Student-on-Student Sexual and Interpersonal Misconduct Policy and Protocol

I. Introduction
Loyola Marymount University recognizes the significant, unacceptable and nationwide existence of sexual and interpersonal misconduct on college campuses. LMU is dedicated to the prevention of such misconduct and to providing a caring, supportive and effective response when such misconduct occurs. Accordingly, LMU encourages Students and University Community members to report such misconduct so that the University can take appropriate responsive action.

Title IX of the Education Amendments of 1972 (“Title IX”) is a federal civil rights law that prohibits discrimination on the basis of sex in education, programs and activities. Under Title IX, discrimination on the basis of sex can include student-on-student Sexual Harassment or Sexual Assault including sexual violence, rape, sexual battery, sexual coercion, Sexual Exploitation and unwelcome intrusion into another’s sexual seclusion or privacy, as well as interpersonal misconduct including Dating Violence, Domestic Violence and Stalking. The Division of Student Affairs has established this Student-on-Student Sexual & Interpersonal Misconduct Policy & Protocol to assist and respond to complaints of student-on-student sexual and interpersonal misconduct.

Students should report all forms of sexual misconduct (student-on-student; student and non-student; faculty/staff-on-student) and interpersonal misconduct to a Student Affairs professional staff member, the Senior Vice President for Student Affairs, the Title IX Coordinator or by filing a report with the LMU Department of Public Safety, 310.338.2893/222 emergency line on campus).

A Student Conduct Code case for alleged student-on-student sexual or interpersonal misconduct will be initiated and adjudicated.

Sexual or interpersonal misconduct involving a Student and any non-student in the University Community is handled under the LMU Discriminatory Harassment and Complaint Process.

All persons, including University faculty and staff, are prohibited from taking any retaliatory action against any other member of the University Community including, but not limited to, the Complainant, Respondent or witnesses to an alleged incident of sexual or interpersonal misconduct. Any Student engaging in any retaliatory action(s) will be subject to discipline under the Student Conduct Code and appropriate sanctions for determined violations may include dismissal from the University.

Retaliation by non-students will be adjudicated and determined in accordance with the LMU Discriminatory Harassment and Complaint Process. Any Student who believes that they have been retaliated against for having filed, or being named in, a complaint for sexual or interpersonal misconduct or having participated in the investigation of such a complaint, should promptly notify the Department of Public Safety at 310.338.2893. Any person who believes that they have been retaliated against by a staff member should notify Human Resources at 310.338.2723. Any person who believes that they have been retaliated against for the above mentioned reasons by a faculty member on behalf of the University should notify Academic Affairs at 310.338.2733.

For additional information on sexual and interpersonal misconduct awareness, prevention and training, including bystander intervention, programming and events on campus intended to bring awareness to these issues and opportunities for you to get involved, please visit LMU CARES at lm.edu/lmucares, or call 310. 258.4381.

II. Policy
A. Under Title IX, schools are mandated to respond to two forms of sex-based harassment: Sexual Harassment and gender-based harassment. According to Title IX, Sexual Harassment is broadly defined as unwelcome conduct of a sexual nature. It includes unwelcome sexual advances, requests for sexual favors and other verbal, nonverbal or physical conduct of a sexual nature including sexual violence. This policy applies to all Students, regardless of sexual orientation or gender identity. Under this policy, sexual misconduct includes all forms of Sexual Harassment under Title IX including sexual violence, such as rape, Sexual Assault, sexual abuse, sexual battery and sexual coercion. Interpersonal misconduct includes Dating Violence, Domestic Violence and Stalking. All forms of sexual and interpersonal misconduct are unacceptable and will not be tolerated, including acts that occur off campus.

Any Student alleged to have participated in sexual or interpersonal misconduct will be referred to the Office of Student Conduct & Community Responsibility (OSCCR) and, if found responsible, will be subject to disciplinary action. Complainants of sexual and interpersonal misconduct are not required to be members of the LMU community; they may
be third parties or others unaffiliated with the University. If a Complainant chooses not to participate in the University conduct process, the University reserves the right to initiate the conduct process if, in the opinion of OSCCR, sufficient evidence exists without the participation of the Student Complainant to present the case to the Conduct Officers and obtain a determination of a violation by the putative Respondent utilizing the Preponderance of the Evidence standard. Outcomes related to sexual and interpersonal misconduct cases run the full spectrum as outlined in Section IV of the Student Conduct Code, and include disciplinary warning through suspension or dismissal from the University.

B. All alleged incidents of student-on-student sexual and interpersonal misconduct will be adjudicated in accordance with the Student Conduct Code utilizing the Preponderance of the Evidence standard and will involve a hearing with cross examination. Student Conduct Code proceedings shall be prompt, fair and impartial and adjudicated by officials that have received regular training regarding incidents of this nature.

C. In cases alleging sexual and interpersonal misconduct the Senior Vice President for Student Affairs, or designee, may take interim measures, including, but not limited to, academic, residential, transportation and/ or employment accommodations, intended to ensure the well-being of the Complainant, the Respondent, the investigatory process and/or the University Community while the complaint is being investigated and prior to the determination on the charge. Any such interim measures shall not be referred to or offered as evidence at the hearing on the underlying charge. Any such interim measures shall be designed and implemented in a manner intended to achieve their purpose while at the same time limiting, to the extent practicable, any adverse effect to the Complainant’s and/or Respondent’s educational program. Any such interim measures shall remain confidential, to the extent practicable to achieve the measure. Both Complainant and Respondent will receive written notification of their access to interim measures.

D. Both Complainant and Respondent will receive written notification of their rights and options in regards to the Student conduct process. Both Complainant and Respondent will also receive written notification of available on and off campus counseling, health, mental health, victim advocacy, legal assistance, visa and immigration assistance, student financial aid and other services offered by the University and other local organizations.

E. No Contact Orders (NCO) will also be utilized by the Department of Public Safety both during the investigation and through the completion of the disciplinary process. Both parties will be expected to sign a document stating their awareness of the NCO and the stipulations of no contact, however failure or refusal to sign an NCO by either party does not impact the enforcement of the NCO. Public Safety will provide information about available community resources.

F. In line with the Good Samaritan Policy found in this Community Standards Booklet, violations of the Student Conduct Code regarding underage or excessive consumption of alcohol and/or marijuana or use or possession of illegal substances will not be utilized to commence disciplinary proceedings against a Complainant if the information is divulged through the process of reporting sexual or interpersonal misconduct. The University does reserve the right to refuse to grant amnesty to reporters under certain extenuating circumstances. Criminal investigations and other police action may still occur at the discretion of the law enforcement agency responding to the incident.

G. Student Conduct Code proceedings respecting alleged incidents of sexual and interpersonal misconduct will in the first instance be adjudicated by a panel of not less than two staff Conduct Officers. These Conduct Officers will be regularly trained in the adjudication of these types of incidents. A pre-hearing meeting will be scheduled separately with both the Complainant and the Respondent, where both parties will be permitted to review the Department of Public Safety investigatory report and supporting evidence, identify additional Witnesses and ask questions about the conduct process. All Student Conduct Code proceedings involving allegations of sexual and interpersonal misconduct will include a hearing with cross examination. Complainants and Respondents will be permitted to ask questions of the opposing party and Witnesses.

All Conduct Officers receive training regarding the adjudication of sexual and interpersonal misconduct. For information regarding what training is conducted please contact OSCCR at 310.338.1821.

H. Prior sexual history of Complainant or Respondent with people outside of each other will not be utilized as evidence in these disciplinary proceedings.

I. Once a Student Conduct Code determination of the charges has been made, a determination notification letter will be concurrently sent to Complainant and Respondent.

J. Complainants are encouraged to report all instances of sexual or interpersonal misconduct regardless of the amount of time that has passed since the alleged misconduct occurred. The University reserves the right to take
III. Definitions

A. For purposes of this policy, **Sexual Assault** is defined as engaging in sexual intercourse, or any of the sexual activities listed below, with another person without that person's consent. Sexual Assault includes, but is not limited to, rape, sexual battery, anal intercourse, oral copulation or penetration of a body cavity by a foreign object. Sexual intercourse includes the penetration, however slight, of the vagina or anus with any object or body part and of the mouth with a body part and/or object in a sexual manner.

B. For purposes of this policy, **Sexual Harassment** is defined as unwelcome conduct of a sexual nature including, but not limited to, unwelcome sexual advances, requests for sexual favors, and other unwelcome verbal, nonverbal, auditory, visual, recording, transmission or display of sexual matters or materials or physical conduct of a sexual nature, such as making contact with an intimate body part (including, but not limited to: the mouth; the sex organs; the anus; the groin; the buttocks and/or the breasts) of another person without that person's consent, including as a result of sexual coercion. A sexually hostile environment exists when Sexual Harassment is so continuous and pervasive that it interferes with or limits a student's ability to participate in, or benefit from, the University's educational program.

For purposes of this policy, Sexual Harassment includes, but is not limited to, invasion of sexual privacy, audio or video recording or photographing of a sexual nature utilizing webcam, camera, Internet exposure, etc., without knowledge and consent of all persons, going beyond the boundaries of consent (such as letting another person hide and watch you have consensual sex without the knowledge of the other party), engaging in unconsented voyeurism, coercing another against their will to expose their genitals or breasts and prostituting another person.

D. **Consent** is defined as the unambiguous and willing participation or cooperation in act, behavior or attitude that is commonly understood to be consistent with the exercise of free will. It is the responsibility of each person involved in the sexual activity to ensure that he or she has the affirmative Consent of the other(s) to engage in the sexual activity. Consent requires participants who are lawful adults, fully conscious, equally free and legally competent to act, have clearly communicated their willingness, cooperation or permission to participate in the specific sexual activity engaged in, are positive and clear about their desires and are able to cease ongoing consensual activity at any time. Refusal to Consent does not have to be verbal; it can be expressed with clear gestures, body language or attitude. Lack of protest or resistance does not mean Consent, nor does silence mean Consent. Prior sexual history between the Complainant and Respondent, by itself, does not constitute Consent, nor does consenting to sexual activity with one person imply Consent to sexual activity with another person.

1. Consent is not freely given if:

   a. It is obtained through the use of force, through the fear of or the threat of force, through the abuse of a power position over another (Such as employment status or position within an organization) or by kidnap, or

   b. A reasonable person, in the position of the alleged perpetrator at the time the alleged conduct occurred, should have known that the other person was unable to give Consent for any of the following reasons:

      i. The individual is unable to make an informed decision as a result of the use of alcohol, drugs or other substances (including, but not limited to, predatory drugs or prescribed medications); or

      ii. The individual is unable to consciously respond for whatever reason including lack of consciousness, sleep, illness or shock; or

      iii. The individual is under the age of 18 and therefore legally incapable of giving Consent; or
iv. The individual is known by reason of impairment, mental condition or developmental or physical disability to be reasonably unable to Consent.

c. The individual has acted or spoken in a manner that expresses a lack of Consent or a refusal to Consent.

2. The following are invalid excuses for failing to obtain affirmative Consent from the Complainant:

a. The Respondent's belief in affirmative Consent arose from the intoxication or recklessness of the Respondent; or

b. The Respondent did not take reasonable steps, in the circumstances known to the Respondent at the time, to ascertain whether the Complainant affirmatively consented.

E. For purposes of this policy, Domestic Violence is defined as a felony or misdemeanor crime 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 cohabited with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under California law or by any other person against an adult or youth victim who is protected from that person's acts under California law.

F. For purposes of this policy, Dating Violence is defined as violence committed by a person:

1. Who is or has been in a social relationship of a romantic or intimate nature with the victim; and

2. Where the existence of such a relationship shall be determined based on the Complainant's statement and with consideration of the following factors:

   a. The length of the relationship;

   b. The type of the relationship;

   c. The frequency of interaction between the persons involved in the relationship.

Dating Violence includes, but is not limited to, sexual or physical abuse or threat of such abuse. Dating Violence does not include acts covered under the definition of Domestic Violence.

G. For purposes of this policy, Stalking means engaging in a course of conduct directed at a specific person(s) that would cause a reasonable person under similar circumstances and with similar identities to the Complainant to fear for their safety or the safety of others, or suffer substantial emotional distress.

For the purposes of this definition course of conduct means two or more acts, including, but not limited to, acts in which the stalker directly, indirectly or through third parties, by any action, method, device or means, follows, monitors, observes, surveils, threatens or communicates to or about a person or interferes with a person's property.

For the purposes of this definition substantial emotional distress means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling.

H. “Complainant” means the individual(s) who file(s) a Student Conduct Code complaint with the University.

I. “Hostile Environment” is defined as any situation in which there is harassing conduct that is sufficiently severe, pervasive and objectively offensive that it limits, interferes with or denies educational benefits or opportunities, from both a subjective (the Complainant's) and an objective (reasonable person's) viewpoint.

J. “Respondent” means the individual(s) against whom a Student Conduct Code complaint is made.

K. “Retaliation” means adverse, non-permitted action taken by an individual or a third party against a person who reports a violation of this policy, assists someone with a report of a violation of this policy or participates in any manner in an investigation or resolution of a report of a violation of this policy. Retaliation may, among other non-permitted conduct or behaviors, include threats, intimidation, coercion, Harassment, spreading negative information about an individual, exclusions from academic and non-academic programs and/or adverse actions related to employment.

IV. California Law

The following excerpts are only partially explanatory of certain California laws pertaining to sexual and interpersonal misconduct. These excerpts are not intended to be an exhaustive description or list of California laws pertaining to sexual misconduct, inappropriate or criminal sexual behavior or interpersonal misconduct.

A. Excerpts from Sections 11165.1 and 261 of the California Penal Code: Sexual Assault includes rape, statutory rape, rape in concert, incest, sodomy, lewd or lascivious acts upon a child, oral copulation, sexual penetration, child molestation and the following:
1. Penetration, however slight, of the vagina or anal opening of one person by the penis of another person, whether or not there is emission of semen.

2. Sexual contact between the genitals or anal opening of one person and the mouth or tongue of another person.

3. Intrusion by one person into the genitals or anal opening of another person, including the use of an object for this purpose, except that, it does not include acts performed for a valid medical purpose.

4. The intentional touching of the genitals or intimate parts, including the breasts, genital area, groin, inner thighs and buttocks or the clothing covering them, of a child, or of the perpetrator by a child, for purposes of sexual arousal or gratification, except that it does not include acts which may reasonably be construed to be normal caretaker responsibilities; interactions with, or demonstrations of affection for, the child; or acts performed for a valid medical purpose.

5. The intentional masturbation of the perpetrator's genitals in the presence of a child.

Rape is an act of sexual intercourse accomplished with a person not the spouse of the perpetrator, under any of the following circumstances:

1. Where a person is incapable, because of a mental disorder or developmental or physical disability, of giving legal Consent, and this is known or reasonably should be known to the person committing the act.

2. Where it is accomplished against a person’s will by means of force, violence, duress, menace or fear of immediate and unlawful bodily injury on the person or another.

3. Where a person is prevented from resisting by any intoxicating or anesthetic substance, or any controlled substance, and this condition was known, or reasonably should have been known by the accused.

4. Where a person is at the time unconscious of the nature of the act, and this is known to the accused.

As used in this paragraph, “unconscious of the nature of the act” means incapable of resisting because the victim meets one of the following conditions:

a. Was unconscious or asleep.

b. Was not aware, knowing, perceiving or cognizant that the act occurred.

c. Was not aware, knowing, perceiving or cognizant of the essential characteristics of the act due to the perpetrator’s fraud in fact.

d. Was not aware, knowing, perceiving or cognizant of the essential characteristics of the act due to the perpetrator’s fraudulent representation that the sexual penetration served a professional purpose when it served no professional purpose.

5. Where a person submits under the belief that the person committing the act is someone known to the victim other than the accused, and this belief is induced by any artifice, pretense or concealment practiced by the accused, with the intent to induce the belief.

6. Where the act is accomplished against the victim’s will by threatening to retaliate in the future against the victim or any other person, and there is a reasonable possibility that the perpetrator will execute the threat. As used in this paragraph, “threatening to retaliate” means a threat to kidnap or falsely imprison, or to inflict extreme pain, serious bodily injury or death.

7. Where the act is accomplished against the victim’s will by threatening to use the authority of a public official to incarcerate, arrest or deport the victim or another, and the victim has a reasonable belief that the perpetrator is a public official. The perpetrator does not actually have to be a public official.

California law also states that “The essential guilt of rape consists in the outrage to the person and feelings of the victim of the rape. Any sexual penetration, however slight, is sufficient to complete the crime” (Penal Code section 263). California law further defines both marital rape (Penal Code section 262) and “statutory rape” (Penal Code section 261.5).

Though laws vary from state to state, intercourse in which Consent was not obtained or was obtained under coercive conditions will usually be considered rape.

B. Excerpt from Section 67386 of the California Education Code:

The governing boards of independent postsecondary institutions shall adopt a policy concerning Sexual Assault, Domestic Violence, Dating Violence and Stalking, as defined in the federal Higher Education Act of 1965 involving a Student, both on and off campus. This policy shall include an affirmative Consent standard in the determination of whether Consent was given by both parties to sexual activity.
“Affirmative Consent” means affirmative, conscious and voluntary agreement to engage in sexual activity. It is the responsibility of each person involved in the sexual activity to ensure that they have the affirmative Consent of the other or others to engage in the sexual activity. Lack of protest or resistance does not mean Consent, nor does silence mean Consent. Affirmative Consent must be ongoing throughout a sexual activity and can be revoked at any time. The existence of a dating relationship between the persons involved, or the fact of past sexual relations between them, should never by itself be assumed to be an indicator of Consent.

C. Excerpts from Section 261.6 and 261.7 of the California Penal Code:

In prosecutions under Section 261, 262, 286, 287 or 289, in which Consent is at issue, “Consent” shall be defined to mean positive cooperation in act or attitude pursuant to an exercise of free will. The person must act freely and voluntarily and have knowledge of the nature of the act or transaction involved.

A current or previous dating or marital relationship shall not be sufficient to constitute Consent where Consent is at issue in a prosecution under Section 261, 262, 286, 287 or 289. Nothing in this section shall affect the admissibility of evidence or the burden of proof on the issue of Consent. In prosecutions under Section 261, 262, 286, 287 or 289, in which Consent is at issue, evidence that the victim suggested, requested or otherwise communicated to the defendant that the defendant use a condom or other birth control device, without additional evidence of Consent, is not sufficient to constitute Consent.

D. Excerpts from Section 646.9 of the California Penal Code:

Any person who willfully, maliciously and repeatedly follows or willfully and maliciously harasses another person and who makes a credible threat with the intent to place that person in reasonable fear for their safety, or the safety of their immediate family is guilty of the crime of Stalking, punishable by:

1. Imprisonment in a county jail for not more than one year, or
2. By a fine of not more than $1,000, or
3. By both that fine and imprisonment, or by imprisonment in the state prison.

For the purposes of this section, “harasses” means engages in a knowing and willful course of conduct directed at a specific person that seriously alarms, annoys, torments or terrorizes the person, and that serves no legitimate purpose. For the purposes of this section, “course of conduct” means two or more acts occurring over a period of time, however short, evidencing a continuity of purpose. Constitutionally protected activity is not included within the meaning of “course of conduct.”

E. Excerpts from Section 13700 of the California Penal Code and 6211 of the California Family Code:

“Domestic Violence” means abuse committed against an adult or a minor who is a spouse, former spouse, cohabitant, former cohabitant or person with whom the suspect has had a child or is having or has had a dating or engagement relationship, a child of a party or a child who is the subject of an action under the Uniform Parentage Act, where the presumption applies that the male parent is the father of the child to be protected or any other person related by consanguinity or affinity within the second degree.

For purposes of this subdivision, “cohabitant” means two unrelated adult persons living together for a substantial period of time, resulting in some permanency of relationship. Factors that may determine whether persons are cohabiting include, but are not limited to:

1. Sexual relations between the parties while sharing the same living quarters;
2. Sharing of income or expenses;
3. Joint use or ownership of property;
4. Whether the parties hold themselves out as spouses;
5. The continuity of the relationship; and
6. The length of the relationship.

V. Complainant/Respondent Rights

A. Complainants and Respondents in a sexual or interpersonal misconduct case have the right to:

1. Access to an Advisor, if they do not have one of their own choosing, to assist with the conduct process. Complainants and Respondents may select the Advisor of their choice, regardless of family relationship or lack of affiliation to the University (see section IX for more details);
2. Receive a written notification of available on-and off-campus counseling, health, mental health, victim advocacy, legal assistance, visa and immigration assistance, Student financial aid and other services available as well as notification of the procedures for institutional
disciplinary action and their rights and options as defined in sexual and interpersonal misconduct cases;

3. Make a complaint to the Department of Public Safety;

4. File a police report and take legal action separate from and/or in addition to filing a Student Conduct Code complaint seeking disciplinary action;

5. Be informed of the disciplinary finding (responsible or not responsible) in writing;

6. Present material Witnesses to the alleged incident;

7. Appeal rights as outlined in the Student Conduct Code (Section VIII);

8. Opportunity to cross examine the opposing party and any Witnesses to determine credibility of information;

9. Refuse any/all of the above. If Complainant refuses to participate in a hearing with cross examination, the University will not proceed with the conduct process unless sufficient evidence exists without the participation of the Student Complainant. If Respondent refuses to participate in a hearing with cross examination, the University will nonetheless proceed with the conduct process and, if supported by the evidence presented, hold the Respondent accountable for proved violations of the subject Student Conduct Code charges.

VI. Title IX

A. Under Title IX, LMU has a responsibility to respond promptly and equitably to address Sexual Harassment, sexual violence and interpersonal misconduct. If LMU knows or reasonably should know about Sexual Harassment, sexual violence or interpersonal misconduct that creates a hostile environment, LMU must take action to eliminate the Sexual Harassment, sexual violence or relationship misconduct, prevent its recurrence and address its effects.

LMU encourages prompt reporting of crime to Public Safety and/or law enforcement. Even if a Student elects not to file a Student Conduct Code complaint, does not request that LMU take any action on the Student’s behalf or is unable to make a report to LMU and/or law enforcement, if LMU knows or reasonably should know about possible Sexual Harassment, sexual violence or interpersonal misconduct, LMU must promptly investigate to determine what occurred and then take appropriate steps to resolve the situation. In appropriate circumstances, LMU may report crimes to law enforcement when a victim decides not to report or cannot report the crime.

Questions about Title IX or this policy may be directed to the Title IX Coordinator, Sara Trivedi, in Human Resources, who can be reached at 310.568.6105 or Strivedi@lmu.edu. The Title IX Coordinator is notified of reported incidents of sexual and interpersonal misconduct and monitors the University’s response to such misconduct. Deputy Title IX Coordinators include:

1. Lisa Grant, Human Resources Specialist—Investigations: Lisa.Grant@lmu.edu

2. Francesca Piumetti, Associate Dean of Students: Francesca.Piumetti@lmu.edu

3. Maria Behm, Senior Associate Athletics Director Business Affairs: Maria.Behm@lmu.edu

B. How do I file a complaint with the U.S. Department of Education, Office for Civil Rights?

If you believe that Loyola Marymount University does not respond appropriately to your allegations of Sexual Assault, harassment or misconduct after you have filed a report with Public Safety, Residence Life or gone through the conduct process, you have the option to file a complaint with the Office for Civil Rights.

1. You may file a complaint:

   a. In person: via telephone 800.421.3481; or

   b. Online: via e-mail: OCR@ed.gov; or

   c. By mail; write letter to:

   U.S. Department of Education Office for Civil Rights

   Lyndon Baines Johnson Department of Education Building

   400 Maryland Avenue, S.W.

   Washington, D.C. 20202-1100

2. For more information about filing a complaint please visit:

   www2.ed.gov/about/offices/list/ocr/complaintintro.html

VII. Confidentiality

A. Title IX requires all universities to identify “responsible employees” as those who are obligated to report all details of an incident, including the identities of those involved, to the Department of Public Safety whenever that information is
brought forward to the employee. The Department of Public Safety will notify the Title IX Coordinator when a report has been filed.

Students reporting an incident of sexual or interpersonal misconduct to a responsible employee may request confidentiality. Students should be aware that if they request confidentiality, then the University’s ability to effectively investigate and adjudicate the instance(s) of sexual or interpersonal misconduct may be impaired. The University cannot guarantee confidentiality in this instance, and the following factors will be considered by the Title IX Coordinator in consultation with the Senior Vice President for Student Affairs, or designee, in determining whether the confidentiality request can be honored or if an investigation is necessary:

1. The Respondent has known prior allegations of sexual or interpersonal misconduct and a potential for a campus safety risk exists; or

2. The location in which the alleged incident occurred is a location where previous complaints of sexual or interpersonal misconduct occurred creating the potential for an unsafe environment for the LMU community; or

3. A threat to the campus community at large has been identified; or

4. A frequency or pattern is detected that suggests an unsafe environment exists for the LMU Community or an LMU community member; or

5. The sexual or interpersonal misconduct was perpetrated with a weapon; or

6. The victim is a minor; or

7. Some combination of the above factors exists.

If the decision is made that confidentiality cannot be honored, then the University will only inform the necessary individuals and entities on campus required to perform a thorough investigation and adjudication of the complaint.

B. Responsible employees include faculty, administrative staff and some student staff. Responsible employees do not include the following:

1. Professional, licensed counselors, such as the psychologists at Student Psychological Services (SPS), 310.338.2868, are not required to report any information regarding an alleged sexual or interpersonal misconduct, to the Department of Public Safety, the Title IX Coordinator or any other reporting body, without consent from the Student.

Pastoral counselors, such as Catholic priests and women religious, are not required to report any information regarding an alleged sexual or interpersonal misconduct, to the Department of Public Safety, the Title IX Coordinator or any other reporting body, without Consent from the Student provided they receive the information in performance of their pastoral duties.

2. Student Health Services (SHS) Staff, such as doctors and nurse practitioners at SHS 310.338.2881, are not required to report any information regarding an alleged sexual or interpersonal misconduct, to the Department of Public Safety, the Title IX Coordinator or any other reporting body on campus, without Consent from the Student. The SHS Staff will be required to report signs of physical or sexual abuse to law enforcement.

3. LMU Community Resource Advisors (LMU CRAs), whose names can be found on the LMU CARES website (lmu.edu/lmucares), may speak with Students regarding incidents of sexual and interpersonal misconduct without automatically triggering a University investigation into the matter. These individuals do have time and place reporting responsibilities under the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (Clery Act), but are not obligated to report identifying information of the Complainant. If the Respondent’s name is presented to an LMU CRA, they will be obligated to report that information to the Title IX Coordinator. Reports by the LMU CRA will not trigger a University investigation unless the Title IX Coordinator, in consultation with the Senior Vice President for Student Affairs, or designee, determines that an investigation is necessary because of the existence of one or more of the factors described in Section VII (A).

VIII. Student Affairs Resource Administrators

When an allegation of sexual or interpersonal misconduct is brought to the attention of LMU, the Associate Dean of Students, or designee, will assign a Student Affairs Resource Administrator (SARA) to both the Complainant and Respondent (if a Respondent has been identified). The SARAs will make themselves available, separately, to assist both the Complainant and Respondent in identifying University and external resources that are available to them in the context of alleged sexual or interpersonal misconduct. SARAs will also review with Complainants what interim measures may be available to them (as outlined in Section II(C) of this policy). Complainants will be assigned a SARA regardless of whether they provide LMU with the name of the Respondent or willingly participate in the conduct
process. The SARAs are members of the Division of Student Affairs who are trained to assist the parties in identifying University and external resources and explaining the University's conduct process in cases of alleged Student Conduct Code violations relating to sexual and interpersonal misconduct. The role of the SARA is to:

A. Provide information, in writing, regarding resources on and off campus such as SPS, SHS, Student Housing, Department of Public Safety, proper law enforcement authorities, Rape Treatment Center at Santa Monica-UCLA Medical Center, Campus Ministry and the OSCCR;

B. Explain all stages of the LMU Student Conduct Code process, including potential outcomes for both Complainant and Respondent;

C. Provide information, explanation and review so that the parties can make an informed decision about the options available to them, including reporting to law enforcement, filing and responding to Student Conduct Code complaints, documenting their decisions and requesting interim measures;

D. Follow up with the Student throughout the Student Conduct Code process and thereafter to ensure that no Retaliation is taking place and to continue to provide the Student access to the resources that the Student requires.

IX. Advisor
In cases of sexual and/or interpersonal misconduct, Complainants and Respondents may choose an Advisor of their choice. If Complainants or Respondents want a trained Advisor from the University community, they may obtain a referral from their assigned SARA. Advisors will assist Students in understanding the conduct process but will not serve as representation for Students in Student Conduct Code proceedings.

If the Student chooses an Advisor for incidents involving sexual and/or interpersonal misconduct, that Advisor is still subject to the requirements set forth in Section VI(D) (3) of the Student Conduct Code.