

Lewis University does not tolerate sexual misconduct of any type. Our Catholic, Lasallian tradition sees each and every human as created in the image of God, full of dignity and worth. Members of the community, guests and visitors have the right to be free from sexual violence, harassment and discrimination. All members of the community are expected to conduct themselves in a manner that respects the rights of others to control their sexual behavior and bodily integrity. All members of the community have the right to decline to engage in any sexual activity without fear of retaliation or adverse actions from the person seeking to engage in that activity. The University Sexual Misconduct Policy has been developed to reaffirm this expectation and to provide recourse for those individuals whose rights have been violated. The University enforces this policy regardless of the sexual orientation or gender identity of individuals engaging in sexual activity. The University takes seriously any incidents of sexual misconduct that come to its attention, whether by formal complaint or other means. Resolution by the University is intended to bring an end to harassing or discriminatory conduct, prevent its recurrence and remedy the effects on the victim and the community.

Some violations of this policy may also violate the criminal laws of the State of Illinois. Victims of sexual misconduct that also experience violations of criminal law may, at their option, proceed with a complaint to law enforcement authorities as well as to the University under this policy.

In applying this policy, the sex, gender identification, and sexual orientation of the parties to the incidents is irrelevant to whether a violation has occurred. Voluntary use of alcohol or other judgment impairing substances by a person whose conduct otherwise violates this policy will rarely, if ever, excuse the behavior.

Sexual misconduct prohibited by this policy includes but is not limited to sexual harassment, non-consensual sexual intercourse, non-consensual sexual contact, sexual exploitation, dating violence, domestic violence, and possession, distribution or administration of "date rape" drugs.

#### Sexual Harassment

For purposes of this policy sexual harassment means conduct on the basis of sex that satisfies one or more of the following criteria:

- 1) An employee of the University conditioning the provision of an aid, benefit or service on an individual's participation in unwelcome sexual conduct;
- 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 activities; or
- 3) Sexual assault, dating violence, domestic violence or stalking as those terms are defined in federal law.

Sexual harassment is not always sexually explicit and can involve differential treatment of persons of one sex that has the purpose and effect of creating a hostile environment. It may also include acts taken in retaliation for a person's refusal to engage in sexual activity.

- a. Sexual Assault Includes
  - i. Non-Consensual Sexual Intercourse: Any sexual intercourse (anal, oral, or vaginal),
    - However, slight
    - Whether with an object or body part,
    - By any person upon any person,
    - Without effective consent
  - ii. Non-Consensual Sexual Contact:
    - Any intentional sexual touching,
    - However slight,
    - With any object or body part,
    - By any person upon any person,
    - Without effective consent
- b. Dating and Domestic Violence
  - Dating violence is violence, including sexual or physical abuse, or threat of the same, committed by a person who is currently, or has been previously, involved in a social relationship of a romantic or intimate nature with the alleged victim. Domestic violence is violence, including sexual or physical abuse, or threat of the same, committed by a person who is currently, or has been previously, the alleged victim's spouse, cohabitant, or other person protected by family or domestic law (ex. someone who shares a child with the alleged victim).
- c. Stalking includes any pattern or conduct such as pursuit, following, harassment, repetitive communications that are intended to or have the effect of causing another community member to have a reasonable fear of death or serious bodily injury to themselves, a family member or pet/service animal or which otherwise would be reasonably expected to cause the other community member substantial emotional distress.

When a grievance involves conduct which may be sexual harassment as defined above and conduct which would violate other applicable codes of conduct, rules or policies, even if it did not meet the definition of sexual harassment, the grievance will be processed under the procedure provided in this policy unless and until the allegations of sexual harassment are withdrawn or dismissed. If such a withdrawal or dismissal occurs prior to a hearing on the sexual harassment grievance, then the matter will be processed under the provision of the conduct code, rule or policy otherwise applicable.

## Sexual Exploitation

Occurs when a student takes abusive sexual advantage of another for his/her own advantage or benefit, or that of third persons, and that behavior does not otherwise constitute one of the other sexual misconduct offenses. Examples of sexual exploitation include, but are not limited to:

### Invasion of sexual privacy

- Prostituting another student
- Non-consensual video or audio-taping of sexual activity
- Going beyond the boundaries of consent (ex. permitting or participating in voyeurism or secretly watching others who are engaged in consensual behavior)
- Knowingly transmitting a sexually transmitted disease to another student
- Exposing one's genitals in non-consensual circumstances or inducing another to expose their genitals
- Sexually-based stalking and/or bullying may also be forms of sexual exploitation

### Other Gender-Based Misconduct

Threatening or causing physical harm, extreme verbal abuse, or other conduct which threatens or endangers the health or safety of any person;

Discrimination, defined as actions that deprive other members of the community of educational or employment access, benefits or opportunities on the basis of gender;

Intimidation, defined as implied threats or acts that cause an unreasonable fear of harm in another;

Bullying, defined as repeated and/or severe aggressive behavior likely to intimidate or intentionally hurt, control or diminish another person, physically or mentally.

### Rape Drugs

Possession, use and/or distribution or non-consensual administration to another of any so-called rape or date rape substances, including Rohypnol, Ketomine, GHB, Burundanga, etc. is prohibited and a violation of this policy.

### Violations of Other Conduct Policies That Involve Sexual Misconduct

Violations of other University policies, such as those relating to domestic violence, stalking, bullying or other misconduct which also involve conduct prohibited by this policy may be addressed by the University as violations of all implicated policies.

## Key Terms

### Effective Consent

To be effective, consent must be clear, knowing and voluntary. Consent should normally be affirmatively expressed rather than inferred from silence, acquiescence or lack of objection by the recipient of sexual touching,

intercourse or other conduct.

Effective consent can be given by words or actions, as long as those words or actions create mutually understandable clear permission regarding willingness to engage in (and the conditions of) sexual activity.

- Consent to any one form of sexual activity does not by itself imply consent to any other forms of sexual activity.
- Previous relationships or consent given on prior occasions does not imply consent to sexual acts with other persons or at other times.
- A person's manner of dress does not constitute consent.
- Consent from a person who is not of legal age is not effective consent.
- Consent from a person who is known to be or should be recognized as incapacitated, whether by drugs, alcohol, disability or other factor is not effective consent.
- Effective consent cannot be given by someone who is asleep, unconscious or only semi-conscious.
- Consent, even if freely given, can be withdrawn at any time by words or acts that convey that consent no longer exists. Continuation of sexual touching or intercourse after consent is withdrawn is a violation of this policy.
- Consent obtained by force or coercion is not effective consent.

### Force

Force is the use or threat of physical violence, restraint and/or imposing on someone physically to gain sexual access to that person or another. Such as using superior size or strength to limit another's ability to remove him/herself from a sexual situation or to believe that leaving would be unsafe.

### Coercion

Coercion is unreasonable pressure for sexual activity. When someone makes clear to you that they do not want sex, 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, particularly if the pressure suggests negative consequences or appeals to the social or other fears of the person refusing consent.

## Incapacitation

Incapacitation or incapacity means that a person is in a state where he/she cannot make rational and reasonable decisions or to understand the circumstances of the sexual activity sufficiently to provide effective consent. Incapacity can be the result of drug or alcohol use, lack of consciousness/sleep, mental disability or physical restraint.

## Sexual Touching

Sexual touching means intentional contact with the breasts, buttock, groin, or genitals, or touching another with any of these body parts, or making another touch you or themselves with or on any of these body parts; or any intentional bodily contact in a sexual manner, though not involving contact with/of/by breasts, buttocks, groin, genitals, mouth or other orifice.

## Sexual Intercourse

Sexual Intercourse means vaginal penetration by a penis, object, tongue or finger, anal penetration by a penis, object, tongue, or finger, and oral copulation (mouth to genital contact or genital to mouth contact).

## Special consideration for matters involving Sexual Assault

If you believe you have been the victim of a sexual assault, nonconsensual intercourse or touching, or any violation of this policy involving physical violence or the threat thereof, there are additional factors to consider. First, get to a safe place, and report the matter to Lewis University Police or municipal police if the event occurs off campus. Your safety is paramount. Reporting sexual assault promptly will help University Police to conduct an immediate and complete investigation in a timely manner and to preserve evidence at the scene of the alleged offense, for the integrity of the investigation. Any pieces of clothing, beverages, weapons, etc. should not be touched until the Police officials are on scene. Immediately after an assault, the victim should avoid bathing, washing, or going to the bathroom, if possible, until you have talked with law enforcement personnel about evidence gathering. Ultimately, it will be your decision whether you wish to proceed with a criminal complaint, a complaint within the University Conduct Process, both or neither. However, your ability to make the decision that is right for you will be enhanced if the evidence is preserved and you promptly get the assistance you need, either from University or off-campus resources.

Victims may have a medical forensic examination completed at no cost in accordance with the Sexual Assault Survivors Emergency Treatment Act. The following are hospitals in close proximity to Lewis University:

Presence St. Joseph Medical Center 333 N. Madison St.

Joliet, IL 60435

(815) 725-7133

Silver Cross Hospital 1900 Silver Cross Blvd New Lenox, IL 60541 (815) 300-1100 Adventist Bolingbrook Hospital 500 Remington Boulevard Bolingbrook, IL 60440 (630) 312-5000

Understanding Privacy and Confidentiality

A common concern when reporting sexual misconduct is the sensitive nature of the matter and what, if any, information will be shared with other people. It is important to know the level of privacy that students can expect from different on-campus and off-campus resources. Essentially there are four levels of privacy that can pertain to internal communications made to the University, depending on who you talk to and the circumstances of the conversation: Privileged; Confidential; Need to Know and Anonymous.

#### Privileged Communication

Privileged Communications are those you would make to a doctor, therapist or counselor for purposes of seeking therapeutic treatment, to a clergy member for purposes of confession, or to an attorney from whom you are seeking legal advice.

These conversations are highly privileged by law and normally cannot be revealed without your consent. In the case of medical providers information may be revealed without your consent only when there is a high risk of harm to you or others and only as needed to avoid the harm, or if there is abuse of a minor child involved.

#### Confidential Communication

Confidential communications are those you might make to staff members working under the guidance of a mental health care professional in the Center for Health and Counseling. Disclosure of a personally identifiable aspect of a communication with a Confidential resource can usually only be shared with others if you give your affirmative permission. As a result, when you report or discuss an instance of sexual misconduct with a Confidential Resource, that person does not report the matter to the Title IX Coordinator and none of the steps described in the process section of this policy will occur, absent a report to the Title IX Coordinator. A Confidential Resource is there to provide assistance and support that may include referrals to support agencies, help in understanding the internal and external resources and measures available to you, and help you understand and navigate the processes that may apply to your situation.

Confidential resources can be required to divulge information in the same circumstances as health care providers, and in addition may have to disclose personally identifiable information in response to a subpoena or other legal order from a court. It is important to note, confidential resources may have a duty to report information you disclose, but without identifying you personally, for purposes of fulfilling the University's commitment to honest reporting of crime statistics and proactively seeking ways to prevent sexual misconduct from occurring. In those instances, only limited information which is not identifiable to you will be released without your consent.

#### Anonymous Communications

Additionally, reports may be submitted electronically and anonymously online at [www.lewisu.edu/lucare](http://www.lewisu.edu/lucare). An anonymous report can be helpful in the University's efforts to discern patterns and formulate preventative

measures. However, depending on the circumstances and kind of information disclosed anonymously, it may not be possible to provide services to an undisclosed victim or conduct a meaningful investigation unless the person making the anonymous report comes forward.

#### Reports to Police Departments

Reports to the municipal police departments are outside the control and policies of the University. Most police departments have officers who are trained to handle reports of sexual crimes in a sensitive manner. However, their policies and obligations regarding further reporting of information to prosecutors or others in the criminal justice system may require disclosure of personally identifiable information. This is something you can discuss with an officer at the relevant police department if you chose to report a matter there.

#### On Campus Resources

Assistant Dean for Student Services & Title IX Coordinator

Dr. DeSean Coleman (815) 836-5597

[Dcoleman5@lewisu.edu](mailto:Dcoleman5@lewisu.edu)

Associate Provost and Dean of Student Services

Kathy Slattery (815) 836-5278

[slatteka@lewisu.edu](mailto:slatteka@lewisu.edu)

Lewis University Police Department

Learning Resource Center Ground Level

Emergency: (815) 836-5911 or 5911

Non-Emergency: (815) 836-5222

On-Campus Confidential/Privileged Resources

Center for Health & Counseling Services

Lower Level of Mother Teresa Hall (815) 836-5455

Electronic & Anonymous Reporting

[www.lewisu.edu/lucares](http://www.lewisu.edu/lucares)

[www.lewisu.edu/act](http://www.lewisu.edu/act)

Off-Campus Law Enforcement

Romeoville Police Department

1050 W Romeo Rd, Romeoville, IL 60446

(815) 886-7219

Emergency: 911

Off-Campus, Confidential Resources Guardian Angel Community Services 168 N. Ottawa Street Joliet, IL 60432 (815) 729-0930 (Main Number)

(815) 730-8984 (24-hour Sexual Assault hotline)

(815) 729-1228 (24-hour Domestic Violence Hotline)

## PROCEDURE FOR REPORTING AND RESPONDING TO INSTANCES OF SEXUAL MISCONDUCT

A community member may report conduct which they believe to violate this policy to a University Official with authority to institute corrective measures on behalf of the University. A report may be made by any community member, whether they are the target of the harassing behavior or not. The University Officials with authority to institute Corrective measures are: the Title IX coordinator and all deputy Title IX coordinators. Reports of sexual harassment, particularly relating to sexual assault, dating/domestic violence and stalking may also be made to the LUPD. Other employees of the University, with the exception of confidential resources are expected to forward any reports of sexual harassment they receive to the Title IX coordinator. As discussed below a report will not necessarily trigger an investigation in the absence of a formal complaint by the person who is the target of the harassment; however, under some circumstances the LUPD may have an obligation under Illinois law to investigate and take action even in the absence of a formal complaint by the alleged target of the conduct (for example if there are allegations of domestic violence).

To report conduct believed to violate this policy, the person making the report may contact any of the above listed University Officials in writing, by email, in person or by telephone. Reports may be filed anonymously, although doing so may affect the University's ability to fully respond to the situation.

Upon receipt of a report of sexual harassment, the Title IX coordinator shall be responsible to contact, directly or through a designee, the person reported to have been harassed to discuss: the need for supportive measures; determine the scope of any supportive measures; make clear that supportive measures are available whether or not the individual files a formal complaint of harassment and to explain the process for filing a formal complaint and the resolution process that will follow from a formal complaint.

The individual affected by the harassment has a choice as to whether to file a formal complaint of sexual harassment under this procedure. The affected individual may also file a complaint with law enforcement authorities if they so desire. The affected individual may file complaints under this process, with a law enforcement authority, with both or with neither based on what they believe is best for them in the given situation. The level of participation and information shared is determined by the alleged victim. Requests for anonymity and privacy, as well as the specificity of information provided, may limit the University's ability to fully respond to the incident. Alleged victims may also request specific action or inaction regarding how the complaint is resolved. In most cases, the University will attempt to honor



these wishes. However, there may be times when the University will pursue an investigation and resolution independently in order to ensure the safety of the community and maintain a non-discriminatory environment. In those cases, the alleged victim will be notified and their privacy will be protected to the extent possible.

The availability of supportive measures that do not involve unreasonable burdens on a potential Respondent or other community members shall not be affected by whether the harassed individual chooses to file a complaint under this policy or with law enforcement authorities.

#### FILING A FORMAL COMPLAINT OF HARASSMENT

A Formal Complaint of harassment under this policy may be filed only by the person against whom the sexually harassing conduct was directed (the "Complainant") or in some cases by the Title IX coordinator. A Formal Complaint is required before the University can move forward with an investigation of the conduct to determine if the person engaging in the conduct has violated this policy, and if so what the appropriate sanctions should be.

A Formal Complaint must be in writing, either in hard copy or electronic form, be signed either physically or electronically by the Complainant or otherwise indicate that it is filed by the Complainant.

The Formal Complaint must describe the conduct believed to violate this policy in sufficient detail (including the identity of the persons who engaged in the conduct if known) to permit a reasonable investigation and request an investigation. The Formal Complaint must be sent to the Title IX Coordinator by email, physical mail or personal delivery.

Once a Formal Complaint is filed, the Title IX Coordinator shall be responsible to ensure that the procedures for investigation and resolution of the Formal Complaint are followed.

#### FORMAL COMPLAINT RESOLUTION PROCEDURE

The resolution of Formal Complaints is a multi-step process. It consists of a preliminary review of the Formal Complaint, an investigation of any Formal Complaint which is not dismissed upon the preliminary review, a live hearing to determine responsibility of any person(s) alleged to have violated the policy a ("respondent") decision as to appropriate sanctions and or remedies when a violation is found to have occurred and the potential for appeal for parties who believe the initial outcome is not sufficient. Each of these steps is described in more detail below. Throughout the process Complainants and Respondents shall be treated equally in terms of access to advisors, supportive measures, opportunities to present information relevant to the formal complaint, notices and appeals.

Disciplinary sanctions for sexual harassment as defined above may not be imposed upon a Respondent unless the Respondent admits responsibility for committing sexual harassment or is determined to have done so after an investigation and hearing as provided for below.

#### PRELIMINARY REVIEW/EMERGENCY REMOVAL/INFORMAL RESOLUTION

Upon receipt of a Formal Complaint, the Title IX Coordinator or their designate will conduct an initial review of the Formal Complaint. The purpose of the review is to determine whether the Formal Complaint requires a formal investigation and hearing; whether interim measures are required to minimize an immediate or direct threat to physical safety to community members and whether to invite

the parties (“parties” as used herein means the Complainant(s) and Respondent(s) to a particular Formal Complaint) to informally resolve the issues without a formal investigation and hearing.

a) Determining whether investigation is required.

To determine if an investigation is required, the Title IX Coordinator will analyze whether the conduct as described in the Formal Complaint, assuming the description to be fully accurate, would constitute sexual harassment as defined above; whether the complained of conduct occurred in the context of the University’s educational programs and activities; and whether the conduct occurred against a person in the United States. If the Formal Complaint satisfies these requirements, then it will proceed to a prompt investigation or informal resolution. If the conduct described in the Formal Complaint does not describe conduct that would constitute sexual harassment as defined above, or conduct which did not occur in the University’s educational programs/activities or against a person in the United States, then the University will dismiss the Formal Complaint and close its proceedings under this policy. When a Formal Complaint is dismissed, but the conduct described might constitute a violation of other University codes of conduct, rules or policies, faculty or employee duties, then the Title IX Coordinator will refer the complaint to the appropriate process for resolution of those issues depending on whether the Respondent is a student, faculty member or staff employee.

b) Removal from Campus or Restriction of Respondent Pending Final Resolution.

The Title IX Coordinator acting in concert with appropriate personnel shall determine whether there is an immediate threat to the physical health or safety of any students or other individuals arising from the conduct or circumstances of the complaint which would justify immediate removal or exclusion of the Respondent from campus, portions thereof or certain activities. This assessment may occur as part of the Preliminary Review or at later points in the process as circumstances warrant. If such a removal or limitation is imposed, then the Respondent shall be notified of the process for appealing the removal/restriction. That process is described below in the section on appeals. Removal or restriction will only be imposed when there is an immediate threat to physical safety.

c) Informal Resolution

In cases in which the Title IX Coordinator determines that a mediated resolution between the parties is both feasible and could adequately insure all parties’ equal access to the University’s educational programs/activities, the Title IX Coordinator may invite the Parties to participate in a mediated informal resolution process as an alternative to the investigation and hearing. Informal mediation shall occur only if both parties agree to the process in writing after being informed of the allegations of the Formal Complaint. If a resolution is reached through the informal process, it will be documented. Each party will be expected to abide by any agreed provisions and failure to do so may in appropriate circumstances be considered a violation of the University’s code of conduct/policies or rules. At any time prior to reaching a resolution, either party may unilaterally withdraw from informal resolution and require that the investigation and hearing process proceed.

## INVESTIGATION

Investigations will be conducted by a University official with appropriate training in conducting sexual harassment investigations and University policies relating thereto. Investigators may include, the Title IX Coordinator, Deputy Title IX Coordinators, student conduct officers, designated faculty member and designated human resources personnel, who may be assisted by LUPD personnel. The purpose of the investigation is to develop all of the information relevant to a decision as to whether sexual harassment as defined above occurred including any information that has a tendency to make it more or less likely that sexual harassment in fact occurred.

Upon commencement of the investigation, the University will give written notice of the investigation to the Complainant and any individual identified as a Respondent. The notice will provide the identity of the parties involved, a description of the conduct alleged to constitute sexual harassment as defined above, and the date, time and location at/on which the conduct occurred to the extent known. To the extent the investigation reveals additional possible instances of sexual harassment, an updated notice shall be sent to the parties.

During the investigation, Complainant and Respondent(s):

- may each have an advisor of their respective choosing, who is not required to be a member of the University Community and who may be an attorney. Advisors will be required to sign an agreement regarding confidentiality and behavior (for more information see separate section on advisors);
- are expected to be honest and forthright in response to any questions asked during the course of the investigation;
- may present evidence relevant to the determination that they have gathered, including either statements from witnesses or the identification of witnesses believed to have relevant knowledge;
- will be given written advance notice of the time, place and location of any hearing, interview or other meeting to which they are invited or expected to attend
- will be provided equal access to inspect and review the evidence gathered in the investigation with an opportunity of no less than 10 calendar days to comment thereon prior to the close of the investigation.
- will be provided with a copy of the investigation report at least 10 days prior to any hearing on the Formal Complaint, so that they may review and file a written response if they so choose.
- are not required to waive any information that is privileged against disclosure bylaw;

Prior to the convening of the hearing on the Formal Complaint, the University may dismiss the Formal Complaint and cease the investigation if: i) each Complainant to the Formal Complaint provides written notice of their desire to withdraw the Formal Complaint to the Title IX Coordinator; ii) the respondent (a) has/have ended their affiliation with the University and further proceedings are deemed unwarranted; iii) specific circumstances prevent the gathering of sufficient evidence to reach a reliable

determination. Upon dismissal for any of these reasons, notice of the dismissal shall be provided to all parties.

Any information disclosed to a Complainant or Respondent, or their respective advisor, is to be treated as confidential and used exclusively for the purpose of participating in the investigation, hearing, and/or appeal regarding the Formal Complaint. Inappropriate disclosure or misuse of the information disclosed, particularly if used in an attempt to embarrass, intimidate or retaliate against a party or witness is a serious violation of the University's policies which will lead to appropriate sanctions against the offending party.

## HEARINGS

A Respondent is entitled to a live hearing to determine whether their conduct constitutes sexual harassment as defined herein. Throughout the hearing and investigation process, a Respondent is presumed not to have committed sexual harassment unless and until a violation is demonstrated by a preponderance of the evidence to the satisfaction of the relevant decision maker. The purpose of the hearing under this policy is to determine whether sexual harassment as defined above occurred and whether the Respondent committed the acts constituting the sexual harassment.

The process for the hearing shall be as follows.

One or more decision makers shall be designated as Hearing Officer(s). A decision maker may not be the same person who served as the investigator of the Formal Complaint. If there is more than one decision maker designated than one of the decision makers shall be designated as the lead Hearing officer, or the decision- makers may elect to appoint a non-voting Lead Hearing Officer for the purpose facilitating the conduct of the hearing including, ruling on the relevance of questions and procedural matters.

All parties shall be given written notice of the date time and place of the hearing at least ten days prior thereto. Requests for postponement or continuance of the date must be in writing and addressed to the Lead Hearing officer. Such requests must be made as soon as the reasons for the postponement are known to the

Party requesting it and should be supported by a statement of such reasons. Any postponement or continuance is at the discretion of the Lead Hearing Officer.

The hearing shall normally take place with all parties and witnesses physically present, but at the discretion of the Lead Hearing Officer, parties or witnesses may be allowed to appear via technology enabling all participants to simultaneously see and hear each other. Either party may request that the hearing proceed with the parties in separate rooms with technology enabling the Hearing Officers, and parties to simultaneously see and hear the party or the witness answer questions.

The investigator, or their designee, will serve as the Presenting Officer to present evidence and witnesses to the Hearing Officers.

At least five days prior to the hearing, the parties either personally or through their advisors shall meet with the Presenting Officer to determine if the parties can agree as to any of the facts relevant to the determination of the matter and prepare an appropriate statement of those agreed facts. This process is

to help determine the scope of what is relevant to the hearing. The meeting may take place in person, via teleconference or other

technology. Any statement of facts agreed to by the parties shall be presented to the Hearing Officer(s) and may be relied upon in reaching a decision without further presentation of evidence as to the specific fact. Agreement to a fact shall not prohibit a party from presenting further evidence to provide context or explanation of the fact agreed to.

Each party is entitled to have an advisor present at the hearing for purposes of advising the party regarding the proceedings and for the purpose of asking questions of the parties or witnesses presented at the hearing. Advisors may not testify as witnesses in the Hearing and may not provide statements to the Hearing Officers in the form of evidentiary submissions, opening/closing statements or the like, and are not to speak for their advisee in response to questions from the Hearing Officers. An advisor may make objections to the relevance of questions posed by another participant but such objections shall be stated succinctly and without explanation unless requested by the Lead Hearing officer.

During the hearing each party shall have an equal opportunity to present live witnesses or other evidence in addition to any witnesses or evidence presented by the Presenting Officer.

Witnesses, including each of the parties, may testify by adopting a prior statement given to the investigator, LUPD or other investigating entity, and affirming the accuracy of the prior statement as written by them or described in the investigator's report or other materials. No prior statements made outside the hearing will be considered by the decision makers unless the party or witness who gave the statement appears at the hearing and answers questions from the Hearing Officers, the parties' respective advisors and the Presenting Officer to the extent that those persons have questions of the witness.

Questioning of the parties or witnesses shall be conducted only by the Hearing Officer(s), the Presenting Officer, or the advisor to one of the parties. The parties themselves shall not question each other or witnesses

directly. All questioning shall be limited to areas that are relevant to the issue to be decided by the Hearing Officer(s) and shall be conducted in a respectful and appropriate manner. In the event that a Complainant or Respondent (or their respective advisor) fails to appear at the hearing, the Hearing Officer(s) may appoint an advisor to ask questions of parties or witnesses at the hearing on behalf of the absent party.

Before a party or witness is required to answer a question, the Lead Hearing Officer will determine if an answer to the question will provide information relevant to the decision to be made, and explain any decision to exclude a question. Relevant information is any information that if believed would make it more or less likely that the sexual harassment alleged in the Formal Complaint in fact occurred and/or that a Respondent(s) was the person who engaged in the harassing conduct. Generally, prior sexual history of the Complainant is not relevant to the determination, unless the Complainant and the Respondent were involved in an on-going consensual relationship and evidence concerning the prior sexual history between them is relevant to a disputed issue of whether consent was given on a

particular occasion, or to prove that someone other than the Respondent committed the conduct in question.

An audio recording of the hearing shall be made and maintained together with other records pertaining to the hearing and investigation.

#### DETERMINATIONS AFTER HEARING

After the evidence has been presented the Hearing Officer(s) shall promptly issue a written decision as to the whether the Respondent did or did not commit sexual harassment as defined above. In addition the Hearing Officer(s) may decide any other questions of conduct, policy or rule violations that are related to the alleged harassment. The decision shall be in writing and simultaneously sent to each party. The decision shall include:

- A statement of the conduct alleged to have been sexual harassment
- A description of the procedural steps taken from the receipt of the formal complaint through the making of the determination
- A statement of the factual findings made by the Hearing Officer(s) that support the decision
- A statement of how the code of conduct and/or sexual harassment policy apply to the facts as found
- A statement of the rationale for the result as to each allegation.

If the Hearing Officer(s) are also the university officials with the authority to determine sanctions to be imposed on a Respondent found to be responsible, then a statement of the sanctions to be imposed. If authority to impose sanctions on the particular respondent rests in a different official or body, the Hearing Officer(s) may, but are not required to, make a recommendation of appropriate sanctions to the appropriate university official or body.

- A statement of the applicable process for either party to file an appeal and the permissible grounds for an appeal.

The decision of the hearing officers will become final either upon the expiration of the time for appeal with no appeal being filed, or upon the determination of any appeal which is filed.

#### APPEALS

Appeals of determinations of responsibility

Either party to a hearing may appeal the decision of the Hearing Officer(s) as to responsibility for a violation or a decision by the Title IX coordinator to dismiss a formal complaint upon the following grounds:

- A procedural irregularity materially affected the outcome
- The party has new evidence which was not reasonably available at the time the determination or dismissal occurred, and the new information could affect the outcome of the matter; or

- The Title IX Coordinator, investigator(s) or Hearing Officers had a conflict of interest or a bias specific to the party or to a class to which the party belongs and that the bias affected the outcome of the proceedings.

In matters involving a student Respondent for conduct that occurred in his role as a student, appeals shall be filed with the Office of the Provost no later than 3 working days after the determination is sent to the parties. In matters involving a Respondent who is a faculty member, Appeal shall be in accordance with Article XVI of the University Faculty By-laws.

In matters involving an employee Respondent(s), the appeal shall be filed within 3 working days of the Hearing Officer's decision, and shall be filed with the office of the Provost to be decided by the Provost or the Provost's designee.

#### Appeals of decisions to impose interim restrictions

Appeals from a decision to remove a student or faculty Respondent from campus or otherwise restrict such a Respondent's access to campus or the University's educational programs/activities pending a final determination shall be made to the Office of the Provost. The appeal shall be made promptly after notice to the Respondent of the interim measure or promptly after a change in circumstances that the Respondent believes warrants reconsideration of the interim measure. The appeal must be in writing and state the basis upon which the student or faculty member disputes the appropriateness of the interim measure taken. Decisions of the Provost, or the Provost's designee, shall be final.

Appeals as to a decision regarding a non-faculty employee shall be made to the Office of the Provost. The appeal shall be made promptly after notice to the Respondent of the interim measure or promptly after a change in circumstances that the Respondent believes warrants reconsideration of the interim measure. The appeal must be in writing and state the basis upon which the student or faculty member disputes the appropriateness of the interim measure taken. Decisions of the Provost or the Provost's designee, shall be final.

#### ADVISORS

Complainants and Respondents to any formal complaint may have an advisor of their choosing present with them at any interview, meeting or hearing conducted under this process. The advisor may, but is not required to be a member of the University community, and may but is not required to be an attorney. If a party has not designated an advisor at the time of the hearing, the University will appoint an advisor of its choosing for purposes of the hearing. The duties of an advisor so appointed shall be limited to asking questions of the other party or witnesses on behalf of the party during the hearing.

Advisors are required to behave consistently with University policies, rules, regulations and codes of conduct applicable to them. Advisors from outside the University community will be required to sign an agreement to abide by the University's policies prohibiting harassment, discrimination, and disorderly or disruptive conduct while on campus. In addition, advisors who are not university officials subject to FERPA directly, shall be required to sign an agreement to maintain the confidentiality of any information or evidence shared with them pursuant to this policy, and to use any such information solely for the purpose of advising their Complainant or Respondent advisee as to the investigation and hearing, and no other purpose.

Advisors, whether community members or not, may be subject to sanctions imposed by the Hearing Officer for misconduct that occurs in the course of an investigation or hearing.

#### POTENTIAL BIAS AND RECUSAL

All university personnel acting as the Title IX Coordinator, an investigator, a Hearing Officer or Appellate reviewer are expected to be free from conflicts of interest or bias. If any of the above mentioned are aware of a conflict of interest or the existence of a bias that could affect the outcome of the investigation, hearing or appeal, they must either recuse themselves or disclose the conflict/bias to the parties. Only if both parties agree to waive the disclosed conflict/potential bias shall the person so affected continue to fulfill their role in the investigation or hearing.

If a party to a formal complaint believes that any of the investigators or decision makers involved in the investigation or hearing of the formal complaint has a conflict of interest or a bias that could materially affect the outcome of the process, the party may request the person so affected to recuse themselves from the proceedings. If the person believed to have a conflict or bias declines to recuse themselves, then the party may file a written request to disqualify the person with the Title IX Coordinator to determine whether a conflict or bias exists. The request to recuse or disqualify must be supported by specific explanation and evidence supporting the belief that a conflict or bias exists. (If the request to disqualify pertains to the Title IX Coordinator, then the request shall be made to the Office of the Provost).

#### Interim Supportive Measures

At any time prior to the final resolution of a report, the University may implement, either at the request of the alleged victim or on its own initiative, interim measures that are designed to promote a healthy and safe environment while the resolution process is continuing. Examples of these measures include:

- Changes in academic, living, dining, transportation and working situations
- A campus No Contact Order
- Honoring on campus an order of protection issued by a civil or criminal court
- Accommodations to ameliorate the effect of the alleged harassment on the alleged victim's participation in the University's educational programs.
- Supportive measures which would unreasonably restrict another community member's participation in the University's educational programs (e.g. expulsion, exclusion from a program or campus) can normally be imposed only after a hearing and finding of responsibility or if a direct threat to physical safety exists.

#### Retaliation and Interference in the Reporting and Resolution Process

Lewis University strictly prohibits any retaliation against anyone who in good faith reports, assists in reporting, or participates in the investigation and/or resolution of an alleged violation of the sexual misconduct policy.

Retaliation includes, but is not limited to: intimidation, threats, harassment, or other adverse action. Lewis University also prohibits efforts to interfere in the process by intimidating, bribing or otherwise



attempting to unfairly influence persons who to withdraw reports or complaints or to withhold or alter any information relevant to the resolution of any alleged violation of this policy. Reports of retaliation or interference will be addressed in the student conduct process and may result in sanctions up to and including disciplinary suspension or expulsion from the University.

#### Immunity for Alleged Victims

Although the University does not condone violations of University policies, it considers reporting and proper resolution of sexual assaults to be of paramount importance. Therefore, in cases involving sexual misconduct, the University will extend limited immunity to community members who report, participate in the investigation or resolution of complaints or who provide assistance to victims of sexual misconduct. for violations of other University policies (for example underage drinking) in order to foster reporting and fair adjudication of sexual misconduct.

This immunity will not extend to egregious violations or those that threatened community health and safety.

#### Support Services

The following on-campus support services are available to assist community members affected by sexual misconduct or allegations thereof.

Center for Health & Counseling Services Lower Level of Mother Teresa Hall (815) 836-5455

Office of Student Services, Ground Level of the Learning Resource Center (815) 836-5275

University Ministry Sancta Alberta Chapel (815) 836-5550

The following off-campus victim support services are available to assist the victim:

Provena St. Joseph Medical Center 333 N. Madison St., Joliet, IL (815) 725-7133

Silver Cross Hospital 1900 Silver Cross Blvd New Lenox, IL 60541 (815) 300-1100

Adventist Bolingbrook Hospital 500 Remington Boulevard Bolingbrook, IL (630) 312-5000 Groundwork Domestic Violence Hotline (24 hour) (815) 729-1228 [www.gacsprograms.org/](http://www.gacsprograms.org/)

Guardian Angel Sexual Assault Hotline (24 hour) (815)730-8984 [www.gacsprograms.org/](http://www.gacsprograms.org/)

Rape, Abuse and Incest National Network (RAINN) (800) 656-4673 (24 hour) [www.RAINN.org](http://www.RAINN.org)

National Domestic Violence Hotline (800) 799-7233 (24 hour) [www.thehotline.org](http://www.thehotline.org)

Love Is Respect text (866) 331-9474 (24 hour) [www.loveisrespect.org](http://www.loveisrespect.org)

Illinois Coalition Against Domestic Violence (ICADV) (217) 789-2830 [www.ilcadv.org](http://www.ilcadv.org)

Illinois Coalition Against Sexual Assault (ICASA) (217) 753-4117 [www.icasa.org](http://www.icasa.org)

#### Sanctions

Lewis University will act to promptly and equitably remedy sexual misconduct found to have occurred.

Students who are found in violation of this policy are subject to sanctions which will vary with the severity of the violation, the degree of culpability, the likelihood of future harm to the complaining party or other community members, and any other relevant factors. Sanctions imposed may include, warnings, probation, suspension, or expulsion. A complete listing of possible sanctions is listed later in this handbook.

In acting to sanction and remedy misconduct, Lewis is guided by the need to bring an end to discriminatory conduct, act to reasonably prevent its future reoccurrence, and to remedy the effects of the discrimination upon the victim and the University community.

This policy has been revised by the National Center for Higher Education Risk Management [www.ncherp.org](http://www.ncherp.org). Some language used here may be from proprietary NCHERM model policies, and is used with permission. Please seek permission from NCHERM to use or adapt its materials referred 27189610.1\135440-00022

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