

Discriminatory Harassment/Retaliation and Sexual and Interpersonal Misconduct Complaint Process

I. Statement of Policy

Loyola Marymount University (LMU) is dedicated to fostering the education of the whole person and strives to provide an environment that encourages the search for truth and freedom of inquiry. The University recognizes the important contribution a diverse community of students, faculty and staff makes towards the advancement of its goals and ideals. The University is committed to providing an environment that is free of discrimination and harassment as defined by federal, state and local law, as well as under this policy. Any violations of this policy will be treated as serious misconduct and result in appropriate disciplinary action up to and including dismissal from the University.

This policy applies to all students, faculty, and staff including, but not limited to: trainees, unpaid interns, volunteers, non-supervisory staff, supervisors, managers, directors and leadership. It is also the policy of the University to protect its students, faculty and staff from unlawful harassment by vendors, guests and other visitors to the University. It is the responsibility of every student, faculty and staff member to follow this policy conscientiously. [Complaints of student-on-student Sexual or Interpersonal Misconduct, including student-on-student sexual harassment, are handled through the [Student Sexual and Interpersonal Misconduct policy](#).]

The University has established this policy to respond to reports of harassment and misconduct consistent with the mission of the University, which seeks to maintain the University's positive academic and employment environment by educating and upholding community standards.

Nothing in this policy should be construed to infringe on the academic freedom of members of the University community and their right to use the academic forum provided by the University either to discuss controversial subjects or to express ideas with which some or most members of the University community strongly disagree.

II. Definitions

These policy definitions are not intended to and do not limit the University's ability to discipline or otherwise respond to conduct which does not necessarily violate the law, but which the University determines is a violation of this policy. As used in this policy, the following terms have the following meanings (all terms defined below are capitalized throughout this policy).

Information regarding state law definitions of some of the

terms below can be found in Appendix "A" – California Law.

Prohibited Conduct

"Discriminatory Harassment" means Discrimination, Harassment, and Sexual Harassment, as defined below.

"Discrimination" means conduct resulting in differential treatment in the terms or conditions of academic achievement or employment based on a legally protected characteristic.

"Harassment" is unwelcome verbal, non-verbal, physical or visual conduct based on any legally protected characteristic, outlined below in Section 3, that has the purpose or effect of unreasonably interfering with academic or work performance or creating an intimidating, hostile or offensive, living, academic or work environment.

"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 or employment benefits or opportunities from both a subjective (the complainant) and objective (reasonable person's) viewpoint.

"Sexual Harassment" for purposes of this policy is unwelcome conduct of a sexual nature that does not meet the definition of Title IX Sexual Harassment including unwelcome sexual advances, requests for sexual favors, and other verbal, non-verbal, physical or visual conduct by a person of either the same or opposite sex where:

1. submission to or rejection of the conduct is made either an explicit or implicit condition of academic achievement and/or employment;
2. submission to or rejection of the conduct is used as the basis for an academic and/or employment decision; or
3. the conduct has the purpose or effect of unreasonably interfering with academic or work performance or creating an intimidating, hostile, or offensive, living, academic, or work environment.

"Interpersonal Misconduct" includes Dating Violence,

Domestic Violence and Stalking, as defined below.

“Dating Violence” means 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 complaining party’s statement 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 the threat of such abuse, however it does not include acts covered under the definition of domestic violence.

“Domestic Violence” means violence committed by a current or former spouse or intimate partner of the victim under the family or domestic violence laws of California and, in the case of victim services, includes the use or attempted use of physical abuse or sexual abuse, or a pattern of any other coercive behavior committed, enabled or solicited to gain or maintain power and control over a victim, including verbal, psychological, economic or technological abuse that may or may not constitute criminal behavior, by a person who is a current or former spouse or intimate partner of the victim, or person similarly situated to a spouse of the victim; is cohabitating or has cohabited with the victim as a spouse or intimate partner, shares a child in common with the victim; or commits acts against an adult or youth victim who is protected from those acts under California law.

“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.

“Retaliation” means adverse, non-permitted action taken 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 can include but is not limited to: threats, intimidation, coercion, harassment, reprisals, defamatory statements about an individual, exclusions from academic and non-academic programs, and/or adverse actions related to employment.

“Sexual Misconduct” is defined as Sexual Assault, Sexual Battery or Sexual Exploitation, that does not constitute Title IX Sexual Harassment, as defined below.

“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 or object in a sexual manner.

“Sexual Battery” means the intentional touching of another person’s intimate parts without Consent, intentionally causing a person to touch the intimate parts of another without Consent, or using a person’s own intimate part to intentionally touch another person’s body without Consent.

“Sexual Exploitation” is sexual misconduct that occurs when a person takes unjust or abusive sexual advantage of another for his or her benefit or for the benefit of anyone other than the exploited party; and that behavior does not otherwise constitute sexual assault. Examples of sexual exploitation include, but are 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.

“Bias-Motivated Incidents” are acts, including but not limited to disseminating racist flyers or defacing a student organization flyer, which do not violate the State Penal Code, but originate in bias against someone’s actual or perceived sex, gender, gender identity and expression, race, color, religion, national origin, ancestry, disability, age, sexual orientation, marital status, military status, veteran status, pregnancy, genetic information or any other protected classification.

“Hate Crimes” are acts of physical force, threats, or intimidation that are willfully or knowingly committed because of the victim’s actual or perceived disability, gender, nationality, race or ethnicity, religion or sexual orientation. Hate crimes are expressed in several ways, sometimes physical violence and sometimes violence against property. (California Penal Code, §§422.55 and 422.6).

General Definitions

“Complainant” means the individual(s) who file(s) a complaint under this policy with the University.

“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 they have the affirmative consent of the other(s) to engage in the sexual activity. Affirmative consent means affirmative, conscious, and voluntary agreement to engage in sexual activity. Consent requires participants who are lawful adults, fully conscious, equally free and legally competent to act, who 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.

Consent is not freely given if:

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

2. 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:

- a. 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);
- b. The individual is unable to consciously respond for whatever reason including lack of consciousness, sleep, illness or shock;
- c. The individual is under the age of eighteen and therefore legally incapable of giving consent; or
- d. The individual is known by reason of impairment, mental condition or developmental or physical disability to be reasonably unable to consent.

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

The following are invalid excuses for failing to obtain affirmative consent from the Complainant:

1. The responding party’s belief in affirmative consent arose from the intoxication or recklessness of the responding party; or
2. The responding party did not take reasonable steps, in the circumstances known to the responding party at the time, to ascertain whether the complaining party affirmatively consented.

“Preponderance of Evidence” means such evidence as when weighed with the evidence opposed to it has more convincing force and the greater probability of truth.

“Respondent” means the individual(s) against whom a complaint under this policy is made.

“Student Reported Sexual Harassment” for this policy means reports of sexual harassment where a student is the complainant and a non-student is the respondent.

“Supportive Measures” means non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available and without fee or charge to the

Complainant or Respondent before or after a complaint under this policy has been received by the University. Such measures are designed to restore or preserve equal access to LMU's education program or activity or employment without unreasonably burdening the other party, including measures designed to protect the safety of all parties, LMU's educational or employment environment and/or deter discrimination, harassment, retaliation, sexual misconduct, or interpersonal misconduct.

"Title IX Sexual Harassment" means unwelcome conduct by an employee conditioning the provision of an LMU educational aid, benefit or service on an individual's participation in unwelcome sexual conduct; or unwelcome conduct on the basis of sex against a person in the United States determined by a reasonable person to be severe, pervasive and objectively offensive that it effectively denies a person equal access to an LMU education program or activity, or "Sexual Assault" as defined in 20 U.S.C. 1092(f)(6)(A)(v), "Dating Violence" as defined in 34 U.S.C. 12291(a)(10), "Domestic Violence" as defined in 34 U.S.C. 12291(a)(8), or "Stalking" as defined in 34 U.S.C. 12291(a)(30).

"University Community" means students, staff, faculty, administration, and religious community members of the University, as well as contract service providers.

"Weapon" means any object or substance designed or utilized to inflict a wound, cause injury or a nuisance or incapacitate including, but not limited to, all firearms, ammunition, chukka sticks, explosives, laser pointers, pellet guns, knives, projectile launchers and chemicals, such as mace or tear gas. This definition also includes decorative, replica and look-alike Weapons that are not functional, but reasonably appear to others to be real Weapons.

"Witness" means any person called upon to furnish relevant knowledge or information relating to an incident who is not a Complainant or Respondent.

III. Policies and Procedures

Prohibited Conduct

The University seeks to ensure a positive living, learning and working environment for all LMU community members. Specifically, this policy prohibits:

- a. Sexual and Interpersonal Misconduct
- b. Hate Crimes and Bias Motivated Incidents,
- c. Discriminatory Harassment on the basis of race, religious creed (including religious dress and grooming practices), color, national origin (including language and

language use restrictions), ancestry, disability (mental and physical) including HIV and AIDS, legally protected medical condition (cancer-related or genetic characteristic), denial of Family and Medical Care Leave, marital status, sex (including pregnancy, childbirth, breastfeeding, and related medical condition), gender, gender identity, gender expression, age 40 or over, military or veteran status, sexual orientation, genetic information or any other bases protected by federal (including but not limited to Title VI and Title VII of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act of 1990), state or local law. Students, faculty and staff should be aware of and avoid actions that others may construe as unwelcome and/or harassing. This policy also prohibits Hate Crimes and Bias Motivated Incidents as defined in this policy, and

d. Retaliation.

[Click [here](#) for Student Conduct Code] [Click [here](#) for Human Resources Policies & Procedures] [Click [here](#) for the Faculty Handbook].

Title IX of the Education Amendments of 1972 and its related federal regulations ("Title IX") is a federal law that prohibits discrimination on the basis of sex in educational programs or activities, and employment. Title IX defines Title IX Sexual Harassment and prescribes how institutions are required to respond to reports of Title IX Sexual Harassment. For more information regarding Title IX and the University policies regarding Title IX, please see the Student Title IX Policy and the Faculty/Staff Title IX Policy.

This policy addresses complaints of Sexual and Interpersonal Misconduct that do not meet the definition of Title IX Sexual Harassment.

Processes for Enforcing this Policy

Complaints against a Student

Complaints of Sexual or Interpersonal Misconduct against a student

Complaints of student-on-student Sexual or Interpersonal Misconduct, including student-on-student sexual harassment, are handled through the [Student Sexual and Interpersonal Misconduct policy](#).

Complaints of Sexual or Interpersonal Misconduct against a student by a faculty or staff member or contract-service provider will be investigated by the EEO Officer or designee who will prepare an investigative report. The investigative

report will be forwarded to the Office of Student Conduct & Community Responsibility (OSCCR) for hearing pursuant to appropriate policies and processes, as determined by OSCCR.

Complaints of Sexual or Interpersonal Misconduct against a student by an individual not affiliated with the university will be investigated by DPS who will prepare an investigative report. The investigative report will be forwarded to OSCCR for hearing pursuant to appropriate policies and processes, as determined by OSCCR.

A student found to have engaged in Sexual or Interpersonal Misconduct will be subject to the sanctions set forth in the [Student Sexual and Interpersonal Misconduct policy](#) up to, and including, dismissal from the University. Violation of this policy may also be subject the student to criminal prosecution or third party civil litigation.

Complaints of Discriminatory Harassment or Retaliation against a student

Complaints of student-on-student Discriminatory Harassment or Retaliation are handled through the [Student Conduct Code](#).

Complaints of Discriminatory Harassment or Retaliation against a student by a faculty or staff member or contract-service provider will be investigated by the EEO Officer or designee who will prepare an investigative report. The investigative report will be forwarded to OSCCR for hearing pursuant to appropriate Student Conduct Code processes, as determined by OSCCR. A student found to have violated this policy will be subject to the sanctions set forth in the Student Conduct Code up to, and including, dismissal from the University.

Other Complaints of Sexual or Interpersonal Misconduct, Discriminatory Harassment and/or Retaliation

Complaints of Sexual or Interpersonal Misconduct

Complaints of Sexual or Interpersonal Misconduct made against a faculty or staff member are subject to the processes described in “Step 1: Intake” and “Step 3: Formal Hearing Process” set forth in this policy, below. For complaints of Sexual or Interpersonal Misconduct, the EEO Officer or designee is charged with the “Intake” procedures set forth below.

A faculty or staff member found to have violated this policy will be subject to disciplinary action up to, and including, dismissal from the University, irrespective of the length of time since the alleged misconduct occurred. Violation of this policy by a faculty or staff member may also subject

the offender to criminal prosecution or third party civil litigation.

Complaints of Sexual or Interpersonal Misconduct made against an individual who is not a student, faculty or staff member are subject to this policy, but will not proceed through the Formal Hearing Process.

Complaints of Discriminatory Harassment or Retaliation

Complaints of Discriminatory Harassment or Retaliation made by or against a faculty or staff member are subject to the processes described in “Step 1: Intake,” “Step 2: Informal Process,” and “Step 3: Formal Hearing Process” set forth in this policy, below. A faculty or staff member found to have violated this policy will be subject to disciplinary action up to, and including, dismissal from the University.

Complaints of Discriminatory Harassment or Retaliation made against an individual who is not a student, faculty or staff member are subject to this policy, but will not proceed through the Formal Resolution processes.

Reporting Allegations of Discriminatory Harassment, Retaliation or Sexual or Interpersonal Misconduct

The objective of this policy is to prevent an environment from developing which unreasonably interferes with a student’s academic endeavors, student work and/or a faculty/staff member’s/contract service provider’s work or has the effect of creating an intimidating, hostile or offensive environment because of such prohibited conduct. It is essential that students, faculty and staff immediately report conduct that is believed to be in violation of this policy. Prompt reporting is necessary in order that timely fact-finding can be conducted about complaints, a problem can be remedied before the situation escalates, and the potential for the spread of harmful rumors can be reduced. Prompt reporting will enable the University to investigate the facts, determine the issues and provide an appropriate remedy for any violation of University policies.

Unless the law requires a longer period of limitation, a complaint of Discriminatory Harassment or Retaliation must be filed within one calendar year of the conduct alleged to be a violation.

The University strongly encourages all University Community members to report Sexual or Interpersonal Misconduct regardless of the amount of time that has passed since the alleged misconduct occurred.

All supervisory faculty, administrators and staff are required to report inappropriate conduct towards another University

Community member in violation of this policy.

All members of the University Community are encouraged, when appropriate and desirable, to try to resolve issues relating to conduct they believe to be Discriminatory Harassment by directly addressing any person(s) engaged(ing) in inappropriate or unwelcome behavior and requesting that the behavior stop or be modified in some mutually satisfactory way.

However, we recognize that not everyone will feel comfortable engaging in such direct conflict resolution, that some misconduct is not appropriate for a direct approach, and/or that a direct approach will not always result in an acceptable resolution to all persons involved. In those instances where direct resolution is either not desirable, inappropriate or inadequate to resolve the behavior, any member of the University Community is strongly encouraged to file a complaint with any of the persons or departments listed below.

Reporting Complaints of Sexual or Interpersonal Misconduct

Pursuant to the University's [Reporting Sexual Misconduct policy](#), all reports of Sexual or Interpersonal Misconduct should be made to the Department of Public Safety ("DPS"): in person at Foley Annex, by phone at 310.338.2893 [x82893 / x222 emergency line on campus], or through their E-Report Form (Westchester/Playa Vista Campuses [hereinafter "Westside Campuses"]) / Campus Safety & Security at 213.736.1121 (Law School Campus) or by contacting LMU's Title IX Coordinator, Sara Trivedi:

1. By phone: 310.568.6105;
2. By e-mail; Sara.Trivedi@lmu.edu;
3. By mail: One LMU Drive, Suite 1900, Los Angeles, CA, 90045; or
4. In person: University Hall 1900.

Reports may be made at any time to DPS (Westside Campuses) / Campus Safety & Security (Law School Campus), or to the Title IX Coordinator, including during non-business hours, by using the telephone numbers or e-mail addresses, or by mail to the office addresses listed above.

University Community members who are unsure whether what they experienced, witnessed or what has been reported to them constitutes Sexual or Interpersonal Misconduct, should contact DPS (Westside Campuses)

/ Campus Safety & Security (Law School Campus) or the Title IX Coordinator and report the incident. DPS (Westside Campuses) / Campus Safety & Security (Law School Campus) / the Title IX Coordinator will take appropriate responsive action based on the information provided.

Once a report is received, the Title IX Coordinator, or designee, will discuss with the Complainant the availability of Supportive Measures (regardless of whether the Complainant agrees to or participates in an investigation, Informal Resolution or the Formal Hearing Process.

Reporting Complaints of Discriminatory Harassment or Retaliation

Students Westside Campuses

Students may report Discriminatory Harassment or Retaliation to any of the following:

- Student Affairs at 310.338.2885 [x82885 on campus];
- Dean of Students at 310.338.6051 [x86051 on campus];
- EEO Officer/Deputy Title IX Coordinator (Human Resources) at 310.338.5345 [x85345 on campus];
- Deputy Title IX Coordinator (Student Affairs) 310.338.1821 [x81821 on campus]; or
- Deputy Title IX Coordinator (Athletics) 310.338.7246 [x87246 on campus.]

Law School Campus

- Director of Student Affairs at 213.736.8152 [x8152 on campus]; or
- Associate Dean of Student Services at 213.726.1028 [x1028 on campus].

Faculty Westside Campuses

Faculty may report Discriminatory Harassment or Retaliation to any of the following:

- Academic Affairs at 310.338.2733 [x82733 on campus];
- Human Resources at 310.338.2723 [x82723 on campus]; or
- EEO Officer/Deputy Title IX Coordinator (Human Resources) at 310.338.5345 [x85345 on campus]

Law School Campus

- Associate Dean for Faculty at 213.726.1038 [x1038 on campus]; or

- EEO Officer/Deputy Title IX Coordinator (Human Resources) at 310.338.5345 [x85345 on campus].

Staff

Westside Campuses

Staff may report discriminatory or harassing conduct, as defined in this policy, to any of the following:

- Appropriate University Senior Vice President;
- Human Resources at 310.338.2723 [x82723on campus];
- or
- EEO Officer/Deputy Title IX Coordinator (Human Resources) at 310.338.5345 [x85345 on campus];

Law School Campus

- Appropriate Associate Dean at 213.726.1038 [x1038 on campus]; or
- EEO Officer/Deputy Title IX Coordinator (Human Resources) at 310.338.5345 [x85345 on campus].

Reporting Party

Complainants under this policy are not required to be members of the University Community; they may be third parties or others unaffiliated with the University so long as the conduct occurred on campus or campus controlled premises or a University-approved Activity. If a Complainant chooses not to participate in University processes, the University reserves the right to initiate appropriate investigation and other processes if sufficient evidence exists without the participation of the Complainant to obtain a determination of a violation by the putative Respondent utilizing the Preponderance of the Evidence standard.

External Reporting Options

In addition to internal reporting options, students, faculty and staff may file reports with external agencies. Students may contact the U.S. Department of Education Office for Civil Rights to file a complaint:

- In person: via telephone 855.856.1247; (TTY) 202.514.0716
- Online: <https://civilrights.justice.gov/>
- By mail: write letter to:

U.S. Department of Education
Civil Rights Division
950 Pennsylvania Avenue, N.W.

Washington, D.C. 20530.

Faculty and staff may file a complaint of discrimination or harassment with the U.S. Equal Employment Opportunity Commission or the California Department of Fair Employment and Housing.

Faculty and staff may also file complaints related to Title VI of the Civil Rights Act of 1964 (race, color, and national origin), Title IX of the Education Amendments of 1972 (sex discrimination); Section 504 of the Rehabilitation Act of 1973 (discrimination on the basis of disability); the Age Discrimination Act of 1975 (age discrimination), and/or Title II of the Americans with Disabilities Act of 1990 (discrimination on the basis of disability) with the Office for Civil Rights, as described above.

A complaint filed with any outside government agency will not suspend the investigation or resolution of a complaint filed pursuant to this policy.

Jurisdiction of the University

Jurisdiction extends to conduct that occurs on University premises, in Study Abroad programs and/or at on and off campus University events, programs or activities. Jurisdiction also extends to other off-campus misconduct that adversely affects the University, students, faculty and staff members, the University's reputation or goodwill and/or the pursuit of the University's mission, goals and objectives.

Inherent Authority

The University reserves the right to take necessary and appropriate action to protect the health, safety and well-being of the University, including its reputation and good will, and the University Community. This includes, but is not limited to, incidents off campus that may adversely affect the health, safety, wellbeing, reputation or good will of the University, University Community, and/or the pursuit of the University's mission, goals or objectives.

Confidentiality & Non-Retaliation

Confidentiality will be maintained to the greatest extent possible in view of the method of complaint resolution chosen.

All persons are prohibited from engaging in Retaliation against any other member of the University Community, including the Complainant, Respondent, or Witnesses involved in the complaint. Retaliation may be subject to a separate complaint under this policy and/or appropriate disciplinary action up to and including dismissal from

the University. Any person who believes that Retaliation for having filed or participated in the investigation of a complaint under this policy has occurred should immediately notify the University's EEO Officer, or designee, of the retaliatory conduct.

Privacy

Complainants reporting potential violation(s) of this policy may request that their information be kept private. Complainants should be aware that if they request their information remain private, the University's ability to investigate and respond to reported conduct may be impaired.

The EEO Officer or designee is responsible for determining whether the request of the Complainant to have information kept private can be honored. If the decision is made that privacy cannot be honored, then the University will only inform the necessary individuals and entities on campus required to perform a thorough investigation and adjudication, if appropriate, of the complaint. In the event the Complainant requests that the University inform the Respondent that the Complainant asked the University not to investigate or pursue the complaint, the University will honor this request.

The University EEO Officer, or designee, in consultation with the Dean of Students (for student reporting parties)/ Vice President Human Resources (for faculty/staff reporting parties), in determining whether the privacy request can be honored or if an investigation is necessary:

1. The Respondent has known multiple or prior allegations of Discriminatory Harassment or 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 Discriminatory Harassment or Sexual or Interpersonal Misconduct occurred creating the potential for an unsafe environment for the University Community; or
3. A threat to the University Community at large or a particular community member has been identified; or
4. The misconduct was perpetrated with a Weapon, physical restraints, or where the Respondent used force or violence; or
5. The victim is a minor (under the legal age of 18) at the time of the alleged incident; or
6. The University is able to conduct a thorough

investigation and obtain relevant evidence in the absence of the Complainant's cooperation; or

7. Some combination of the above factors exists.

Focus of the Proceedings

The primary focus of the inquiry in investigations or hearings pursuant to this policy will be to determine if the subject Respondent is responsible for the alleged violation of the policy and, if the Respondent is found to be responsible for a violation, to provide the appropriate remedy.

In keeping with the mission of the University and the purpose of this policy, proceedings under this policy are not intended to materially emulate civil judicial processes or criminal justice proceedings. This is because hearing proceedings under this policy are intended to be less formal, less adversarial and less complex than judicial processes and procedures, while still seeking the truth in a fundamentally fair manner. Formal rules of evidence will not be applicable nor shall deviations from prescribed procedures necessarily invalidate a hearing decision or proceeding. Hearing proceedings under this policy will be prompt, fair and impartial and adjudicated by hearing panelists that have received regular training regarding incidents of this nature.

Burden of Proof

Determinations under this policy will be made utilizing the Preponderance of Evidence standard.

In cases alleging Sexual or Interpersonal Misconduct, the burden of proof is on the University. The Complainant does not have the burden to prove, nor does the Respondent have the burden to disprove, the underlying allegation(s) of Sexual or Interpersonal Misconduct.

Communication

The University's primary method and often exclusive medium of communication will be through official University e-mail accounts. Complainants and Respondents are held responsible and accountable for retrieving communications from their official University e-mail account on a daily basis. Failure to do so is not an acceptable excuse for avoiding or delaying processes under this policy.

Time Frame for Investigation and Hearing Process(es)

Alleged violations of this policy will be investigated and, where there is a hearing, adjudicated in a timely

manner. This timeframe takes into account the time necessary for the investigator(s) to schedule and conduct the relevant and necessary interviews so as to put together a comprehensive investigative report that includes all relevant evidence; to schedule necessary meetings and conduct the hearing, if any; to write final decisions reports; and complete the appeal process, if applicable. In normal circumstances, assuming timely cooperation from the parties and Witnesses, the University will use its best efforts to complete the process within 120 days.

While the University strives to complete the investigation, hearing and appeals process, if any, within 120 days, there may be instances beyond the control of the University where a good cause delay extends the University's timeline. Good cause delays include, but are not limited to, absence of a party, a party's Advisor or a witness, concurrent law enforcement activity, the need for language assistance or accommodation of disabilities, examinations or school closures. The University will communicate in writing to the Complainant, Respondent and relevant participants if a good cause delay occurs.

Scheduling Hearings

In scheduling hearings, meetings and other proceedings, the University will reasonably attempt to avoid conflicts with class and academic schedules or professional schedules for those involved but may not be able to do so. Individuals involved in proceedings under this policy are required to attend scheduled meetings and hearings notwithstanding conflicts.

Prior Sexual History

Prior sexual history of Complainant or Respondent with people outside of each other will not be considered in proceedings under this policy, and as between each other only as provided for by law, including as set forth in California Education Code section 66281.8.

False or Harassing Complaints Prohibited

It is a violation of this policy to file a false complaint against anyone for the purpose of injuring the reputation of or harassing another. Any person found to have filed a false complaint against another in bad faith or for the purpose of injuring the reputation of or harassing another will be subject to appropriate discipline. This proscription is in no way intended to discourage the filing of good faith complaints, even if those complaints do not result in a finding of a violation of University policies.

Supportive Measures

The University may take Supportive Measures, including, but not limited to, no contact orders, or academic, residential, transportation and/or employment accommodations, intended to ensure the wellbeing 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 complaint. Any such Supportive Measures will not be referred to or offered as evidence at a hearing on the underlying charge. Any such Supportive Measures will 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 or employment. Any such Supportive Measures will remain private, to the extent that maintaining privacy does not impair the University's ability to provide Supportive Measures. The complainant will receive written notification of their access to Supportive Measures. Respondents will receive written notification of their access to Supportive Measures when an investigation under this policy has commenced.

The University reserves the right to deny access to campus to former students, alumni, and/or visitors alleged to have engaged in, or who have been found to have engaged in conduct that violates this policy, regardless of their status at the time of the alleged misconduct. The University reserves the right to continue Supportive Measures following determination on the complaint.

No Contact Orders

No Contact Orders (NCO) may be utilized by the University both during the investigation and through the completion of the hearing process. An NCO may be extended beyond the completion of the hearing process. Failure or refusal to sign an NCO by either party does not impact the enforcement of the NCO.

Advisors

Complaints of Sexual or Interpersonal Misconduct/Student Reported Sexual Harassment

All persons involved in a complaint of Sexual or Interpersonal Misconduct/Student Reported Sexual Harassment may, at any time in the process, request the assistance of an advisor to be appointed by the University or select an advisor of their choice. The advisor may accompany the complainant and/or respondent during the complaint process. Advisors may not represent the

Complainant/Respondent during any meeting or hearing during the investigation hearing process.

Complainants/Respondents who wish to have an Advisor present at a Formal Hearing must inform the Title IX Coordinator or designee in writing or via e-mail at least two business days prior to the scheduled date of the hearing. Advisors may not address the Hearing Panel during proceedings under this policy. All communication involving Advisors (unless otherwise provided for in this policy) must be between the Advisor and the Complainant/Respondent. An Advisor may not appear in lieu of a Complainant/Respondent.

Complaints of Discriminatory Harassment or Retaliation

All persons involved in a complaint of Discriminatory Harassment or Retaliation may, at any time during the process, request the assistance of an advisor selected from the University community. An advisor is defined as any current student, faculty, staff, or religious community member. Off-campus individuals, parents, family members, alumni/ae, and those persons who have no affiliation with the University are expressly excluded from the definition of "Advisor" and cannot serve as Advisors. Current faculty or staff cannot act as an Advisor to their own family members.

The advisor may accompany either the Complainant and/or Respondent during the complaint process. The advisor may provide support to the Complainant or Respondent throughout the process. The use of an advisor is not intended as legal representation, and no one acting in the capacity of an attorney will be present during the complaint process.

Resources for Complainants and Respondents – Complaint of Sexual or Interpersonal Misconduct/Student Reported Sexual Harassment

When an allegation of Sexual or Interpersonal Misconduct has been brought to the attention of the University, or where a student Complainant has reported Sexual Harassment, the University will provide resources separately to assist Complainants and Respondents in identifying University and external resources that are available to them in the context of the reported misconduct.

For student-on-student complaints, the parties are assigned a Student Affairs Resource Administrator ("SARA") pursuant to the Student Sexual & Interpersonal Misconduct Policy, who will assist the parties in identifying University and external resources and explaining the University's investigation, complaint and appeal process as set forth in

the Student Sexual and Interpersonal Misconduct Policy. For all other complaints of Sexual or Interpersonal Misconduct or Student Reported Sexual Harassment, the Title IX Coordinator, or designee, assists the parties. The Title IX Coordinator or designee is trained to assist the parties in identifying University and external resources and explaining the University's investigation, complaint and appeal process; however, the Title IX Coordinator, or designee, is not an advocate. The Title IX Coordinator, or designee, will provide the parties written notification of their rights and options in regards to the hearing processes set forth in this policy. The Title IX Coordinator, or designee, will provide written notification of available on and off campus counseling, health, mental health, victim advocacy, legal assistance, visa and immigration assistance, student financial aid (where applicable) and other services offered by the University and other local organizations.

The Title IX Coordinator or designee will:

- A.** Provide information, as applicable, regarding on and off campus resources, such as: Student Psychological Services (SPS) (Westside Campuses) / On-Campus Psychological Services (Law School Campus), Student Health Services (SHS), Office of Student Conduct and Community Responsibility (OSCCR), Employee Assistance Program, Human Resources, DPS (Westside Campuses) / Campus Safety & Security (Law School Campus), Los Angeles Police Department, Rape Treatment Center at Santa Monica-UCLA Medical Center, and Campus Ministry.
- B.** Explain all stages of the applicable complaint process, including the right to present material witness(es) to the incident, potential outcomes for Complainants and Respondents, and the right to be informed in writing of the outcome of the complaint process.
- 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 a complaint with DPS (Westside Campuses) / Campus Safety & Security (Law School Campus), filing and responding to complaints of Sexual or Interpersonal Misconduct or Student Reported Sexual Harassment, taking legal action separate and apart from and/or in addition to filing a complaint with the University seeking disciplinary action, and documenting their decisions.
- D.** Explain that the Complainant/Respondent can refuse any/all of the above.
- E.** Follow up with the Complainant and Respondent throughout the hearing processes and thereafter

to continue to provide the Complainant and Respondent access to resources.

Complainant/Respondant Party Rights – Complaint of Sexual or Interpersonal

Misconduct/Student Reported Sexual Harassment

The Complainant and Respondent involved in a complaint of Sexual or Interpersonal Misconduct or Student Reported Sexual Harassment have the right to:

1. Access to an advisor, if they do not have one of their own choosing, to assist with any process under this policy;
2. Receive a written notification of available on and off campus existing counseling, health, mental health, victim advocacy, legal assistance, visa and immigration assistance, student financial aid (where applicable), and other services available;
3. Receive written notification of the procedures for institutional disciplinary action and their rights and options;
4. Request Supportive Measures;
5. Make a complaint to DPS (Westside Campuses) / Campus Safety & Security (Law School Campus);
6. File a police report and take legal action separate from and/or in addition to filing a complaint seeking disciplinary action;
7. Identify material witnesses to the alleged misconduct;
8. Receive written notification of the alleged policy violations based on information available to the University with sufficient details known at the time;
9. Notice that the Respondent is presumed not responsible for the alleged conduct until a determination regarding responsibility can be made at the conclusion of processes provided for in this policy;
10. Notice that the Complainant is presumed to be acting in good faith in making their report;
11. Notice of the University's prohibition on knowingly making or submitting false statements during the course of proceedings described in this policy;
12. Notice that per California Education Code 66281.1, the University reserves the right to exclude certain pieces

of information including, but not limited to, an individual's past sexual history

13. Review submitted evidence that will be utilized in hearings regarding Sexual or Interpersonal Misconduct/Student Reported Sexual Harassment;

14. The opportunity to submit questions for the parties and Witnesses to determine credibility of information;

15. Notice if, in the course of the investigation, the University decides to investigate allegations that were not included in the initial notice of allegations. The University will provide notice of the additional allegations to all parties whose identities are known at the time.

16. Be informed of the disciplinary finding in writing; and

17. Refuse any/all of the above.

Hearing Rights – Complaints of Sexual or Interpersonal Misconduct/Student Reported Sexual Harassment

The Complainant and Respondent involved in a hearing of a complaint of Sexual or Interpersonal Misconduct or Student Reported Sexual Harassment have the following rights:

1. Access to an advisor, if they do not have one of their own choosing, to assist with the hearing process;

2. Both the Complainant and Respondent may provide Witnesses to appear at a hearing. Expert witnesses are not allowed and character Witnesses are disfavored.

3. Both the Complainant and Respondent may present evidence relevant to the alleged policy violation(s) and to respond to the information gathered by the University in support of or opposition to the allegations in the complaint, including the right to offer counter or explanatory information;

4. The Complainant will be permitted the opportunity to provide questions to be asked of the Respondent, and any Witnesses that appear either at the request of the Complainant, the Respondent or the University, in order to assess the credibility of the information offered. The Complainant will be asked to provide their questions in advance of the hearing, and the Hearing Panel will be permitted to disallow a question asked by the Complainant if the Complainant is unable to provide sufficient rationale for the relevance of the question.

Complainants will be granted the opportunity to submit additional questions in response to statements made during the hearing, which the Hearing Panel will review for relevance when proffered and ask if appropriate;

5. The Respondent will be permitted the opportunity to provide questions to be asked of a Complainant, and any Witnesses that appear either at the request of the Respondent, the Complainant or the University, in order to assess the credibility of the information offered. The Respondent will be asked to provide their questions in advance of the hearing, and the Hearing Panel will be permitted to disallow a question asked by the Respondent if the Respondent is unable to provide sufficient rationale for the relevance of the question. Respondents will be granted the opportunity to submit additional questions in response to statements made during the hearing, which the Hearing Panel will review for relevance when proffered and ask if appropriate;

6. Both the Complainant and Respondent are permitted to note an objection to a question posed by the other party during the hearing. If the Hearing Panel still elects to allow the question to be asked, the objection will be noted and made part of the hearing record.

7. Except as provided herein, formal rules of evidence and discovery will not be applicable in hearings conducted pursuant to this policy. The Hearing Panel will give effect to recognized rules of privacy (including the Family Educational Rights and Privacy Act [FERPA]) and privilege, but may otherwise admit matters into evidence that a reasonable person would accept as having probative value in the conduct of their affairs. Unduly repetitious or irrelevant evidence may be excluded;

8. Written statements will not be admitted into evidence unless signed by the affiant and witnessed by the Title IX Coordinator, or designee

9. Both the Complainant and Respondent will be permitted the opportunity to make a closing statement at the conclusion of the evidentiary portion of the hearing;

10. All participants in a hearing will be asked to affirm that their testimony is truthful and may be subject to charges of providing false information pursuant to this policy;

11. A further hearing, if necessary, with the Complainant, Respondent or Witnesses;

12. The decision of the Hearing Panel will include a

summary of the testimony, findings, decision and applicable responsive action(s) and will be sufficiently detailed to permit review pursuant to the appeal procedures;

13. Responsive action(s) will be implemented if it is determined that the Respondent is responsible for the alleged policy violation(s) by a Preponderance of Evidence. If not, the complaint will be dismissed. Final decisions may be reviewed by the Vice President for Human Resources, or designee.

14. Both the Complainant and Respondent will be informed of the hearing decision in writing;

15. Both the Complainant and Respondent have a right to appeal a Formal Hearing decision as set forth below.

Discriminatory Harassment/Retaliation and Sexual and Interpersonal Misconduct Complaint Processes

For individuals who believe they have been the victim of, or have witnessed, Discriminatory Harassment, Retaliation, or Sexual or Interpersonal Misconduct by or against any member of the University community, including Sexual Harassment, these Complaint Processes are the exclusive means by which complaints of Discriminatory Harassment, Retaliation or Sexual or Interpersonal Misconduct may be investigated and resolved by the University, unless the complaint involves claims of Discriminatory Harassment, Retaliation, or Sexual or Interpersonal Misconduct against a student, which will follow the hearing processes set forth in the Student Conduct Code (complaints of Discriminatory Harassment) or the Student Sexual or Interpersonal Misconduct Policy (complaints of Sexual or Interpersonal Misconduct or student-on-student Sexual Harassment).

Step 1: Intake

All complaints of Discriminatory Harassment/Retaliation, regardless of how reported, will be referred by the person receiving the complaint to the EEO Officer or designee for intake.

All complaints of Sexual or Interpersonal Misconduct, with the exception of complaints filed by student(s) against student(s) will be referred to the Title IX Coordinator or designee for the intake.

The individual(s) performing the intake processes will conduct an intake meeting to gather information regarding:

1. The name of the Complainant;
2. The name(s) of the Respondent(s) (i.e. the person(s) accused of violating the University's policies against Discriminatory Harassment/Retaliation or Sexual or Interpersonal Misconduct;
3. The date(s) and nature of all alleged Discriminatory Harassment/Retaliation or Sexual or Interpersonal Misconduct;
4. The name(s) of any witness(es) to the alleged Discriminatory Harassment/Retaliation or Sexual or Interpersonal Misconduct or person(s) that might otherwise have information relevant to the alleged Discriminatory Harassment/Retaliation or Sexual or Interpersonal Misconduct; and
5. If appropriate, whether the Complainant is amenable to the Informal Resolution Process, defined below.

The individual(s) performing the intake processes will evaluate the allegations of the complaint and the response to determine the following:

1. Whether the allegations constitute a claim of Discriminatory Harassment/Retaliation or Sexual or Interpersonal Misconduct subject to this policy;
2. Whether there are any immediate actions that should be taken to redress the alleged inappropriate conduct pending further resolution of the complaint.

If the individual(s) performing the intake determines that the complaint does not constitute a claim of Discriminatory Harassment/Retaliation or Sexual or Interpersonal Misconduct subject to this policy, the Complainant will be referred to appropriate University personnel.

If the individual(s) performing the intake determines that the complaint constitutes a claim of Discriminatory Harassment/Retaliation or Sexual or Interpersonal Misconduct subject to this policy, then the individual(s) performing the intake process will meet with the parties to determine whether the parties are amenable to (1) Informal Resolution, or (2) the Formal Hearing Process.

1. If the claims and parties are amenable to Informal Resolution, the matter will proceed as set forth below in Step 2: Informal Resolution. [Note: Both parties must consent to Informal Resolution; otherwise, the matter must proceed to Step 3: Formal Hearing Process.]

2. If the claims and/or parties are not amenable to Informal Resolution, the matter will proceed as set forth below in Step 3: Formal Hearing Process.

Step 2: Informal Resolution

Informal Resolution is a process whereby the University attempts to resolve complaints effectively to the satisfaction of all parties without engaging in a formal hearing process, while also providing the greatest protection of confidentiality possible to the parties. At any time during the Informal Resolution process, either party may elect to terminate the process and proceed with a Formal Hearing Process pursuant to Step 3 below.

Informal Resolution may take the form of an interactive resolution by the EEO Officer or designee. The EEO Officer or designee will review relevant information and meet with both the Complainant and Respondent, and any other persons or Witnesses determined to be necessary to a full resolution of the complaint, and assist the parties in reaching a mutually satisfactory resolution.

If resolution is reached by these informal means, the resolution will be documented by the EEO Officer or designee and the matter will be closed. If resolution is not reached by these informal means, and the EEO Officer or designee determines that the complaint remains subject and amenable to resolution under the Formal Hearing Process, the complaint will be referred to Step 3 below for Formal Hearing Process. The University reserves the right to terminate the Informal Resolution process and to deny informal processing of a complaint if at any time during the Informal Resolution it is determined that the allegations of the complaint are not subject or amenable to resolution under the informal process.

If resolution is not reached by these informal means, the Complainant or Respondent may request that the matter be referred to Step 3 below for the Formal Hearing Process. Requests to proceed with the Formal Hearing Process by a Complainant or Respondent must be submitted in writing to the EEO Officer within thirty (30) calendar days from the conclusion of the informal process.

Step 3: Formal Hearing Process

If a complaint is not suitable for Informal Resolution (the Complainant, Respondent or both do not agree to resolution of the complaint by informal means, or if Informal Resolution is not successful in resolving the matter, or if the complaint involves allegations of Sexual or Interpersonal Misconduct) a Formal Hearing Panel will be constituted to hear and resolve the complaint.

The University reserves the right to initiate a Formal Hearing if a Complainant in a complaint of Sexual or Interpersonal Misconduct chooses not to participate in the Formal Hearing Process.

Hearing Panel Composition

Each Hearing Panel will consist of four Hearing Panel members and one Hearing Panel Chair who will preside over the hearing and – on the Panel’s behalf – issue findings and a recommended remedy, if any. The Hearing Panel will be constituted as follows:

The Complainant and Respondent will each nominate four panelists from an approved list of trained Hearing Panelists. Hearing Panelists receive training regarding the adjudication of complaints made under this policy.

Each individual nominated by the Complainant and Respondent must:

- Have satisfactorily completed University required training,
- Not be acting in the capacity of an attorney,
- Not have a personal interest in the complaint or its resolution, and
- If a staff member, have completed the introductory period.

The Vice President of Human Resources will make the final selection of the panel members from the nominees by selecting two of the Complainant’s nominees and two of the Respondent’s nominees.

The fifth panel member will be an HR Representative who will preside over the hearing as the Hearing Panel Chair. The Vice President of Human Resources will designate the HR Representative who will act as the Hearing Panel Chair. The HR Representative will only act as a voting panelist if there is a split decision between the Hearing Panel members.

Notice of Hearing

Once selected, the Hearing Panel Chair will provide at least ten (10) business days’ notice to the Complainant and Respondent of the date of the hearing.

If a Respondent fails to appear after receiving timely notice, a determination of the charged policy violation(s) will be made based upon the facts and evidence submitted in support of the alleged policies violation(s). Failure to check one’s University e-mail account is not sufficient justification for not attending a scheduled hearing.

If a Complainant fails to appear after receiving timely notice, the Hearing Panel may discontinue the proceedings and dismiss the complaint. Failure to check one’s University e-mail account is not sufficient justification for not attending a scheduled hearing.

Formal Hearing Process

All Hearing Panel members will receive training on this policy and on the administration of the Formal Hearing Process prior to the hearing. The function of the Hearing Panel will be to: (1) determine whether this policy has been violated; and (2) if so, recommend an appropriate remedy to redress the violation. At the Formal Hearing Panel proceedings, each party will have the right to present testimony and evidence in support of the party’s claims or defenses. The Hearing Panel will be empowered to hear and receive evidence and testimony relating to the complaint, including compelling either party to produce a Witness or evidence deemed relevant to the determination of the complaint, and to call and question any Witnesses, including the Complainant or Respondent.

Hearing proceedings provided in this policy may be held using videoconferencing. Hearings may be recorded via videoconferencing software utilized by the Hearing Panel only. Recording devices (audio and/or video) of any kind are not permitted for use by the Complainant, Respondent, Witnesses or advisors. If a hearing is recorded via videoconferencing software, Complainants and Respondents are expected to be visible to the Hearing Panel and each other throughout the hearing (with the exception of requested breaks.) The recording of the hearing will be part of the file and may be accessible to both the Complainant and Respondent by contacting the EEO Officer. Transcriptions of hearings will not be made available.

The Hearing Panel Chair will be responsible for presiding over the Hearing Panel proceedings and ensuring the orderly presentation of the evidence and testimony, as well as ensuring that the parties are accorded a fair and full opportunity to present their claims and defenses. The Hearing Panel proceedings will not be governed in accordance with any rules of evidence or procedure, but will be administered in the sole discretion of the Hearing Panel, under the direction of the Hearing Panel Chair.

The Hearing Panel will exercise control over the procedures to avoid needless consumption of time. Any person, including the advisor, who is disruptive during a hearing, refuses to follow the rules or procedures and/or who fails to adhere to the admonitions and rulings of the Hearing Panel may be excluded from the proceedings;

All Hearing Panel proceedings will be closed to general members of the University Community. Attendance at Hearing Panel proceedings will be limited to the Complainant, Respondent, an advisor to either party if they have designated one, Witnesses called to testify by either party, and the designated Hearing Panel members.

After the presentation of all testimony and evidence by both parties, the Hearing Panel will convene privately to deliberate on the facts and evidence. Within fifteen (15) calendar days¹ from the adjournment of the hearing, the Hearing Panel will issue a written decision reflecting the Hearing Panel's finding of whether the Respondent violated this policy, the factual basis for such finding, and the recommended remedy for any violation. The written decision will be made using the preponderance of evidence standard. The findings and recommendation will be based solely on the presentation of evidence and testimony during the hearing and will include sufficient detail in support of the decision to allow adequate review on appeal.

If the decision contains a recommended remedy, the Hearing Panel will forward its written decision to the EEO Officer or designee. Within five (5) business days from the date of the written decision, the EEO Officer or designee will forward the Hearing Panel's decision to the appropriate University Senior Vice President/Dean (Westside Campuses) / Associate Dean (Law School Campus) responsible for enforcing any remedy.

Within five (5) business days from the date of the written decision the EEO Officer or designee will issue written notice to both the Complainant and Respondent of the findings of the Hearing Panel, including the determination of whether this policy has been violated, the factual basis for the finding, and any remedy. In the case where the remedy involves discipline against the Respondent, the Complainant will be notified only that the Respondent will be appropriately disciplined for the violation, but will not receive notice of the specific nature of any discipline, unless required by law. Notice to the Respondent will include specific reference to the discipline to be enforced against the Respondent. The decision of the Hearing Panel is final unless appealed, pursuant to Step 4 below, within ten (10) business days from the date of the written notice to the parties.

Step 4: Appeal

1. Decisions by the Hearing Panel may be appealed by the Complainant or Respondent to the Appeal Committee. Appeals are limited to one or more of the following grounds:

- a. The employment-related responsive action(s) taken by the University is/are inappropriate;
- b. The procedures provided for in this policy were not materially followed resulting in significant prejudice to the Appellant;
- c. New, significant relevant evidence is available, which in the exercise of reasonable diligence could not have been produced at the time of the hearing; or
- d. The decision is not supported by substantial evidence.

2. All petitions for appeals will be submitted to:

EEO Officer c/o Human Resources
1 LMU Drive
University Hall, Suite 1900
Janet.Lindsay@lmu.edu

3. Appeal petitions must be submitted by the Complainant or Respondent via written statement and received by the EEO Officer within ten business days from the date of the imposition of the original decision. Appeal petitions may not be submitted by Advisors or third parties on behalf of the involved party. Failure to file the appeal petition within the limitations period results in the decision becoming final and conclusive. The University reserves the right to extend the limitations period (in extenuating circumstances).

Failure to comply with these procedures may result in the rejection of an appeal petition.

4. Both parties will have the opportunity to submit an appeal and absent an appeal by both parties, the nonappealing party will have the opportunity to submit a written statement in either support or opposition to the extant appeal petition. Both parties will be notified of the results of the appeal.

5. The appeal petition must be accompanied by a written statement in support of the appeal. Upon notification of the receipt of a proper and timely appeal petition, the EEO Officer, or designee, will convene the Appeal Committee. The non-appealing party (either Complainant or Respondent) will be notified of an appeal, and the grounds cited by the appealing party, and be afforded access to the appeal petition and the opportunity to submit a timely written statement in opposition to the appeal.

6. The Vice President of Human Resources will appoint Appeal Committee members who have receives

training regarding the review of appeals made under this policy. The Appeal Committee will consist of three committee members. The Appeal Committee will be constituted as follows: In a case with a faculty Respondent, the Appeal Committee will consist of two faculty members and one staff member. In a case with a staff member, the Appeal Committee will consist of two staff members and one faculty member.

7. Concurrent with the filing of an appeal petition, a Complainant or Respondent may challenge a member of the Appeal Committee on the grounds of a conflict of interest. All disqualification challenges of Appeal Committee members will be determined by the Vice President for Human Resources. If a challenge is sustained, the proceedings will continue without the participation of the disqualified member and the Vice President of Human Resources will appoint a new Appeal Committee member.

8. The Appeal Committee will review the video and audio recording of the hearing, the findings, decision and recommended employment sanction(s) (if applicable), the Respondent's relevant employment related disciplinary history (if applicable) and the written statement of the Complainant and Respondent filed with the appeal petition or in response to the appeal petition.

9. The Appeal Committee may, but is not required to, request that the Hearing Panel or the involved parties to submit additional information in writing. If the Hearing Panel or any parties is/are requested to submit additional information, the parties not so requested will be entitled to reply in writing to the additional written information supplied to the Appeal Committee.

10. Except as provided herein, formal rules of evidence and discovery will not be applicable in Appeal proceedings. The Appeal Committee will give effect to the recognized rules of privacy (including FERPA) and privilege. The Appeal Committee will admit matters into evidence from the record and, in the case of new information, only that new information submitted as part of the appeal that, in the exercise of reasonable diligence, could not have been produced at the time of the hearing and that reasonable persons would accept as having probative value. Unduly repetitious or irrelevant evidence may not be considered in the decision.

11. The Appeal Committee may take presumptive notice of matters that would be of general knowledge to other University Community members.

12. The Appeal Committee will be provided copies of the Respondent's employment-related disciplinary record when reference to the Respondent's employment related disciplinary history is included in the decision made by the Hearing Panel.

13. Procedural, evidentiary and final recommendations of the Appeal Committee will be by majority vote of the members present and voting.

14. Unless otherwise determined by the Vice President of Human Resources, or designee, the imposition of sanctions will be deferred during the appeal process.

15. So long as supported by the evidentiary record, the Appeal Committee will give deference to the determinations of the Hearing Panel. The Appeal Committee will not alter the underlying decision of the Hearing Panel if supported by substantial evidence and reasonable inferences arising therefrom. In instances in which the Appeal Committee finds merit in the grounds of appeal submitted by the Complainant or Respondent, the Appeal Committee may make one of the following recommendations:

- a. The case may be referred back to the Hearing Panel who made the original decision for reconsideration of the appropriateness of the sanctions assigned;
- b. The case may be referred back to the Hearing Panel who made the original decision to consider new, significant relevant evidence that could not have been discovered by a properly diligent Complainant or Respondent before or during the original hearing;
- c. The case may be referred back to the EEO Officer, or designee, for reassignment to a new Hearing Panel if specified procedural errors in interpretation of this policy were so substantial as to effectively deny the Appellant a fair hearing or;
- d. That the determination be reversed, if the decision is not supported by substantial evidence.

The Executive Vice President and Provost and Executive Vice President and Chief Administrative Officer (Westside Campuses) / Dean (Law School Campus) will review the Appeal Committee's recommendation.

If the Appeal Committee recommends that the matter be referred back to the Hearing Panel who made the original decision or to a new Hearing Panel, the Executive Vice President and Provost and Executive Vice President and Chief Administrative Officer (Westside Campuses) /

Dean (Law School Campus) will direct the EEO Officer, or designee, to implement the recommendation.

If the Appeal Committee recommends that the matter be dismissed, the Executive Vice President and Provost and Executive Vice President and Chief Administrative Officer (Westside Campuses) / Dean (Law School Campus) will decide whether to accept the Appeal Committee's recommendation. The decision of the Executive Vice President and Provost and Executive Vice President and Chief Administrative Officer (Westside Campuses) / Dean (Law School Campus) will be final.

Record Keeping

The University will maintain records of all complaints of Discriminatory Harassment, Retaliation or Sexual or Interpersonal Misconduct filed pursuant to this policy for a period of not less than seven (7) years. All records will be maintained by the EEO Officer. Complaint records will not be maintained with the academic or employment records of any student, faculty, or staff, except that some notation of disciplinary action taken against any student, faculty, or staff pursuant to the Complaint Process may be made in the academic or employment record(s) of that individual if required as a condition of the discipline itself or pursuant to administrative record-keeping requirements.

Training

Pursuant to California law, all supervisory faculty and staff personnel will receive two (2) hours of training and all non-supervisory faculty and staff personnel will receive one (1) hour of training on sexual harassment, including specifically the University's policy against Discriminatory Harassment/Retaliation and Sexual or Interpersonal Misconduct, once every two years. This training will be coordinated and administered by the Department of Human Resources. Any individual who has a question regarding this training should contact the EEO Officer at Human Resources, at 310.338.2723 (x82723 on campus.)

Questions about this Policy

Students, faculty and staff who have questions regarding this policy should contact the University EEO Officer at Human Resources, 1 LMU Drive, Suite 1900, Los Angeles, CA 90045, phone: 310.338.5345.

Students, faculty and staff who have questions regarding the University's Title IX policies or Title IX should contact the University's Title IX Coordinator, at Human Resources, 1 LMU Drive, Suite 1900, Los Angeles, CA 90045, phone: 310.568.6105.

Students, faculty and staff who have questions regarding

the Student Sexual and Interpersonal Misconduct policy should contact the University's Title IX Coordinator, at Human Resources, 1 LMU Drive, Suite 1900, Los Angeles, CA 90045, phone: 310.568.6105.

Appendix "A" – 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 Section 11165.1 of the California Penal Code: Sexual Assault includes rape, statutory rape, rape in concert, incest, sodomy, oral copulation, lewd or lascivious acts upon a child, 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.

B. Excerpts from Section 261 of the California Penal Code: Rape is an act of sexual intercourse accomplished under any of the following circumstances:

1. If a person who is not the spouse of the person committing the act 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. If 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. If a person is prevented from resisting by any intoxicating or anesthetic substance, or a controlled substance, and this condition was known, or reasonably should have been known by the accused;

4. If 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. If 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. If 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. If 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 "statutory rape" in 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 the person has 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, 286, 287 or 289, in which Consent is at issue, "Consent" means 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, 286, 287 or 289.

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.