
Loma Linda University and its affiliated educational sites (herein referred to as “LLU” or “University”) is committed to providing a safe and supportive environment that is free from unlawful discrimination on the basis of sex in its admissions practices, in its employment practices, or in its educational programs or activities. Any form of sex discrimination and sexual misconduct, including harassment, coercion, intimidation, or sexual violence, is reprehensible; runs counter to LLU’s teachings and guiding principles; and will not be tolerated. In keeping with this commitment, Loma Linda University maintains a strict policy prohibiting unlawful discrimination or harassment based on personal characteristics of gender, sexual orientation, gender identity, race, color, religion, national origin, disability, age, or veterans’ status. Also prohibited is retaliation of any kind against individuals who report alleged incidents of discrimination or sexual misconduct, or who assist in a University investigation of such allegations.

Any member of the campus community, guest, or visitor who acts to deny, deprive, or limit the educational, employment, residential, or social access, opportunities and/or benefits of any

- x Complainant means an individual who is alleged to be the victim of conduct that could constitute harassment or discrimination based on a protected c

- x Investigator means the person(s) authorized by Loma Linda University to gather facts about an alleged violation of this Policy, assess relevance and credibility, synthesize the evidence, and compile this information into an investigation report of Relevant Evidence and a file of Directly Related Evidence.
- x Mandated Reporter means a Recipient employee who is obligated by policy to share knowledge, notice, and/or reports of harassment, discrimination, and/or retaliation with the Title IX Coordinator or other Official with Authority.
- x Notice means that an employee, student, or third party informs the Title IX Coordinator

Office for Civil Rights (OCR)
U.S. Department of Education
400 Maryland Avenue, SW
Washington, D.C. 20202-1000
Customer Service Hotline #: (800) 421-8181
Facsimile: (202) 503-6012
TDD#: (877) 521-4172
Email:

5.

The Title IX Coordinator

Upon the issuance of a mutual no contact directive, the institution will provide the parties with a written justification for the directive and an explanation of the terms of the directive.

Violations of no contact orders or other restrictions may be referred to appropriate student or employee conduct processes for enforcement or added as collateral misconduct allegations to an ongoing complaint under this Policy.

7. Emergency Removal

Loma Linda University can act to remove a student Respondent from its education program or activities—partially or entirely—on an emergency basis when an individualized safety and risk analysis has determined that an immediate threat to the physical health or safety of any student or other individual justifies removal. This risk analysis is performed by the Title IX Coordinator.

When an emergency removal is imposed, the student will be given notice of the action and the option to request to meet with the Title IX Coordinator prior to such action/removal being imposed, or as soon as reasonably possible thereafter, to show cause why the action/removal should not be implemented or should be modified.

This meeting is not a hearing on the merits of the allegation(s), but rather is an administrative process intended to determine solely whether the emergency removal is appropriate. When this meeting is not requested, objections to the emergency removal will be deemed waived. A Complainant and their Advisor may be permitted to participate in this meeting if the Title IX Coordinator determines it equitable to do so. There is no appeal process for emergency removal decisions.

A Respondent may be accompanied by an Advisor of their choice when meeting with the Title IX Coordinator for the show cause meeting. The Respondent will be given access to a written summary of the basis for the emergency removal prior to the meeting to allow for adequate preparation.

The Title IX Coordinator has sole discretion under this Policy to implement or modify an emergency removal and to determine the conditions and duration. Violation of an emergency removal under this policy will be grounds for discipline within the student or employee conduct processes, which may include expulsion or termination.

Loma Linda University will implement the least restrictive emergency actions possible in light of the circumstances and safety concerns. As determined by the Title IX Coordinator, these actions could include, but are not limited to: removing a student from a student housing temporarily, re-assigning an employee, restricting a student's or employee's access to or use of facilities or equipment, allowing a student to withdraw or take incomplete grades without financial penalty, authorizing an administrative leave, and suspending a student's participation in

10. Jurisdiction

This Policy applies to Loma Linda University's education program and activities, which includes the University's employees' work environment, conduct that takes place on property owned or controlled by the University, at University-sponsored events, and in buildings owned or controlled by the University's recognized student organizations. The Respondent must be a member of Loma Linda University's community in order for this Policy to apply.

This Policy is also applicable to the effects of off-campus misconduct that effectively deprive a person of access to University's facilities. 0.001Tf8 (o)2iversity's . 0 Tc 0 Tw 14.36 0 T7.6 o (e)-3 (c)4 (o)(n)-36.1 ((s))

In addition, the University may take other actions as appropriate to protect the Complainant against third parties, such as barring individuals from Linda University property and/or events.

All vendors serving the University through third-party contracts are subject to the policies and procedures of their employers and/or to these policies and procedures to which their employer has agreed to be bound by their contracts.

When the Respondent is enrolled in or employed by another institution, the Title IX Coordinator can assist the Complainant in liaising with the appropriate individual at that institution, as it may be possible to pursue action under that institution's policies.

Similarly, the Title IX Coordinator may be able to assist and support a student or employee Complainant who experiences discrimination in an externship, study abroad program, or other

ease of transmission and/or anonymity of the Internet or other technology to harm another member of the University community.

Any online posting or other electronic communication by students, including bullying, cyberstalking, cyberharassment, etc., occurring completely outside the Recipient's control (e.g., not on Recipient networks, websites, or between Recipient email accounts) will only be subject to this Policy when such online conduct can be shown to cause a substantial disruption or infringement on the rights of others.

Otherwise, such communications are considered speech protected by the First Amendment. Supportive measures for Complainants will be provided, but legally protected speech cannot be subjected to discipline.

Off-

- x Citizenship status
- x Physical or mental disability (including perceived disability)
- x Age
- x Marital status
- x Family responsibilitiesge

effectively denies an individual's educational or employment access, benefits, or opportunities. This discriminatory effect results from harassing verbal, written, graphic, and/or physical conduct that is severe or pervasive and objectively offensive

When discriminatory harassment rises to the level of creating a hostile environment, Loma Linda University may also impose sanctions on the Respondent through application of the grievance process below.

Acts of sexual harassment may be committed by any person upon any other person, regardless of the sex, sexual orientation, and/or gender identity of those involved.

Title IX Sexual Harassment, as an umbrella category, includes the specific definitions of sexual harassment, sexual assault, domestic violence, dating violence, and stalking, and is defined as:

Conduct on the basis of sex, or that is sexual in nature that satisfies one or more of the following:

- 1) Quid Pro Quo
 - a. an employee of the recipient,
 - b. conditions either implicitly or explicitly the provision of an aid, benefit, or service of the recipient,
 - c. on an individual's participation in unwelcome sexual conduct.

- 2) Sexual Harassment
 - a. unwelcome conduct,
 - b. determined by a reasonable person,
 - c. to be so severe, and
 - d. pervasive, and,
 - e. objectively offensive,
 - f. that it effectively denies a Complainant equal access to the University's education program or activity.

- 3) Sexual Assault, defined as:
 - a. Any sexual act directed against a Complainant,
 - o without their consent, or
 - o instances in which the Complainant is incapable of giving consent

 - b. Incest:
 - o Non-forcible sexual intercourse,
 - o between persons who are related to each other,
 - o

Reasonable person means a reasonable person under similar circumstances and with similar identities to the Complainant. Substantial emotional distress means significant mental suffering or anguish that may but does not necessarily require medical or other professional treatment or counseling.

Loma Linda University reserves the right to impose any level of sanction, ranging from a reprimand up to and including suspension or expulsion/termination, for any offense under this Policy. The most serious offenses are likely to result in suspension/expulsion/termination.

C. Force, Coercion, Consent, and Incapacitation

As used in the offenses above, the following definitions and understandings apply:

Force: Force is the use of physical violence and/or physical imposition to gain sexual access. Force also includes threats, intimidation (implied threats), and coercion that is intended to overcome resistance or produce consent (e.g., "Have sex with me or I'll hit you," which elicits the response "Okay, don't hit me. I'll do what you want.>").

Sexual activity that is forced is, by definition, nonconsensual, but nonconsensual sexual activity is not necessarily forced. Silence or the absence of resistance alone is not consent. Consent is not demonstrated by the absence of resistance. While resistance is not required or necessary, it is a clear demonstration of nonconsent.

Coercion: Coercion is unreasonable pressure for sexual activity. Coercive conduct differs from seductive conduct based on factors such as the type and/or extent of the pressure used to obtain consent. When someone makes clear that they do not want to engage in certain sexual activity, that they want to stop, or that they do not want to go past a certain point of sexual interaction, continued pressure beyond that point can be coercive.

Affirmative Consent:

- x knowing (conscious), and
- x voluntary, and
- x clear permission
- x by word or action
- x to engage in sexual activity.

Individuals may perceive and experience the same interaction in different ways. Therefore, it is the responsibility of each party to determine that the other has consented before engaging in the activity.

If consent is not clearly provided prior to engaging in the activity, consent may be ratified by word or action at some point during the interaction or thereafter, but clear communication from the outset is strongly encouraged.

For consent to be valid, there must be a clear expression in words or actions that the other individual consented to that specific sexual conduct. Reasonable reciprocation can be implied consent. For example, if someone kisses you, you can kiss them back (if you want to) without the need to explicitly obtain their consent to being kissed back.

Consent can also be withdrawn once given as long as the withdrawal is reasonably and clearly communicated. If consent is withdrawn, that sexual activity should cease within a reasonably immediate time.

Consent to some sexual contact (such as kissing or fondling) cannot be presumed to be consent for other sexual activity (such as intercourse). A current or previous intimate relationship is not sufficient to constitute consent. If an individual expresses conditions on their willingness to consent (e.g., use of a condom) or limitations on the scope of their consent, those conditions and limitations must be respected.

Proof of consent or non-consent is not a burden placed on either party involved in a complaint. Instead, the burden remains on the University to determine whether its policy has been violated. The existence of consent is based on the totality of the circumstances evaluated from the perspective of a reasonable person in the same or similar circumstances, including the context in which the alleged misconduct occurred and any similar and previous patterns that may be evidenced.

Incapacitation: A person cannot consent if they are unable to understand what is happening or are disoriented, helpless, asleep, or unconscious for any reason, including due to alcohol or other drug consumption.

In the evaluation of complaints, it shall not be a valid defense that the Respondent believed that the Complainant affirmatively consented to the sexual activity if the Respondent knew or reasonably should have known that the Complainant was unable to consent to the sexual activity under any of the following circumstances:

- 1) The Complainant was asleep or unconscious.
- 2)

reasonable person is both sober and exercising sound judgment. In the evaluation of complaints, it shall not be a valid defense to alleged lack of affirmative consent that the Respondent believed that the Complainant consented to the sexual activity under either of the following circumstances:

- 1) The Respondent's belief in affirmative consent arose from the intoxication or recklessness of the Respondent.
- 2) The Respondent did not take reasonable steps, in the circumstances known to the Respondent at the time, to ascertain whether the Complainant affirmatively consented.

Incapacitation occurs when someone cannot make rational, reasonable decisions because they lack the capacity to give knowing/informed consent (e.g., to understand the "who, what, when, where, why, and how" of their sexual interaction).

Incapacitation is determined through consideration of all relevant indicators of an individual's state and is not synonymous with intoxication, impairment, blackout, and/or being drunk.

This Policy also covers a person whose incapacity results from a temporary or permanent physical or mental health condition, involuntary physical restraint, and/or the consumption of incapacitating substances.

D. Other Civil Rights Offenses

In addition to the forms of sexual harassment described above, which are covered by Title IX, Loma Linda University additionally prohibits the following offenses as forms of discrimination that may be within or outside of Title IX when the act is based upon the Complainant's actual or perceived protected characteristic.

- 1) Sexual Exploitation defined as:
 - a. a person taking sexual advantage of another person,
 - b. for the benefit of anyone other than that person,
 - c. without that person's consent,
 - d. including, but not limited to, any of the following acts:
 - x the prostituting of another person,
 - x the trafficking of another person, defined as the inducement of a person to perform a commercial sex act, or labor or services, through force, fraud, or coercion,
 - x the recording of images, including video or photograph, or audio of another person's sexual activity or intimate parts, without that person's consent,
 - x the distribution of images, including video or photograph, or audio of another person's sexual activity or intimate parts, if the individual distributing the images or audio knows or should have known that the

All Loma Linda University employees (faculty, staff, administrators) are expected to report actual or suspected discrimination, harassment, and/or retaliation to appropriate officials immediately, although there are some limited exceptions noted below.

Within the institution, some resources may maintain confidentiality and are not required to report actual or suspected harassment, discrimination, or retaliation in a way that identifies the parties. They may offer options and resources without any obligation to inform an outside agency or institution official unless a Complainant has requested the information be shared.

If a Complainant expects formal action or response to their allegations, reporting to any Mandated Reporter can connect them with resources to report alleged crimes and/or policy violations, and these employees will immediately pass reports to the Title IX Coordinator (and/or police, if desired by the Complainant or required by law), who will act when an incident is reported to them.

The following sections describe the university reporting options for a Complainant or third party (including parents/guardians when appropriate):

A. Confidential Resources

If a Complainant would like the details of an incident to be kept confidential, the Complainant may speak with:

- x On-campus licensed professional counselors working within the scope of their licensure
- x On-campus designated confidential resources
- x On-campus members of the clergy/chaplains working within the scope of their licensure or ordination
- x Community-based (non-employees):
 - o Licensed professional counselors and other medical providers
 - o Local rape crisis counselors
 - o Domestic violence resources
 - o Local or state assistance agencies
 - o Clergy/Chaplains
 - o Attorneys

All of the above listed individuals will maintain confidentiality.

B. Mandated Reporters and Formal Notice/Complaints

All Loma Linda University employees (including student employees), with the exception of those who are designated as Confidential Resources, are Mandated Reporters and must promptly share with the Title IX Coordinator all known details of a report made to them in the course of their employment.

Employees must also promptly share all details of behaviors under this Policy that they observe or have knowledge of, even if not reported to them by a Complainant or third party.

Complainants may want to carefully consider whether they share personally identifiable details with nonconfidential Mandated Reporters, as those details must be shared with the Title IX Coordinator.

Generally, disclosures in climate surveys, classroom writing assignments or discussions, human subjects research, or at events such as "Take Back the Night" marches or speak outs do not provide notice that must be reported to the Title IX Coordinator by employees, unless the Complainant clearly indicates that they desire a report to be

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request to the Title IX Coordinator, who will evaluate that request in light of the duty to ensure the safety of the institution and to comply with state or federal law.

The Title IX Coordinator has ultimate discretion over whether the University proceeds when the Complainant does not wish to do so and may require a violence risk assessment to help determine whether to proceed. The Title IX Coordinator may sign a Formal Complaint to initiate a grievance process after reviewing any violence risk assessment results and weighing the following factors:

- a. Multiple or prior reports of sexual misconduct against the Respondent.
- b. The Respondent reportedly used a weapon, physical restraints, or engaged in battery.
- c. The Respondent is a faculty or staff member with oversight of students.
- d. There is a power imbalance between the Complainant and Respondent.
- e. The Complainant believes that the Complainant will be less safe if the Complainant's name is disclosed or an investigation conducted.
- f. The institution is able to conduct a thorough investigation and obtain relevant evidence in the absence of the Complainant's participation.

20. Amnesty

LomaLinda University offers immunity to students who may have violated University policies pertaining to sexual activity and/or consumption of alcohol or drugs at or near the time of the incident when such information is made available as a result their report of sexual misconduct. Individuals who initially report sexual misconduct or sexual harassment that was directed at them or another person, will not be subject to disciplinary action by the University for their own personal involvement in such activities at or near the time of the incident provided that any such violations did not and do not place the health or safety of any other person at risk.

The purpose of this clause is to encourage reporting. Victims or bystanders (witnesses) should not let his other use of alcohol or drugs be a deterrent to reporting an incident. When conducting the investigation, the University's primary focus will be on addressing the sexual misconduct or sexual harassment violation and not on alcohol/drug violations that may be discovered or disclosed. However, the university may provide referrals to counseling and may require educational options, rather than disciplinary sanctions, in such cases.

21. Federal Statistical Reporting Obligations

Certain institutional officials those deemed Campus Security Authorities have a duty to report the following for federal statistical reporting purposes (Clery Act):

- 1) All "primary crimes," which include criminal homicide, rape, fondling, incest, statutory rape, robbery, aggravated assault, burglary, motor vehicle theft, and arson
- 2) Hate crimes, which include any bias motivated primary crime as well as any bias motivated larceny or theft, simple assault, intimidation, or destruction/damage/vandalism of property
- 3) VAWA based crimes, which include sexual assault, domestic violence, dating violence, and stalking
- 4) Arrests and referrals for disciplinary action for weapons related law violations, liquor related law violations, and drug law violations

All personally identifiable information is kept private but statistical information must be shared with campus security regarding the type of incident and its general location (on or off campus or in the surrounding area, but no addresses are given) for publication in the Annual Security Report and daily campus crime log.

22. Preservation of Evidence

The preservation of evidence in incidents of sexual assault and stalking is critical to potential criminal prosecution and to obtaining restraining/protective orders and is particularly time

sensitive Loma Linda University will inform the Complainant of the importance of preserving evidence by taking actions such as the following:

received by the Title IX Coordinator or any other Official with Authority by applying these procedures, known as

- If an Informal Resolution option is preferred, the Title IX Coordinator assesses

advisee, either privately as needed, or by conferring or passing notes during any Resolution Process meeting or interview. For longer or more involved discussions, the parties and their Advisors should ask for breaks to allow for private consultation.

Any Advisor who oversteps their role as defined by this Policy, or who refuses to comply with the University's established rules of decorum for the hearing, will be warned. If the Advisor continues to disrupt or otherwise fails to respect the limits of the Advisor role, the meeting/interview/hearing may be ended, or other appropriate measures implemented, including the University requiring the party to use a different Advisor or providing a different University-appointed Advisor. Subsequently, the Title IX Coordinator will determine how to address the Advisor's non-compliance and future role.

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The University may also make reasonable provisions to allow an Advisor who cannot be present in person to attend a meeting/interview/hearing by telephone, video conferencing, or other similar technologies as may be convenient and available.

H. Expectations of the Parties with Respect to Advisors

A party may elect to change Advisors during the process and is not obligated to use the same Advisor throughout. The parties are expected to inform the Investigator(s) of the identity of their Advisor at least two (2) business days before the date of their first meeting with Investigators (or as soon as possible if a more expeditious meeting is necessary or desired).

The parties are expected to provide timely notice to the Title IX Coordinator if they change Advisors at any time. It is assumed that if a party changes Advisors, consent to share information with the previous Advisor is terminated, and access for the new Advisor should be secured. Parties are expected to inform the Title IX Coordinator of the identity of their hearing Advisor at least two (2) business days before the hearing.

6. Resolution Processes

Resolution proceedings are private. All persons present at any time during the Resolution Process are expected to maintain the privacy of the proceedings in accordance with Loma Linda University Policy.

Although there is an expectation of privacy around what Investigators share with parties during interviews, the parties have discretion to share their own knowledge and evidence with others if they so choose, except for information the parties agree not to disclose as part of an Informal Resolution. The University encourages parties to discuss any sharing of information with their Advisors before doing so.

The Formal Grievance Process is the University's primary resolution approach unless Informal Resolution is elected by all parties and the University

A. Informal Resolution

Three options for Informal Resolution may be available:

- 1) Supportive Resolution When the Title IX Coordinator can resolve the matter informally by providing supportive measures (only) to remedy the situation
- 2) Alternative Resolution When the parties agree to resolve the matter through an alternative resolution mechanism, often before a formal investigation takes place

- 3) Accepted Responsibility When the Respondent accepts responsibility for violating policy, and desires to accept the recommended sanction(s) and end the Resolution Process

To initiate Informal Resolution, a Complainant must submit a Formal Complaint, as defined above. A Respondent who wishes to initiate Informal Resolution should contact the Title IX Coordinator. The parties may agree, as a condition of engaging in Informal Resolution, that statements made, or evidence shared, during the Informal Resolution process will not be considered in the Formal Grievance Process unless all parties consent.

It is not necessary to pursue Informal Resolution first in order to pursue a Formal Grievance Process, and any party participating in Informal Resolution can stop the process at any time and begin or resume the Formal Grievance Process. The Title IX Coordinator has discretion to determine if an investigation will be paused during Informal Resolution, or if it will be limited, or will continue during the Informal Resolution process.

Prior to implementing Informal Resolution, the University will provide the parties with written notice of the reported misconduct and any sanctions (only in the case of Accepted Responsibility) or measures that may result from participating in such a process, including information regarding any records that will be maintained or shared by the University.

The University will obtain voluntary, written confirmation that all parties wish to resolve the matter through Informal Resolution before proceeding and will not pressure the parties to participate in Informal Resolution.

B. Alternative Resolution Approaches

Alternative Resolution is an informal approach by which the parties reach a mutually agreed upon resolution of a complaint. All parties must consent to the use of an Alternative Resolution approach.

The Title IX Coordinator may consider the following factors to assess whether

- x Results of a violence risk assessment/ongoing risk analysis
- x Disciplinary history of the Respondent
- x Whether an emergency removal is needed
- x Skill of the Alternative Resolution facilitator with this type of complaint
- x Complaint complexity
- x Emotional investment/capability of the parties
- x Rationality of the parties
- x Goals of the parties
- x Adequate resources to invest in Alternative Resolution (time, staff, etc.)

The ultimate determination of whether Alternative Resolution is available or successful is made by the Title IX Coordinator. The Title IX Coordinator is authorized to facilitate a resolution that is acceptable to all parties, and/or to accept a resolution that is proposed by the parties, usually through their Advisors, including terms of confidentiality, release, and nondisparagement.

The Title IX Coordinator maintains records of any resolution that is reached, and failure to abide by the resolution agreement may result in appropriate responsive/disciplinary actions (e.g., referral for formal resolution, referral to the conduct process, failure to comply). Results of complaints resolved by Alternative Resolution are not appealable.

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When a resolution is accomplished, the appropriate sanction(s) or responsive actions are promptly implemented to effectively stop the harassment or discrimination, prevent

- x A statement that the investigation and hearing applicable are not adversarial processes between Complainant(s), Respondent(s), and witnesses, but rather a process Loma Linda University uses to comply with its obligations under existing law
- x A statement that the Complainant does not have the burden to prove, nor does the

10. Ensuring Impartiality

Any individual materially involved in the administration of the Resolution Process, including the Title IX Coordinator, Investigator(s), and Decisionmaker(s), may neither have nor demonstrate a conflict of interest or bias for a party generally, or for a specific Complainant or Respondent.

At any time during the Resolution Process, the parties may raise a concern regarding bias or conflict of interest, and the Title IX Coordinator will determine whether the concern is reasonable and sure3(a)4 (s)68or

- x A description of the alleged violation(s), a list of all policies allegedly violated, a description of the applicable hearing procedures, and a statement of the potential sanctions/responsive actions that could result.
- x The time, date, and location of the hearing.
- x Description of any technology that will be used to facilitate the hearing.
- x Information about the option for the live hearing to occur with the parties located in separate rooms using technology that enables the Decisionmaker(s) and parties to see and hear a party or witness answering questions. Such a request must be raised with the Title IX Coordinator as soon as possible, preferably at least (5) business days prior to the hearing.
- x A list of all those who will attend the hearing, along with an invitation to object to any Decisionmaker(s) based on demonstrated bias or conflict of interest. This must be raised with the Title IX Coordinator at least two (2) business days prior to the hearing.
- x Information on how the hearing will be recorded and how the parties can access the recording after the hearing.
- x A statement that if any party or witness does not appear at the scheduled hearing, the hearing may be held in their absence. For compelling reasons, the Title IX Coordinator or designee may reschedule the hearing.
- x Notification that the parties may have the assistance of an Advisor of their choosing at the hearing and that they may be required to have one present for any questions they may desire to ask. The party must notify the Title IX Coordinator if they do not have an Advisor, and the University may appoint one if required.
- x A statement that questions that are repetitive, irrelevant, or harassing are prohibited.
- x A statement that parties may note an objection to questions posed.
- x A copy of all the materials provided to the Decisionmaker(s) about the complaint unless

However, this advance review opportunity does not preclude Advisors from asking a question for the first time at the hearing or from asking for a reconsideration on a hearing ruling by the Decision Maker based on any new information or testimony offered at the hearing. The Decision Maker must document and share with each party their rationale for any exclusion or inclusion at a prehearing meeting.

The Decision Maker only with full agreement of the parties, may decide in advance of the hearing that certain witnesses do not need to be present if their testimony can be adequately summarized by the Investigator(s) in the investigation report or during the hearing.

The prehearing meeting(s) will not be recorded. The prehearing meetings may be conducted as separate meetings with each party/Advisor, with all parties/Advisors present at the same time, remotely, or as a written only exchange. The Decision Maker will work with the parties to establish the format.

24. Hearing Procedures

At the hearing, the Decision maker(s) have the authority to hear and make determinations on all allegations of discrimination. (c)4 (imi7i-2 (n)-444id8.v (n)-4 (t)6)2 r e

However, the Title IX Coordinator may permit the investigation and/or hearings pertinent to each Respondent or complaint to be conducted separately if there is a compelling reason to do so. In joint hearings, separate determinations of responsibility will be made for each Respondent and/or for each complaint with respect to each alleged policy violation.

26. The Order of the Hearing Introductions and Explanation of Procedure

The Decision Maker explains the procedures and introduces the participants. This may include a final opportunity for challenge or recusal of the Decision Maker(s) based on bias or conflict of interest. The Decision Maker

The Decision Maker may invite explanations or persuasive statements regarding a case with the Advisors if the Decision Maker so chooses. The Decision Maker will then state their decision on the question for the record and advise the party/witness to whom the question was directed, accordingly. The Decision Maker will explain any decision to exclude a question as not relevant, or to reframe it for relevance.

The Decision Maker will limit or disallow questions on the basis that they are irrelevant, unduly repetitious (and thus irrelevant), or abusive. The Decision Maker has final say on all questions and determinations of relevance. The Decision Maker may consult with legal counsel on any questions of admissibility. The Decision Maker may ask Advisors to frame why a question is or is not relevant from their perspective but will not entertain argument from the Advisors on relevance once the Decision Maker has ruled on a question.

If the parties raise an issue of bias or conflict of interest of an Investigator or Decision Maker at the hearing, the Decision Maker may elect to address those issues, consult with legal counsel, and/or refer them to the Title IX Coordinator and/or preserve them for appeal. If bias is not an issue at the hearing, the Decision Maker should not permit irrelevant questions that probe for bias.

29. Refusal to Submit to Questioning; Inferences

Any party or witness may choose not to offer evidence and/or answer questions at the hearing, either because they do not attend the hearing, or because they attend but refuse to participate in some or all questioning. The Decision Maker(s) can only rely on whatever relevant evidence is available through the investigation and hearing in making the ultimate determination of responsibility. The Decision Maker(s) may not draw any inference solely from a party's or witness's absence from the hearing or refusal to submit to cross-examination or answer other questions.

30. Hearing Recordings

Hearings (but not deliberations) are recorded by the University for purposes of review in the event of an appeal. The parties may not record the proceedings and no other unauthorized recordings are permitted.

The Decision Maker(s), the parties, their Advisors (with approval from the party they represented) and appropriate administrators of the University will be permitted to review the recording or review a transcript of the hearing. (1)4 (,)0.19 0 Td1n or4ord rotrdings t2 (h)-4 r>>BDC6 (h)-4a

The Notice of Outcome will specify the finding for each alleged policy violation; the findings of fact that support the determination; conclusions regarding the application of the relevant policy to the facts at issue; a statement of, and rationale for, the result of each finding; the extent the University is permitted to share such information under state or federal law; any sanction(s) issued which the University is permitted to share according to state or federal law; and whether remedies will be provided to the Complainant to ensure access to the University's educational or employment program or activity.

The Notice of Outcome will also include information on when the results are considered final by the University, will note any changes to the outcome and/or sanction(s) that occur prior to finalization, and the relevant procedures and bases for appeal.

33. Sanctions

Factors considered when determining a sanction/responsive action may include, but are not limited to:

- x The nature, severity of, and circumstances surrounding the violation(s)
- x The Respondent's disciplinary history
- x The need for sanctions/responsive actions to bring an end to the discrimination, harassment, and/or retaliation
- x The need for sanctions/responsive actions to prevent the future recurrence of discrimination, harassment, and/or retaliation
- x The need to remedy the effects of the discrimination, harassment, and/or retaliation on the Complainant and the community
- x The impact on the parties
- x Any other information deemed relevant by the DeJ /TT pvaT Td ()T- /TT01 Tc 0.0 (h)-4 (e)/00yh

35. Appeals

Any party may submit a written request for appeal (“Request for Appeal”) to the Title IX Appeals Committee via the Title IX Officer within five (5) business days of the delivery of the Notice of Outcome.

A [three]-member appeal panel chosen from the Pool will be designated by the Title Coordinator. No Appeal Decisionmaker(s) will have been previously involved in the Resolution Process for the complainant including in any dismissal appeal that may have been heard earlier in the process. The Title IX Officer will serve as the chair of the Title IX Appeals Committee.

The Request for Appeal will be reviewed to determine if the request meets the grounds for appeal (a Review for Standing). This review is not a review of the merits of the appeal, but solely a determination as to whether the request meets the grounds and is timely filed.

A. Grounds for Appeal

Appeals are limited to the following grounds:

- 1) Insufficient information to support the decision
- 2) A procedural irregularity affected the outcome of the matter
- 3) 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
- 4) The Title IX Coordinator, Investigator(s), or Decisionmaker(s) had a conflict of interest or bias for or against Complainants or Respondents generally or the specific Complainant or Respondent that affected the outcome of the matter
- 5) Inappropriateness of the sanction for the violation of the Policy

If any of the grounds in the Request for Appeal do not meet the grounds in this Policy, that request will be denied by the Title IX Officer, and the parties and their Advisors will be notified in writing of the denial and the rationale.

If any of the grounds in the Request for Appeal meet the grounds in this Policy, then the Title IX Officer will notify all parties and their Advisors, the Title IX Coordinator, and, when appropriate, the Investigator(s) and/or the original Decisionmaker(s).

All other parties and their Advisors, the Title IX Coordinator, and, when appropriate, the Investigator(s) and/or the original Decisionmaker(s) will be mailed, emailed, and/or provided a hard copy of the Request for Appeal with the approved grounds and then be given five (5) business days to submit a response to the portion of the appeal that was approved and involves them. All responses, if any, will be forwarded by the Title IX Officer to all parties for review and comment.

C. Appeal Considerations

- x Appeals are not intended to provide for a full hearing (de novo) of the allegation(s). In most cases, appeals are confined to a review of the written documentation or record of the original hearing and pertinent documentation regarding the specific grounds for appeal.
- x Decisions on appeal are to be deferential to the original determination, making changes to the finding only when there is clear error and to the sanction(s)/responsive action(s) only if there is compelling justification to do so.
- x An appeal is not an opportunity for the Appeals Committee to substitute their judgment for that of the original Decisionmaker(s) merely because they disagree with the finding and/or sanction(s).
- x The Appeals Committee may consult with the Title IX Coordinator and/or legal counsel on questions of procedure or rationale, for clarification, if needed. Documentation of all such consultation will be maintained.
- x Appeals granted should normally be remanded (or partially remanded) to the original Investigator(s) and/or Decisionmaker(s) for reconsideration. y

37. Recordkeeping

Loma Linda University will maintain for a period of at least

If government laws or regulations change or court decisions alter the requirements in a way that impacts this document, this document will be construed to comply with the most recent government laws or regulations or court holdings.

This document does not create legally enforceable protections beyond the protections of the background state and federal laws which frame such policies and codes, generally.

This Policy and procedures are effective January 1, 2022.

BASED ON THE ATIXA 2021 POLICY PROCEDURE MODEL.
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