

LINCOLN UNIVERSITY
TITLE IX SEXUAL HARASSMENT POLICY AND PROCEDURES

STATEMENT OF NONDISCRIMINATION POLICY

Lincoln University does not discriminate on the basis of sex in its education programs and activities. Furthermore, the University strictly prohibits Sexual Harassment, as defined in this policy. This policy applies to any member of the University community, including students, faculty, and staff, as well as contractors, vendors, visitors, guests and other third parties. Additionally, the University prohibits retaliatory actions including, but not limited to, acts of intimidation, threats, coercion or discrimination against individuals who make reports or complaint of prohibited Sexual Harassment, or participate in or refused to participate in an investigation, proceeding, or formal hearing concerning a violation of this Policy.

SCOPE OF TITLE IX SEXUAL HARASSMENT GRIEVANCE PROCESS

The Sexual Harassment Grievance Process pertains to Sexual Harassment under Title IX, as defined by this Policy, committed by or against students and/or employees, when: (1) the conduct occurs on campus or other property owned or controlled by the University; or (2) the conduct occurs in the context of a University employment or education program or activity within the United States.

All members of the Lincoln University community have the right to report concerns regarding Sexual Harassment under Title IX and participate in the grievance process pursuant to this Policy without fear of retaliation.

A complete copy of the University's Title IX Sexual Harassment Policy can be accessed via the following link: <https://www.lincolnu.edu/about-lincoln/title-ix/lincoln-university-interim-title-ix-policy-and-grievance-process-revised>. Hard copies are available at Lincoln University, B-2 Young Hall, 820 Chestnut Street, Jefferson City, Missouri, 65101. The University's Rules and Regulations are available at: <https://www.lincolnu.edu/rules-and-regulations/rules-regs-6.6.24.pdf>

In the event reported misconduct does not fall within the scope of this policy, those claims may still be adjudicated under other relevant policies, including student conduct policies available at: <https://www.lincolnu.edu/about-lincoln/human-resource-services/2023-24-student-code-of-conduct-final-08.23.2023.pdf> and employment policies available at: <https://www.lincolnu.edu/about-lincoln/human-resource-services/resources.html>. Complaints against students will be handled through student conduct policies, and complaints against employees will be handled under the applicable employment policies.

DEFINITIONS

Sexual Harassment – Sexual Harassment is conduct based on sex that may be one or more of the following:

- 1) Employee conditioning provision of an aid, benefit, or service on an individual's participation in unwelcome sexual conduct (*i.e.*, a *quid pro quo*), or
 - 2) Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the University's education program or activity; or
 - 3) Sexual assault, stalking, dating/domestic violence, as defined herein.
- Sexual Assault – Any sexual act directed against another person, without the consent of the victim, including instances where the victim is incapable of giving consent.
 - Sexual Assault includes, but is not limited to, the following acts when they occur without consent of the victim:
 - Penetration, no matter how slight, of the vagina or anus with any body part or object,
 - Oral penetration by a sex organ of another person or by a sex-related object,
 - Touching of the private body parts of another person for the purpose of sexual gratification,
 - Nonforcible sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law, or
 - Nonforcible sexual intercourse with a person who is under the statutory age of consent.
 - Domestic Violence - Domestic violence includes felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction.
 - Stalking – Stalking occurs when a person engages in a course of conduct directed at a specific person under circumstances that would cause a reasonable person to fear bodily injury or to experience substantial emotional distress. A course of conduct is two or more incidents. Stalking includes "cyber-stalking," a particular form of stalking in which a person uses electronic media.
 - Dating Violence – Violence by a person who has been in a romantic or intimate relationship with the individual to whom the violence is directed. Whether there was such a relationship will be gauged by its length, type, and frequency of interaction.

Complainant – A Complainant is any individual who is alleged to be the victim of conduct that could constitute sexual harassment under this Policy, in connection with his or her participation in or attempt to participate in an educational program or activity of the University. A Complainant may be a student, an employee, or a third party.

Respondent – A Respondent is an individual who is purported to be the perpetrator of conduct that could constitute sexual harassment. A Respondent need not be affiliated with the University in any respect.

Consent is the knowingly, voluntarily, and affirmatively communicated agreement to engage in a specific sexual activity during a sexual encounter with a specific individual. Consent must be informed, freely given and mutual. Consent is clear, mutually understandable words or actions communicating an agreement to engage in specific sexual or intimate conduct.

A current or past dating or sexual relationship, by itself, does not create consent. Consent to sexual activity in the past does not create consent to future sexual activity. Consent to sexual activity with one person does not create consent to sexual activity with another person. Consent to one sexual activity does not create consent to another sexual activity. Consent can be withdrawn at any time during a sexual encounter, as long as the withdrawal is reasonably and clearly communicated

Consent cannot be given as the result of force, coercion, intimidation, or threats. Consent cannot be given by one who is incapacitated, voluntarily or involuntarily, due to a physical condition, including, but not limited to, the use or influence of drugs or alcohol, or being in a state of unconsciousness, sleep, or other state in which the person is unaware that sexual activity is occurring. If there is any doubt as to another person's capacity to give consent, community members should assume that the other person does not have the capacity to give consent.

A person cannot consent if he or she is under the age of consent or if the person has a mental disability that impairs the individual's ability to provide consent.

TITLE IX COORDINATOR

The Title IX Coordinator is charged with monitoring the University's compliance with Title IX, ensuring appropriate education and training, coordinating investigations, responses, and resolution of all reports pursuant to this Policy. In his or her discretion, the Title IX Coordinator may also designate Deputy Title IX Coordinators to assist in the discharge of these duties.

Any questions or concerns regarding the University's application of this Policy may be addressed to the Title IX Coordinator.

The Title IX Coordinator may be reached in person during regular office hours, or by telephone, written correspondence, email, or other electronic communication at any other time.

Title IX Coordinator

Shawnda Hayes-Dunnell
Employee Relations, Civil Rights, and Title IX Coordinator
B-2 Young Hall, 820 Chestnut Street, Jefferson City, Missouri, 65101.
573-681-5495

Hayes-DunnellS@lincolnu.edu
titleix@lincolnu.edu

Deputy Title IX Coordinator

April Robinson

Executive Director of Human Resources & Chief Human Resources Officer

101 Young Hall, 820 Chestnut Street, Jefferson City, Missouri 65101.

573-681-5018

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Deputy Title IX Coordinator

Sheena Dean

Assistant Athletic Director of Compliance

202A Jason Gym, 820 Chestnut Street, Jefferson City, Missouri 65101.

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HOW TO REPORT POTENTIAL VIOLATIONS OF THIS POLICY

Reporting Options

- *Report to the Title IX Coordinator or Designated Responsible Employee*

Individuals who believe they have been subjected to, or are aware that another individual has been subjected to, Sexual Harassment in connection with a University education program or activity, and who wish to report a potential violation of this Policy should notify any of the following University contacts:

Title IX Coordinator

Shawnda Hayes-Dunnell

Employee Relations, Civil Rights, and Title IX Coordinator

B-2 Young Hall, Jefferson City, Missouri, 65101.

573-681-5495

Hayes-DunnellS@lincolnu.edu

titleix@lincolnu.edu

Reports can be made through email, phone, in person, by mail, or submitted online through this link:

https://cm.maxient.com/reportingform.php?LincolnUnivMO&layout_id=1.

Upon receipt of any report of Sexual Harassment, the Title IX Coordinator will promptly contact the Complainant to discuss the availability of supportive measures and explain the process for filing a formal complaint. Reporting Sexual Harassment to the Title IX Coordinator does not automatically start the grievance process – the Title IX Coordinator

will explain to the Complainant how to start the grievance process by filing a Formal Complaint. An individual can make a report of Sexual Harassment in order to obtain supporting measures and resources – an individual making a report of Sexual Harassment is not required to file a Formal Complaint. However, if a report of Sexual Harassment is made against a University employee, the University may still investigate the matter under its employment policies.

- *Confidential Reporting*

Although the University encourages students and employees to bring reports of Sexual Harassment to the attention of the University for further investigation pursuant to this Policy, individuals who wish to maintain confidentiality may contact the following resources:

- Student Health & Counseling Services located in Thompsons Health Center
StudentCounseling@lincolnu.edu or 573-681-5476
- Relationship & Sexual Violence Center
573-681-5057

Unlike reports of Sexual Harassment made to other University officials (which must be reported to the Title IX Coordinator), absent the student's consent and/or situations where they perceive a serious risk or threat of injury to any person or property, reports to or conversations with these confidential resources will not be reported to the Title IX Coordinator or other University officials for further investigation pursuant to this Policy and the Title IX Coordinator will not be able to contact the Complainant to offer supportive measures as outlined below.

Complainants may also consult with confidential, off campus resources such as:

- Licensed professional counselors and other medical providers
- Local rape crisis counselors
- Domestic violence resources
- Local or state assistance agencies
- Clergy/Chaplains
- Attorneys

The University will keep confidential the identity of Complainants, Respondents, and witnesses involved in Title IX hearings, except when disclosure is required by law or as necessary to carry out the purposes of this Policy.

- *Other Reporting Options and Resources*

Individuals may make a criminal report with local law enforcement. To make a report to law enforcement, contact:

Lincoln University Police Department
Suite B Lorenzo Green Hall
900 Leslie Boulevard
Jefferson City, Missouri, 65101
573-681-5555
lupd@lincolnu.edu

There are times when the University may need to report an incident reported pursuant to this policy to local law enforcement. These circumstances may include, but are not limited to, incidents that potentially impact the health and safety of the Complainant and/or the University community.

The University will not wait for conclusion of a criminal investigation or proceeding to resolve complaints or begin the investigation and adjudication process described in this policy. The University will, however, comply with valid requests by law enforcement for cooperation in a criminal investigation. This may result in temporary delays of the University's investigation and adjudication process while law enforcement evidence is gathered, but the University will resume the investigation and adjudication process described in this policy when law enforcement has finished its evidence gathering. Any delays in the investigation and adjudication process described in this policy will not impact any accommodations and/or supportive measures the University has provided to promote the safety and well-being of the Complainant or the community.

- *Amnesty*

The University recognizes that students who have been drinking and/or using drugs (whether such use is voluntary or involuntary) at the time an incident of sexual violence occurs may be hesitant to report such incidents due to fear of potential consequences for their own conduct. The University strongly encourages students to report incidents of sexual violence to campus officials. A bystander or Complainant reporting in good faith or a victim reporting sexual violence to University officials or law enforcement will not be subject to disciplinary procedures for violations of the University's Alcohol and Drug Policies occurring at or near the time of the sexual violence. The University may initiate an assessment or educational discussion or pursue other non-disciplinary options regarding alcohol and/or other substance abuse, in an effort to support the future health and well-being of its students.

Responding to Reports of Sexual Harassment

Upon receiving a report of Sexual Harassment, the Title IX Coordinator will promptly contact the Complainant confidentially to:

- Discuss the availability of supportive measures with or without the filing of a Formal Complaint, and to provide a copy of this policy,
- Explain to the Complainant the process for filing a Formal Complaint and the grievance process,

- Discuss the options available to the Complainant, including the Complainant's right to file a criminal complaint that will run separately from the University's process, and
- Provide the Complainant with information about existing counseling, health, mental health, victim advocacy, and other services available on and/or off campus.

Supportive Measures are individualized services designed to restore or preserve equal access to the University's education programs and activities, protect the safety of all parties and the educational environment, or deter Sexual Harassment. Supportive measures should be non-punitive, non-disciplinary, and not unreasonably burdensome to the other party. The University will do everything possible to provide a climate that is sensitive to, respectful and supportive of individual needs. Supportive measures will be provided if they are reasonably available and requested, regardless of whether the Complainant chooses to file a Formal Complaint. Any supportive measures provided will be kept confidential to that extent that doing so will not impair the ability of the University to provide the supportive measure.

Supportive measures may include, but are not limited to:

- Campus counseling and support services
- Adjustments to academic requirements, such as extension of deadlines
- Additional academic support
- Adjustments to work or class schedules
- Changes in work locations or assignments
- Mutual restrictions on contact between the parties
- Leaves of absence
- Campus escort services

Emergency Removal and Administrative Leave

The University reserves the right to remove a student Respondent from its educational program or activity on an emergency basis. Such a removal may only occur if, after an individualized safety and risk analysis, the University determines an immediate threat to the physical health or safety of any student or other individual arising from the allegations of Sexual Harassment justifies removal. In the event a decision is made to remove a Respondent, he or she will be provided with notice by the Title IX Coordinator and given the opportunity to challenge that decision immediately following the removal by submitting a request in writing to the Title IX Coordinator.

Likewise, a non-student employee Respondent may be placed on administrative leave during the pendency of the grievance process described in this Policy.

FILING A FORMAL COMPLAINT OF SEXUAL HARASSMENT

In the event that a Complainant wishes for the University to proceed with an investigation and hearing into the allegations of Sexual Harassment pursuant to the grievance process procedures in this Policy, he or she must file a Formal Complaint. A Formal Complaint is a document alleging Sexual Harassment against a Respondent and requesting that the University investigate

the allegation of Sexual Harassment. The Complainant must be participating in or attempting to access a University education program or activity at the time the Formal Complaint is submitted.

A Formal Complaint must be in written form, but it may be submitted in person, by mail, or by email. It must be signed by the Complainant, but the required signature may be physical or digital.

A Title IX Coordinator may also initiate a Formal Complaint by signing it. The Title IX Coordinator may consider the specific facts and circumstances and whether there is a pattern of misconduct involving a particular Respondent. A Title IX Coordinator may only sign a Formal Complaint after he or she has contacted the Complainant and discussed supportive measures and the Formal Complaint process with the Complainant. The Title IX Coordinator must consider the Complainant's wishes for how the University responds to the report of Sexual Harassment. The Title IX Coordinator should balance campus safety concerns with respect for survivor autonomy.

The Title IX Coordinator may consolidate Formal Complaints where the allegations of Sexual Harassment arise out of the same facts or circumstances. Where a Formal Complaint includes more than one Complainant or more than one Respondent, any references in this policy to a single Complainant and/or Respondent will also refer to multiple Complainants and/or Respondents.

REVIEW AND DISMISSAL OF FORMAL COMPLAINTS

Upon receipt of a Formal Complaint, the Title IX Coordinator will review the allegations set forth therein and determine whether the Complaint may proceed. Although the allegations may be still be investigated and resolved pursuant to another University policy (as noted above), Formal Complaints of Sexual Harassment brought pursuant to this policy must be dismissed if:

1. The conduct alleged would not constitute Sexual Harassment as defined in this Policy;
2. The conduct did not occur in connection with a University education program or activity;
3. The conduct did not occur against a person in the United States.

Furthermore, the Title IX Coordinator may, in his or her discretion, determine that even though it meets the basic threshold requirements to proceed, a particular Formal Complaint should be dismissed. Specifically, a Formal Complaint may be dismissed if:

1. Complainant notified Title IX Coordinator in writing that they would like to withdraw the formal complaint or any allegations within;
2. Respondent is no longer enrolled in or employed by the University;
3. Specific circumstances prevent the University from gathering evidence to reach a determination.

After an initial review of the Formal Complaint, the Title IX Coordinator will continue to monitor the investigation and evaluate the Formal Complaint to determine if the above criteria for dismissal apply.

Following any dismissal of a Formal Complaint, the Title IX Coordinator will simultaneously send a written notice to the parties of the dismissal and the reasons for the dismissal. A dismissal of a Formal Complaint may be appealed following the appeals procedures in the grievance process below.

To the extent the behavior alleged in the Formal Complaint could constitute a violation of another University policy, it may be pursued under that policy. The Title IX Coordinator has the discretion to refer the allegations to the appropriate University official.

PROHIBITION OF RETALIATION

There will be no retaliation against or adverse treatment of any individual who in good faith reports an incident under any part of this Policy or against any individual who participated in the investigation or adjudication process related to this Policy. Retaliation includes, but is not limited to, pressuring the person to drop or not support the complaint or to provide false information; engaging in conduct that may reasonably be perceived to adversely affect an individual's educational, living, or work environment; and/or threatening, intimidating, or coercing the individual or otherwise discriminating against any individual using their rights or responsibilities under this Policy. Reports of retaliation should be reported immediately to the Title IX Coordinator. Any reports or complaints of retaliation will be investigated and appropriate action will be taken.

SEXUAL HARASSMENT GRIEVANCE PROCESS PROCEDURES

General Provisions

If any party believes that the Investigator, Hearing Officer, or Appeal Officer involved in the grievance process has a conflict of interest or bias for or against the individual parties and/or for or against complainants or respondents generally, that party should report their concern to the Title IX Coordinator. If the Title IX Coordinator finds that a conflict of interest or bias exists, he or she will designate another individual to serve in that role for the purposes of the specific grievance process involving the parties.

If any party believes that the Title IX Coordinator has a conflict of interest or bias for or against the individual parties and/or for or against complainants or respondents generally, that party should report their concern to the April Robinson, Executive Director of Human Resources & Chief Human Resources Officer, (RobinsonA2@lincolnu.edu). If the Executive Director of Human Resources and Chief HR Officer finds that a conflict of interest or bias exists, he or she will designate another individual to serve as Title IX Coordinator for the purposes of the specific grievance process involving the parties.

The Respondent will be presumed not responsible for the policy violation that is alleged in the Formal Complaint unless and until the Respondent is found responsible by the Hearing Officer at the conclusion of the grievance process.

The grievance process generally will be completed within 120 days. However, extensions to this time frame may be granted at the request of either party, or at the discretion of the Title IX Coordinator when good cause exists for the delay. Good cause may include considerations such as the absence of a party, a party's advisor, or a witness; concurrent law enforcement activity, or the need for language assistance or accommodation of disabilities. The Title IX Coordinator will notify all parties in writing of the delay, the length of the extension granted and the reason for the extension.

Notice

Within five (5) business days of the receipt of a Formal Complaint, the Title IX Coordinator or designee will issue a written notice to the parties. The written notice should include, if known, the identity of the parties, the conduct alleged to be Sexual Harassment, and the date(s) and location(s) of the incident(s). The notice will also include a statement that the Respondent is presumed to be not responsible for any policy violations. The notice must also inform the parties that they have the right to an advisor of their choice during the grievance process, that they may inspect and review evidence gathered during the investigation, and that the Student Code of Conduct prohibits making false statements or submitting false information during the grievance procedure.

If during the course of the investigation, additional allegations are going to be investigated that were not included in the original notice, the Title IX Coordinator or designee will issue a supplemental written notice to the parties.

Parties will also be provided with notice of all meetings, interviews, or hearings with sufficient time for the party to prepare to participate. Such notice will include the date, time, location, participants, and purpose of the meeting, interview, or hearing.

Advisors

Each party has the right to select an advisor of their choice, and for that advisor to accompany the party to any part of the grievance process, including all meetings, interviews, and/or hearings. An advisor can be a friend, family member, faculty member, mentor, attorney, or any other person of the party's choice who is available and agrees to serve as advisor.

A party may request the Title IX Coordinator appoint an advisor who have been trained and agreed to serve as advisors during the grievance process. A party's choice of advisor is not limited to those individuals provided by the Title IX Coordinator. While a party may select any individual to serve as their advisor, only the individuals appointed by the Title IX Coordinator will have received specialized training on the University's grievance process.

Parties must provide notice of who will serve as their advisor during any grievance hearings at least five (5) business days prior to the hearing. If a party does not have an advisor for a grievance hearing, an advisor will be selected by the Title IX Coordinator and will be provided for the purpose of cross examination during the hearing.

Advisors may offer advice to and confer with the party during any meeting, interview, and/or hearing, but generally may not speak on behalf of the party. The only time an advisor may speak on behalf of the party is to conduct cross examination questioning during a grievance hearing. Advisors are expected to comply with the Rules of Procedure and Decorum for hearings and remain respectful throughout the entire grievance process.

Any advisor who fails to comply with these policies, the Rules of Procedure and Decorum for hearings, and/or who does not treat all others with respect throughout the grievance process may be warned by the Title IX Coordinator, Investigator, and/or Hearing Officer for his or her first infraction. An advisor may be asked to leave the grievance proceeding if after being warned he or she continues to violate these policies or the Rules of Procedure and Decorum for a hearing, and/or continues to not treat others with respect. If an advisor is asked to leave a meeting, interview, or hearing, the proceeding will end and be continued at another time when the party has an advisor. Whether an advisor who has been asked to leave a proceeding may serve as an advisor to the party at a later meeting, interview, or hearing will be a decision in the sole discretion of the Title IX Coordinator.

Informal Resolution

An informal resolution offers the parties the opportunity to reach an agreement to resolve a Formal Complaint without completing the grievance process set out in this policy. In order to participate in an informal resolution process, a Formal Complaint must be filed. Parties must provide a voluntary written consent in order to participate in an informal resolution and are not required to participate in an informal resolution.

The Title IX Coordinator may offer the parties the opportunity to engage in an informal resolution process, when the Title IX Coordinator determines that the report or complaint is appropriate for informal resolution. Parties may also request to engage in informal resolution, though the Title IX Coordinator may decline the request where the Title IX Coordinator determines that the report or complaint is not appropriate for an informal resolution. An informal resolution option is not available when there is an allegation that an employee sexually harassed a student.

Informal resolution may occur at anytime before a final determination is made. The informal resolution process will be facilitated by an individual who is not the investigator or decisionmaker in the grievance process, does not have a conflict of interest, and has received training on the informal resolution process and how to serve impartially.

Before the parties engage in an informal resolution process, the parties will receive a written notice that explains: the allegations, the requirements of the informal resolution process, that the

party can withdraw from the informal resolution process and continue with the grievance process, that the agreement to an informal resolution would end the grievance process and prevent restarting the process in relation to the allegations, potential terms that can be requested in an informal resolution agreement (which include but are not limited to: restrictions on contact, restrictions on the Respondent's participation in one or more programs or activities), that an informal resolution agreement is binding on the parties, what information will be maintained and whether/how information from the informal resolution process will be used in the grievance process if the grievance process is restarted.

Investigation

The Title IX Coordinator or designee will designate an Investigator to conduct a fair, thorough investigation of the allegations in the Formal Complaint. The Investigator will have received training as outlined herein. The University may designate an outside investigator as Investigator.

The Investigator will provide written notice of any meetings or interviews to the parties and/or witnesses with sufficient time for the party or witness to prepare to participate. This notice will include the date, time, and location for the meeting, as well as who will be participating in the meeting and the purpose for the meeting.

The burden will be on the Investigator to fully and fairly investigate the allegation in the formal complaint. All parties will have an equal opportunity to present witnesses and evidence to the Investigator.

At the conclusion of the investigation, the Investigator will send a copy of the evidence that is directly related to the allegations in the Formal Complaint to the parties and their advisors for inspection and review. The parties will then have ten (10) business days in order to submit a written response to the evidence, if they choose to do so. The Investigator will consider any written response to the evidence before the completion of the investigative report. The Investigator will make all evidence that is directly related to the allegations available at the grievance hearing.

The Investigator will prepare an investigative report that fairly summarizes all the relevant evidence. The investigative report should include a description of all steps taken in the investigation as well as summaries of all interviews with parties and/or witnesses and all relevant evidence reviewed by the Investigator.

The Investigator will send a copy of the report to the parties and their advisors at least ten (10) business days prior to any hearing for the parties' review and written response.

Hearing

After the conclusion of the investigation, the University will conduct a live hearing before a Hearing Officer, who will act as the decision maker. The Hearing Officer will be appointed by the Title IX Coordinator or designee. The Title IX Coordinator or designee may designate an outside individual to serve as Hearing Officer to conduct the hearing and issue a final decision.

The Title IX Coordinator or designee will issue notice of the hearing to the parties, including the date, time, and location of the hearing. This notice will be provided before the hearing with sufficient time for the parties to prepare to participate. The hearing will be held pursuant to the Rules of Procedure and Decorum.

At the request of either party, the hearing will be held with the parties in separate rooms or locations, with the parties and Hearing Officer able to simultaneously see and hear each other through technology (e.g. through video conferencing software). Whether the hearing is conducted virtually or in person, it will be recorded.

The Investigator will make all evidence that is directly related to the allegations available at the grievance hearing. All parties may refer to such evidence and may use it in cross examination. The Investigator will provide a copy of the investigative report and all evidence that is relevant to the allegations in the formal complaint to the Hearing Officer. However, the Hearing Officer may not defer to the investigative report, and must objectively evaluate all relevant evidence and independently reach a determination regarding responsibility.

The Investigator, Complainant, and Respondent all have the ability to testify and call witnesses at the hearing, and to provide evidence to the Hearing Officer. The Hearing Officer will have the opportunity to ask questions of all parties and witnesses during the hearing. After the Hearing Officer asks their questions, each party's advisor will have the opportunity to ask all relevant and follow up questions of the other party and all witnesses during cross examination. No party shall be questioned directly by the other party. Advisors must abide by the Rules of Procedure and Decorum in questioning parties and witnesses. Any advisor who does not abide by the Rules of Procedure and Decorum will be warned or dismissed from the hearing at the discretion of the Hearing Officer.

The Hearing Officer cannot draw an inference about the determination regarding responsibility based solely on a party's or witness's absence from the hearing or refusal to answer questions during the hearing, including cross examination.

The Hearing Officer will state whether each question is relevant before the questions is answered by the party or witness to whom it is directed, and explain any decision to exclude a question as not relevant. Questions or evidence that are deemed irrelevant by the Hearing Officer will be excluded from the hearing. Formal rules of evidence shall not apply.

The following types of evidence are not relevant for purposes of adjudicating a claim of Sexual Harassment under this Policy:

- Evidence that is not pertinent to proving whether a fact material to the allegation is more or less likely to be true;
- Information that is protected by privilege (e.g. attorney-client privilege);
- Any party's medical, psychiatric, psychological, or counseling records without that party's voluntary, written consent to provide such information;
- Any information about the Complainant's sexual predisposition or prior sexual behavior, unless:
 - it is offered to prove that someone other than the Respondent committed the behavior alleged in the formal complaint, or
 - if the questions and evidence concern specific incidents of the complainant's prior sexual behavior with respect to the respondent and are offered to prove consent/

Questions that are duplicative may also be deemed irrelevant.

In addition, when reaching a determination, the Hearing Officer may evaluate and consider all relevant evidence, including, but not limited to, statements by parties and witnesses during the hearing, information presented by parties or witnesses at the hearing, information contained in the investigation report, and information gathered during the investigation. This could include statements in the investigation report, police reports, medical reports, text messages, social media posts or messages, or other documents.

When making the determination on responsibility, the Hearing Officer has the discretion to determine the weight to give statements and evidence, based on the reliability and/or credibility of the statements and evidence. When determining the reliability and/or credibility of statements and evidence, the Hearing Officer should consider the totality of the evidence and context, including, but not limited to:

- The reasonableness and inherent plausibility of the statement or evidence in light of all the evidence;
- The witness or party's opportunity or ability to see or hear the things described in the statement;
- Whether there is any other statement or evidence to corroborate the statement or evidence;
- Whether there are inconsistencies in the statement or evidence;
- Whether other evidence or statements contradict or dispute the witness's statement or evidence;
- The witness or party's interest in the outcome and/or motive to provide a false statement or evidence, if any;
- The witness or party's demeanor and behavior while making the statement;
- The witness or party's memory of the information in the statement;
- The witness or party's bias or prejudice, if any.

Determination of Responsibility

The Hearing Officer will issue a written determination whether the Respondent is responsible for the policy violations alleged in the Formal Complaint within five (5) business days of the conclusion of the hearing. The Hearing Officer must determine the weight of the evidence and credibility of the parties in reaching a determination. The standard of proof will be “preponderance of the evidence,” which means whether the evidence shows it is more likely than not that a policy violation occurred.

The written determination shall include:

- An identification of the allegations in the Formal Complaint;
- A description of procedural steps taken from the receipt of the Formal Complaint through the determination, including any notices, interviews, investigations, and hearings;
- Findings of fact that support the determination,
- Conclusions regarding the application of the policy to the facts;
- A statement and rationale for the result for each allegation including the determination of responsibility, any sanctions that will be imposed on the Respondent, and whether any remedies designed to restore and preserve equal access to the University’s educational program will be provided to the Complainant; and
- The procedures and acceptable bases for appeal of this determination.

The written determination will be provided simultaneously to all parties. It will become final and any sanctions will take effect after the resolution of any appeal, or if no appeal is filed, within 48 hours after the issuance of the written determination.

Sanctions and Remedies

If the Respondent is found responsible for any violations of policy, then the Hearing Officer will determine what disciplinary sanctions will be imposed on the Respondent and what remedies designed to restore and preserve equal access to the University’s educational programs will be offered to the Complainant.

The possible sanctions that can be imposed on a Respondent found responsible include:

- *Warning:* A formal statement that the conduct was unacceptable and a warning that further violation of any University policy, procedure, or directive will result in more severe sanctions/responsive actions.
- *Required Counseling:* A mandate to meet with and engage in either University-sponsored or external counseling to better comprehend the misconduct and its effects.
- *Probation:* A written reprimand for violation of institutional policy, providing for more severe disciplinary sanctions in the event that the student or organization is found in violation of any institutional policy, procedure, or directive within a specified period of time. Terms of the probation will be articulated and may include denial of specified social privileges, exclusion from co-curricular activities, exclusion from designated areas of campus, no-contact orders, and/or other measures deemed appropriate.

- *Suspension*: Termination of student status for a definite period of time not to exceed two years and/or until specific criteria are met. Students who return from suspension are automatically placed on probation through the remainder of their tenure as a student at University.
- *Expulsion*: Permanent termination of student status and revocation of rights to be on campus for any reason or to attend University-sponsored events. This sanction will be noted permanently as a Conduct Expulsion on the student's official transcript.
- *Withholding Diploma*: The University may withhold a student's diploma for a specified period of time and/or deny a student participation in commencement activities if the student has an allegation pending or as a sanction if the student is found responsible for an alleged violation.
- *Revocation of Degree*: The University reserves the right to revoke a degree previously awarded from the University for fraud, misrepresentation, and/or other violation of University policies, procedures, or directives in obtaining the degree, or for other serious violations committed by a student prior to graduation

The possible remedies that may be offered to a Complainant include:

- academic accommodations;
- counseling, education or training;
- monitoring or other individual support.

Appeals

A party may appeal the determination of responsibility or a dismissal of a Formal Complaint by submitting a written request to the Title IX Coordinator within 48 hours of the issuance of the dismissal of the Formal Complaint or Hearing Officer's determination of responsibility. The Title IX Coordinator will then appoint an Appeal Officer to review the request for appeal and make a determination. The request should include a short statement outlining the basis for appeal.

Appeals are limited to the following bases:

- Procedural irregularity that affected the outcome of the matter;
- New evidence that was not reasonable available at the time of the determination of responsibility or the dismissal of the Formal Complaint that would affect the outcome of the matter; or
- The Title IX Coordinator, Investigator, or Hearing Officer had a conflict of interest or bias for or against complainants or respondents generally that affected the outcome of the matter.

The Appeals Officer will notify the parties in writing that an appeal has been filed. Each party will then have five (5) days to submit a written statement in support of or challenging the outcome of the hearing.

The Appeals Officer will issue a written determination of the outcome of the appeal, describing the result of the appeal and the rationale in support of that decision within five days of the deadline for parties to submit their written statements. The Appeal Officer's written determination will be provided simultaneously to all parties.

TRAINING

The University will ensure that the Title IX Coordinator, Investigator, Hearing Officer, Appeal Officer, and any person who facilitates an informal resolution has received training on:

- The definition of Sexual Harassment as set out in this Policy;
- The definition of Consent under this policy and how to apply the definition of Consent consistently and impartially;
- The scope of the University's education program or activity;
- How to conduct the grievance process, including investigations, hearings, appeals, and informal resolutions (as applicable); and
- How to serve impartially, including avoiding prejudgment of the facts at issue, conflicts of interest, or bias.

Hearing Officers will also receive training on:

- How to operate any technology used in conducting a hearing; and
- How to determine relevance of questions and evidence, including the provisions of this policy pertaining to the exclusion of evidence of a Complainant's previous sexual behavior

Investigators will also receive training on:

- How to determine if evidence is relevant to an investigation; and
- How to create an investigative report that fairly summarizes relevant evidence.

All training materials used by the University must not rely on sex stereotypes and must promote the impartial investigation and adjudication of Formal Complaints. All training materials used to train the Title IX Coordinator, Investigator, Hearing Officer, and any individual who facilitates an informal resolution must be made publicly available. These materials will be published at: <https://www.lincolnu.edu/about-lincoln/title-ix/training.html>.

RECORDKEEPING

The Title IX Coordinator must create and maintain for a period of at least seven years records of any actions, including any supportive measures taken in response to a report or formal complaint of Sexual Harassment. For each instance, the Title IX Coordinator must document: 1) the basis for the conclusion that the University's response was not deliberately indifferent, and 2) that the University has taken measures designed to restore or preserve equal access to the University's educational program or activity. If the Title IX Coordinator does not provide the Complainant with supportive measures, then the Title IX Coordinator must document why it was not clearly unreasonable to not provide supportive measures.

The Title IX Coordinator will also maintain the following records for a period of at least seven years:

- Records related to each Sexual Harassment investigation, including any determination regarding responsibility;
- Any audio or audiovisual recording or transcript from a grievance hearing;
- Records of any disciplinary sanctions imposed on the Respondent;
- Records of any remedies provided to the Complainant;
- Any appeal from a grievance process and the result of the appeal;
- Records related to any informal resolution and the result of the informal resolution;
- All materials used to train the Title IX Coordinators, Investigator, Hearing Officer, and any individual who facilitates an informal resolution.