the Krebs Provost and Vice President for Academic Affairs when the Respondent is a faculty member.
- The Director of Human Resources when the Respondent is a staff member.

The sanctioning official may impose such sanctions as the sanctioning official believes are fair and proportionate to the finding of violation. Possible sanctions 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; and/or
- Termination, expulsion, or other separation from the College.

Other corrective action may also be taken, including any appropriate targeted or broad-based remedial action.

In determining appropriate sanctions, the sanctioning official may consider the Respondent's record of past violations of this policy or other College policies, as well as the nature and severity of such past violation(s) and any other aggravating or mitigating factors. The sanctioning official will also determine whether to implement the sanctions immediately or to stay the sanctions if a party appeals the determination.

If a third party with whom the College does business engages in prohibited Harassment or Discrimination, the College will take appropriate corrective action, up to and including termination of the business relationship.

## **IX. APPEALS**

A. Either party may appeal the finding on the following grounds:

- A procedural irregularity that could have affected the outcome;
- There is new evidence that was not reasonably available during the investigation that could have affected the outcome;

- The investigator had a conflict of interest or bias against the appealing party that could have affected the outcome; or
- The sanction is disproportionate to the finding.

In assessing whether any of the above grounds could have affected the outcome, the College will use the preponderance of the evidence standard.

- B. Appeals must be filed in writing with the appropriate appellate officer] within ten (10) business days of receipt of the written determination. The appeal must include:
- Name of the Complainant;
  - Name of the Respondent;
  - A detailed statement of the basis for the appeal including the specific facts, circumstances, and argument in support of it; and,
  - Requested action, if any.

Any appeal that is untimely or does not contain at least one permitted ground for appeal will be rejected unless good cause exists to extend the appeal deadline.

- Appeals for faculty members will be heard by the Krebs Provost and Vice President for Academic Affairs.
- Appeals for students will be heard by the Vice President of Student Affairs and Dean of Students.
- Appeals for staff members will be heard by Vice President for Finance and Planning.

- C. The appellate officer will provide written notice to the other party that an appeal has been filed and that the other party may submit a written response or opposition to the appeal within seven (7) business days. The [appellate officer] will also promptly obtain from the Designated College Official or designee all records from the investigation necessary to resolve the grounds raised in the appeal.
- D. The appellate officer will strive to resolve the appeal within fifteen (15) business days of receiving the appeal and any written response or opposition to it, unless good cause exists to extend the period for resolving the appeal.
- E. The appellate officer shall issue a written appeal decision that explains the outcome of the appeal and the rationale. The written appeal decision shall be provided to the complainant, the respondent, and the Designated College Official or designee. The [appellate officer] may take all actions that the [appellate officer] determines to be in the interest of a fair and just decision.
- F. The determination of a complaint becomes final when the time for appeal has passed with no party filing an appeal or, if any appeal is filed, at the point when the [appellate officer] has resolved all appeals. No further review beyond the appeal is permitted.

## **X. ADVISORS**

The Complainant and Respondent have the same opportunity to be accompanied to any related meeting by one advisor for support, guidance, and/or advice, provided that the advisor complies

with the guidelines for advisors outlined in this policy. The advisor may not be an attorney or a witness and, in cases involving multiple complainants or respondents, the advisor cannot be another complainant or respondent.

The advisor's role is to provide support, guidance and/or advice only. The advisor may not participate in any manner during any related meeting or proceeding. This advisor may not: (1) address or question the investigator, or other parties or witnesses; (2) present evidence or make arguments; or (3) have any role other than to accompany and communicate with the party requesting support and/or advice. The Complainant or the Respondent may request a break during any meeting and/or proceeding to allow the Complainant or the Respondent to confer with their respective advisor in private.

The College reserves the right to remove or dismiss an advisor who fails to follow this policy and applicable provisions of the complaint procedures, in which case the party will be allowed to select a different advisor.

The College may consider reasonable requests to reschedule a meeting or proceeding because an advisor cannot be present, however, the College is not required to do so and will not do so if it unreasonably delays the process.

## **XI. RISK ASSESSMENT AND INTERIM PROTECTIVE MEASURES**

When the Designated College Official (or designee) becomes aware of a potential violation of this policy, an initial risk assessment will be conducted, in consultation with other administrators as appropriate, to determine whether there is reasonable cause to believe that the Respondent poses a significant threat of harm to the health, safety, and welfare of others or to the College community, and whether interim measures are necessary to alleviate or mitigate that risk.

If the College determines that immediate action may be necessary to protect the rights, interests, or safety of the Complainant, Respondent, or the College community, it will implement protective measures, which may include course-related adjustments, modifications to work or class schedules, changes in work or housing locations, leaves of absence, directives to the parties regarding personal contact, and, in severe cases, the immediate suspension of the Respondent pending the completion of a formal investigation.

The College will maintain the confidentiality of Interim Protective Measures provided to either a Complainant or Respondent, to the extent that maintaining such confidentiality does not impair the College's ability to provide the measures in question.

## **XII. CONFLICTS OF INTEREST AND BIAS**

All College officials participating in this process and designees of such officials who are not employed by the College will be free of any material conflicts of interest or material bias. Any party who believes an official or designee has a material conflict of interest or material bias must raise the concern promptly so that the College may evaluate the concern and find a substitute, if appropriate. The failure of a party to timely raise a concern of a conflict of interest or bias may result in a waiver of the issue for purposes of any appeal.

## **XIII. RETALIATION PROHIBITED**



The College prohibits retaliation against anyone for making a report or complaint of Harassment or Discrimination under this or any other College policy (or assisting someone on doing so) or for participating in an informal or formal resolution process. Anyone experiencing or witnessing any conduct believed to be retaliatory should immediately report it to any of the offices or Designated College Officials named in Section IV above.

#### **XIV. FREE EXPRESSION AND ACADEMIC FREEDOM**

The College values freedom of expression, academic freedom, and the open exchange of ideas; the expression of controversial ideas and differing views is vital to intellectual discourse. The College is equally committed to creating and maintaining a safe, healthy, and harassment-free environment for all members of its community, and firmly believes that these two legitimate interests can coexist. Discrimination, Harassment, and Retaliation against members of the College community are not protected expression or the proper exercise of academic freedom. The College will consider its commitment to free expression and academic freedom in the investigation of reports of Discrimination and Harassment that involve an individual's statements or speech.

#### **XVI. CONFIDENTIALITY**

The College is committed to protecting the privacy of all individuals involved in a report of Harassment, and Discrimination. Every effort will be made to protect the privacy interests of all individuals involved in a manner consistent with the need for a thorough review of the allegations. The privacy of the parties will always be respected and safeguarded. For purposes of this policy, privacy and confidentiality have distinct meanings.

Privacy means that information related to a report of Discrimination and Harassment will only be shared with a limited number of individuals who need to know to assist in the active review, investigation, or resolution of the report.

Confidentiality means that personally identifying information, such as names or information that directly or indirectly identifies the individuals involved in the incident cannot be revealed to another individual without express permission of the individual, unless there are circumstances posing an imminent risk of harm to self or others. Complete confidentiality is only available when information is disclosed to professionals who are mandated by law to protect the confidential disclosures.

The College will make reasonable and appropriate efforts to preserve an individual's privacy and protect the confidentiality of information when investigating and resolving a complaint. However, because of laws relating to reporting and other state and federal laws, the College cannot guarantee confidentiality to Complainants and Respondents.

In the event an individual requests confidentiality or asks that a complaint not be investigated, the College will take all reasonable steps to investigate and respond to the complaint consistent with the request for confidentiality or request not to pursue an investigation. If a Complainant insists that his or her name not be disclosed to the alleged perpetrator, the College's ability to respond may be limited. The College reserves the right to initiate and proceed with an investigation despite a Complainant's request for confidentiality in limited circumstances involving serious or repeated conduct or where the alleged perpetrator may pose a continuing threat to the College community.

The College must balance the Complainant's desire for confidentiality against the overall campus

safety. Factors to consider include: (a) was a weapon involved in the incident; (b) is the accused a repeat offender; (c) does the incident create a risk of occurring again; (d) are there other sources of evidence that could be used to identify the accused (i.e., surveillance cameras); and (e) will the College be able to eliminate the hostile environment without disclosing the identity of the Complainant. If the College is unable to honor the Complainant's request for confidentiality, the College will notify the Complainant before the Complainant's identity is disclosed to the accused.

## **XV. RECORDKEEPING**

The Human Resources and Title IX offices are responsible for maintaining documentation for employees regarding all relevant complaints filed under this policy and Title IX, including documentation of all investigations, resolutions (informal or formal), and appeals conducted under these complaint resolution procedures. The Student Affairs and Title IX office is responsible for maintaining documentation regarding all relevant complaints filed under this policy for students.

The complaint filed shall be retained for a minimum of seven (7) years and shall be stored in a manner reasonably designed to maintain their confidentiality. However, nothing in this policy shall limit the College's right to use the complaint files, or portions thereof, in connection with the College's business, the investigation or resolution of other complaints, in the course of litigation, or in connection with any investigation by any government agency.

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