

Student Sexual and Interpersonal Misconduct Policy

I. Introduction

Loyola Marymount University (LMU) 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, including conduct it defines as Title IX Sexual Harassment. Conduct that falls under Title IX must be either Sexual Assault, Dating Violence, Domestic Violence, Stalking or be conduct that is so severe, pervasive and objectively offensive that it effectively denies a person equal access to LMU’s education program or activity. Conduct that falls under Title IX must also occur in the United States, on campus or a campus controlled premises or at a campus sponsored event. For more information regarding Title IX, and the LMU policy regarding Title IX Sexual Harassment, please see the [Student Title IX Sexual Harassment Policy](#).

The Student Sexual and Interpersonal Misconduct Policy (“the Policy” or “SIM Policy”) prohibits and addresses Sexual Misconduct that falls outside Title IX. The SIM Policy includes all forms of Sexual Misconduct not prohibited by Title IX including Sexual Assault, Sexual Battery and Sexual Exploitation and other interpersonal misconduct such as Dating Violence, Domestic Violence and Stalking.

The Division of Student Affairs has established this SIM Policy to respond to non-Title IX complaints of sexual and interpersonal misconduct in a way that upholds the mission of the Office of Student Conduct & Community Responsibility (OSCCR), which seeks to maintain the University’s academic environment by educating and upholding community standards.

A. LMU strongly encourages all Students to report sexual or interpersonal misconduct regardless of the amount of time that has passed since the alleged misconduct occurred.

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 be interviewed by the Department of Public Safety (DPS) or participates in the conduct process).

If you believe you have experienced sexual or interpersonal misconduct, you are encouraged to file a report with DPS either in person (Foley Annex), by phone (310.338.2893) or through their [E-Report Form](#), 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, or to the Title IX Coordinator, including during non-business hours, by using the telephone number or e-mail address, or by mail to the office address listed above.

Students who are unsure whether what they experienced, witnessed or what has been reported to them constitutes sexual or interpersonal misconduct, should contact DPS and report the incident. DPS will take appropriate responsive action based on the information provided.

B. 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 of sexual or interpersonal misconduct, even if those complaints do not result in a finding of misconduct or sanction under University policies.

C. Allegations of sexual or interpersonal misconduct that are not covered under the Student Title IX Policy will be initiated and adjudicated under the relevant provisions of this policy. Some instances of alleged sexual and interpersonal misconduct may be eligible to be addressed by an informal resolution process (see Section XII) if both parties provide written authorization of their willingness to participate in such a process. Eligibility of an allegation to be addressed through an informal resolution process will be determined by

the Title IX Coordinator, or designee.

II. General Guidelines

A. Definitions

As used in the SIM Policy, the following terms shall have the following meanings (all terms defined below shall be capitalized throughout the SIM Policy).

1. **“Advisor”** means anyone selected by a Student to appear with the Student at scheduled conduct proceedings, regardless of affiliation to LMU.

2. **“Complainant”** means the individual(s) who file(s) a SIM Policy complaint with the University.

3. **“Consent”** means 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. 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.

a. Consent is not freely given if:

i. 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

ii. 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); or

(b). The individual is unable to consciously respond

for whatever reason including lack of consciousness, sleep, illness or shock; or

(c). The individual is under the age of 18 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.

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

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

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

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

4. **“Dating Violence”** means violence committed by a person:

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

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

i. The length of the relationship;

ii. The type of the relationship;

iii. 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.

5. **“Day”** means a University business Day. It shall not include Saturdays, Sundays or administrative holidays.

6. **“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.

7. **“Institution”** and **“University”** mean Loyola Marymount University but not including Loyola Law School.

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

9. **“Respondent”** means the individual(s) against whom a SIM Policy complaint is made.

10. **“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 defamatory information about an individual, exclusions from academic and non-academic programs and/or adverse actions related to employment or academics.

11. **“Sexual Assault”** means 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, vaginal/anal intercourse, Sexual Battery (including, but not limited to, masturbation), 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.

12. **“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.

13. **“Sexual Exploitation”** means Sexual Misconduct that occurs when a person takes unjust or abusive sexual advantage of another for their benefit or for the benefit of anyone other than the exploited party without that person’s Consent. 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.

14. **“Sexual Misconduct”** means unwelcome conduct of a sexual nature including, but not limited to, unwelcome sexual advances, unsolicited requests for sexual favors or Sexual Battery without that person’s Consent, including as a result of sexual coercion, and other verbal, visual, or physical conduct where:

- a. Submission to the conduct is explicitly or implicitly made a term or a condition of employment, academic status, or progress; or
- b. Submission to, or rejection of, the conduct is used as the basis of employment or academic decisions affecting the person or as the basis for any decision affecting the benefits and services, honors, programs, or activities= available at or through the educational institution; or
- c. The conduct has the purpose or effect of having a negative impact upon the person’s work or academic performance, or of creating an intimidating, hostile, or offensive work or educational environment.

15. **“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.

16. **“Student”** means a person currently enrolled or eligible and matriculating in any University program or class during the fall or spring semesters, recess period between semesters or summer period, on or off University campus, and includes all persons taking courses at the University, full-time or part-time, pursuing undergraduate, graduate or professional studies or are non-degree seeking. However, the term “Student” does not include Law School Students. Student includes one who has been enrolled at the University for the immediately preceding fall, spring or summer term and/or is eligible for continuing enrollment or graduation.

17. **“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 report has been received by the University. Such measures are designed to restore or preserve equal access to LMU’s education program or activity without unreasonably burdening the other party, including measures designed to protect the safety of all parties, LMU’s educational environment and/or deter sexual or interpersonal misconduct.

18. **“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).

19. **“University Community”** means Students, staff, faculty, administration and religious community members of the University, but not their counterparts at the Law School.

20. **“University-approved Activity”** means any activity on or off campus that is initiated, authorized or supervised by the University or a Registered Student Organization.

21. **“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.

22. **“Witness”** means any person, excluding experts, called upon to furnish relevant knowledge or information relating to an incident who is not a Complainant or Respondent.

23. The terms **“will”** or **“shall”** are used in the imperative sense. The term “may” is used in the permissive sense.

B. 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, the University’s reputation or goodwill and/or the pursuit of the University’s mission, goals and objectives.

C. 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, well-being, reputation or good will of the University, University Community, University Community members and/or the pursuit of the University’s mission, goals or objectives.

D. Focus of the Proceedings

The primary focus of the inquiry in all Student sexual and interpersonal misconduct proceedings shall be to determine if the subject Student is responsible for the alleged violation of the SIM Policy and, if the Student is found to be responsible for a violation, to provide the appropriate remedy. The University shall make every effort to investigate and adjudicate these matters promptly, usually within 120 days, assuming timely cooperation of all parties.

In keeping with the mission of OSCCR and the purpose of the Policy, SIM Policy proceedings (including those that provide for cross examination) are not intended to materially emulate judicial processes or proceedings in the criminal justice system. This is because SIM Policy proceedings are intended to be educational, less formal, less adversarial and less complex than criminal justice processes and procedures, while still seeking the truth in a fundamentally fair manner.

Formal rules of evidence shall not be applicable nor shall deviations from prescribed procedures necessarily invalidate a SIM Policy decision or proceeding. SIM Policy proceedings shall be prompt, fair and impartial and adjudicated by Conduct Administrators that have received regular training regarding incidents of this nature.

E. Violations of Law and the SIM Policy

Students may be subject to criminal, civil and University proceedings for acts that constitute violations of federal, state or local law and of the SIM Policy. Because of the need to efficiently, effectively and promptly protect the academic environment, University life and operations, SIM Policy proceedings are independent and will normally proceed without regard to the pendency or potential pendency of criminal or civil proceedings.

Students subject to potential or actual criminal charges relating to conduct alleged in pending SIM Policy proceedings may assert their Fifth Amendment privilege against self-incrimination during SIM Policy proceedings. While no inference of responsibility for SIM Policy violations will be drawn because of the assertion of the Fifth Amendment privilege, the Conduct Administrator(s) will nonetheless evaluate all available information, testimony and evidence in making their determination.

F. Burden of Proof

In cases alleging sexual or interpersonal misconduct, the burden of proof is on the University. Determinations under this policy will be made utilizing the Preponderance of Evidence standard. The Complainant does not have the burden to prove, nor does the Respondent have the burden to disprove, the underlying allegation(s) of misconduct.

G. Limitations Period

Reports under this policy should be brought in the period of time during which the putative Respondent is a Student and subject to the SIM Policy. The University reserves the right to take disciplinary action regarding allegations involving current LMU Students irrespective of the length of time since the alleged misconduct occurred.

H. Time Frame for SIM Policy Investigation and Conduct Process

Alleged incidents of sexual and interpersonal misconduct will be investigated and 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 and conduct the hearing preparation meeting

if necessary; to schedule and conduct the hearing and any additional meetings; to write the final decision letters and complete the appeal process, if applicable. In normal circumstances, assuming timely cooperation from the parties and witnesses, staff will use their best efforts to complete the process within 120 days.

While the University strives to complete the investigation, adjudication and appeals process 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.

I. Communication

OSCCR's primary method of communication will be through the Student's official University e-mail account. OSCCR may also, at its discretion, communicate to Students via any one or more of the following methods: electronic communication, U.S. Mail or parcel delivery (e.g. FedEx) to the Student's permanent address on file, and/or personal hand delivery. Students 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 the SIM Policy process.

J. Scheduling Student Hearings

In scheduling hearings, hearing preparation meetings and other proceedings, OSCCR will reasonably attempt to avoid conflicts with class and academic schedules for those involved but may not be able to do so. Individuals involved in the SIM Policy processes are required to attend scheduled hearings notwithstanding class or academic conflicts. Failure to attend a hearing preparation meeting will not prevent the scheduling of a hearing.

K. Non-student Incidents

This policy applies to incidents in which the Respondent is a Student. Sexual or interpersonal misconduct involving a Student and any non-student Respondent in the University Community is handled under the [LMU Discriminatory Harassment and Complaint Process](#).

L. Reporting Party

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 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 the University conduct process, the University reserves the right to initiate the conduct process if, following review by OSCCR, sufficient evidence exists without the participation of the Complainant to present the case to the Conduct Administrators and obtain a determination of a violation by the putative Respondent utilizing the Preponderance of the Evidence standard. If a Respondent is not a Student of the University at the time of the alleged misconduct, no SIM Policy conduct process will be commenced.

M. Prior Sexual History

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

N. No Contact Orders

No Contact Orders (NCO) may be utilized by DPS 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.

O. Supportive Measures

In cases alleging sexual and interpersonal misconduct the Dean of Students, or designee, may institute Supportive Measures at the request of the Complainant and/or Respondent or as deemed appropriate by the University to protect the investigatory process and/or the University community while the complaint is being investigated and prior to the determination on the charge(s). Supportive Measures include, but are not limited to, academic, residential, transportation and/or employment accommodations, intended to protect [or preserve] the Complainant's and/or the Respondent's access to LMU's education program or activity. Supportive Measures may be extended through the pendency of conduct proceedings and potentially beyond as necessary.

A Complainant does not need to agree to be interviewed by DPS or participate in the conduct process in order to receive Supportive Measures.

Any such Supportive Measure 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. Supportive Measures provided to either the Complainant or Respondent are kept private, to the extent that maintaining privacy does not impair LMU's ability to provide Supportive Measures. Both Complainant and Respondent will receive written notification of their access to Supportive Measures. Any such Supportive Measure shall not be referred to or offered as evidence at the hearing on the underlying charge(s).

P. Good Samaritan and Self-Reporting Policy

In line with the [Good Samaritan and Self-Reporting Policy](#), 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 reserves 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.

Q. Education

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](#) or call 310.258.4381.

III. Responsible Employees and Requests for Privacy

A. Responsible employees are obligated to report all details of an incident of sexual or interpersonal misconduct, including the identities of those involved, to DPS whenever that information is brought forward to the responsible employee. The Student or reporting party will have the choice whether or not they wish to speak with DPS, however Students should be aware that if they request for their information to remain private, the University's ability to effectively investigate and adjudicate the instance(s) of sexual and interpersonal misconduct may be impaired. DPS will notify the Title IX Coordinator when a report has been filed.

The Title IX Coordinator, in consultation with the Dean of Students, 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 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 conduct process, the University will honor this request.

Should a Student report sexual or interpersonal misconduct that occurred to the Student when they were a child, under the legal age of 18, LMU is required to contact local law enforcement to report the conduct.

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.
2. Pastoral counselors, such as rabbis, Catholic priests and women religious, are not required to report any information regarding alleged sexual or interpersonal misconduct, to DPS, 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.
3. Student Health Services (SHS) Staff, 310.338.2881 or LMUhealth@lmu.edu, are not required to report any information regarding alleged sexual or interpersonal misconduct, to DPS, 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.
4. LMU Community Resource Advisors (LMU CRAs), whose identities and contact information can be found on the [LMU CARES website](#), 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 an LMU CRA will not trigger a University investigation unless the Title IX Coordinator, in consultation with the Dean of Students, or designee, determines that an investigation is necessary because

of the existence of one or more of the factors described in Section III(C).

C. The University cannot guarantee privacy in all instances, and the following factors will be considered by the Title IX Coordinator in consultation with the Dean of Students, or designee, 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 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 or a particular community member has been identified; or
4. The sexual or interpersonal 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.

IV. Complainant/Respondent Rights

A. LMU's conduct process is intended to be fair and equitable to both the Complainant and Respondent. In observance of that goal of equity, both Complainants and Respondents in sexual or interpersonal misconduct cases have the right to:

1. An Advisor of their choice (see Section VI for more details) to assist with the conduct process;
2. 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 available;
3. Receive written notification of the procedures for institutional disciplinary action and their rights and options as defined in sexual and interpersonal misconduct cases;
4. Request Supportive Measures as approved by the Dean of Students in collaboration with the Title IX Coordinator;

5. Make a complaint to DPS;
6. File a police report and take legal action separate from and/or in addition to filing a complaint under this policy seeking disciplinary action;
7. Identify material Witnesses to the alleged incident;
8. Receive written notification of the alleged charges based on the information available to the University;
9. Review submitted evidence that will be utilized by the Conduct Administrators in consideration of whether a violation of the SIM Policy occurred, and provide a written response to DPS;
10. In cases with the potential for severe sanctioning, the opportunity to submit questions for cross examination of the opposing party and any Witnesses to determine credibility of information;
11. If, in the course of the investigation, LMU decides to investigate allegations about the Complainant or Respondent that are not included in the initial notice of allegations, LMU will provide notice of the additional allegations in writing to all parties whose identities are known at the time.
12. Be informed of the disciplinary finding (responsible or not responsible) as well as any sanctions, as applicable, in writing;
13. Appeal rights as outlined in Section XIII of this Policy;
14. Not unreasonably deny a Student's request for a reasonable extension of time due to examination periods or school closures;
15. Refuse any/all of the above.

V. Student Affairs Resource Administrators (SARA)

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 separate SARA to both the Complainant and Respondent (if a Respondent has been identified and been made aware of the allegation). The SARAs will make themselves available, 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 what Supportive Measures may be available to the Complainant and/or Respondent (as outlined in Section II(O) of this policy).

Complainants will be assigned a SARA regardless of whether they provide LMU with the name of the Respondent or participate in the conduct process.

It is encouraged, but not required that Complainants and Respondents meet with their assigned SARA. The role of the SARA is to:

- A.** Provide information, in writing, regarding resources on and off campus such as SPS, SHS, Student Housing, LMU Recovery, LMU CARES, DPS, law enforcement authorities, Rape Treatment Center at Santa Monica-UCLA Medical Center, Campus Ministry and OSCCR;
- B.** Provide information regarding the LMU SIM Policy process and/or the informal resolution process;
- C.** Provide assistance in requesting Supportive Measures;
- D.** Remain available to the Complainant/Respondent throughout the conduct process and/or informal resolution process and continue to provide the Student access to the resources that the Student requires.

VI. Advisor

Complainants and Respondents may choose an Advisor of their choice. The Advisor may be anyone, regardless of familial relationship or lack of affiliation with the University; however, the Advisor must not serve in any other capacity in the conduct process (i.e., Witness or Conduct Officer) but may be the Complainant's or Respondent's SARA. If Complainants or Respondents want a trained Advisor from the University community, they may obtain a referral from their assigned SARA or from OSCCR.

Advisors will assist Students during the conduct process, but will not serve as representation for Students in SIM Policy proceedings. Advisors may not address the Hearing Panel members during conduct proceedings. All communication involving Advisors (unless otherwise provided for in this Policy) must be between the Advisor and Student. An Advisor may not appear in lieu of a Student.

VII. Roles and Responsibilities

A. The Roles and Responsibilities of the Conduct Administrators.

1. Hearings or other proceedings as provided in this Policy may be held before a Conduct Administrators, and may utilize videoconferencing.
2. The Senior Vice President for Student Affairs, or designee, shall appoint Conduct Administrators.

3. The Conduct Administrators adhere to procedures consistent with provisions in this Policy. All procedures are approved by the Senior Vice President for Student Affairs, or designee.

4. In the event of a vacancy or disqualification of a Conduct Administrator, the conduct matter shall be assigned to another Conduct Administrator by the Senior Vice President for Student Affairs, or designee.

5. Conduct Administrators shall complete annual training provided by OSCCR.

6. Conduct Administrators may be called upon to participate in the annual review of the SIM Policy.

B. The Roles and Responsibilities of the Student Conduct Appeal Committee.

1. Appeals, as provided in this Policy, are held before the Student Conduct Appeal Committee.

2. The Student Conduct Appeal Committee shall adhere to procedures consistent with provisions in this Policy. Procedures are approved by the Senior Vice President for Student Affairs, or designee.

3. The Student Conduct Appeal Committee members shall be selected as follows:

a. The ASLMU President shall recommend members from the undergraduate Student body;

b. The GSLMU President shall recommend members from the graduate Student body;

c. The RHA President shall recommend members from RHA;

d. The Student Housing Office shall recommend Resident Ministers as members;

e. The Senior Vice President for Student Affairs, or designee, shall appoint a minimum of two faculty/staff members;

f. Each meeting, the Senior Vice President for Student Affairs, or designee, shall designate a Presiding Chair over the appellate process from the members of the Student Conduct Appeal Committee;

g. The Senior Vice President for Student Affairs, or designee, shall serve as an ex officio member.

4. The Senior Vice President for Student Affairs, or designee, shall appoint all members of the Student Conduct Appeal Committee.

5. The term for the Student or faculty/staff committee members shall be one year. Members may be re-appointed for additional terms.

6. Prior to participating in Student Conduct Appeal Committee deliberations, new members of the Student Conduct Appeal Committee will participate in an orientation session offered at least once each academic year by the Senior Vice President for Student Affairs, or designee.

7. Student members of the Student Conduct Appeal Committee who are charged with any violation of the Student Conduct Code, SIM Policy, Student Title IX Policy or with a criminal offense may be suspended from their committee positions by the Senior Vice President for Student Affairs, or designee, while charges are pending against them. Students found responsible for any such violation or offense may be disqualified from any further participation in the University conduct system by the Senior Vice President for Student Affairs, or designee.

8. In the event of a vacancy, suspension or disqualification of a Student Conduct Appeal Committee member, the Senior Vice President for Student Affairs shall fill the vacancy.

9. Student members of the Student Conduct Appeal Committee may be called upon to participate in the annual review of the SIM Policy.

VIII. Prohibited Conduct

The following is a non-exhaustive list of conduct that is considered to be in violation of the SIM Policy. Participation in any of the below mentioned conduct may result in the initiation of SIM Policy proceedings. Informal resolution may also be initiated in lieu of the conduct process if both the Complainant and Respondent provide written Consent of its usage.

A. Participating in Sexual Misconduct, Sexual Assault, Sexual Battery or Sexual Exploitation that does not meet the definition of Title IX Sexual Harassment.

B. Participating in Dating Violence, Domestic Violence or Stalking that does not meet the definition of Title IX Sexual Harassment.

IX. 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.

X. SIM Policy - Conduct Process

A. Once a report of alleged sexual or interpersonal misconduct is received and the investigation process has been initiated by either the Complainant or the University, LMU will provide written notice to both the Complainant and Respondent. The written notice shall include, among other information, notice of LMU’s conduct process, as well as notice of the allegations of the alleged sexual or interpersonal misconduct and sufficient details known at the time.

B. Referrals

Suspected violations of this Policy, including those discovered during the adjudication and/or investigation of Student Conduct Code proceedings, shall be submitted to OSCCR. Persons making such referrals are required to provide information pertinent to the case and may be asked

to appear before Conduct Administrators. Anonymous reports will be referred to DPS, who will investigate. If enough independent information is corroborated, then SIM Policy proceedings may be initiated when sufficient evidence exists outside of statements by the reporting party, to support the potential for a preponderance of the evidence decision.

C. Sexual and Interpersonal Misconduct Policy Hearings

OSCCR, in consultation with the Title IX Coordinator, shall review referrals to determine whether or not there is sufficient evidence to charge a Student with a violation of this Policy and whether to hold a SIM Policy hearing.

There are two potential processes to adjudicate allegations of sexual and interpersonal misconduct. The type of process utilized will be dependent on the potential for severe sanctioning should the Respondent be found responsible of all alleged charges.

D. SIM Policy – Procedural Protections for Non-Severe Sanctioning

Students charged with Policy violations of misconduct that do not present the potential for severe sanctioning (suspension or dismissal from the University) are accorded the following procedural protections:

1. Complaints will be promptly investigated and adjudicated following the procedures herein outlined;
2. A written or electronic notice of alleged facts underlying the misconduct charge(s), the location of the SIM Policy, a scheduled hearing with a Hearing Panel (or instructions on how to schedule the hearing) and timely notice of that hearing. Hearing Panels shall be comprised of Conduct Administrators trained specifically to adjudicate matters of sexual and interpersonal misconduct. If a Student fails to appear after receiving timely notice, a determination of the charged misconduct will be made based upon the facts and evidence submitted in support of the alleged misconduct. Failure to check one's University e-mail account is not sufficient justification for not attending a scheduled hearing.

Complainants in these incidents will also receive written or electronic notice of the location of the SIM Policy and a scheduled hearing with a Hearing Panel (or instructions on how to schedule the meeting). If a Complainant fails to appear after receiving timely notice, OSCCR may discontinue the proceedings and dismiss the charges. Failure to check one's University e-mail account is not sufficient justification for not attending a scheduled meeting;

3. Reasonable access to the evidence supporting the charge will be made available to both the Complainant and the Respondent prior to a hearing;

4. Students who wish to have an Advisor must inform the Hearing Panel in writing or via e-mail at least two Days prior to the scheduled date of the hearing. The Advisor's role is to support Students during the conduct process, however they may not address the Hearing Panel or play any other role during hearings (including appear as a Witness). All communication involving Advisors (unless otherwise provided for in this Policy) must be between the Advisor and Student. An Advisor may not appear in lieu of the Student. Scheduling of hearings will be in accordance with a Student's academic schedule, but are not subject to delay to accommodate an Advisor's availability;

5. Complainants and Respondents, may provide fact (non expert) Witnesses. These Witnesses must have relevant knowledge and information pertaining to the case. Expert Witnesses are not allowed and character Witnesses are disfavored. The Hearing Panel must be notified in writing at least two Days prior to the scheduled date of the hearing that the Respondent or Complainant plans to provide Witnesses;

6. If a further hearing is necessary with the Respondent, Complainant or a Witness, a supplemental proceeding will be scheduled;

7. A Student's conduct history will be considered when levying sanctions for subsequent violations. Increased sanctions may therefore be levied based on previous violations of all types, including violations of the Student Conduct Code or Student Title IX Policy, not just those of a similar type;

8. Unless required by law, privacy laws prevent notification or disclosure to Student Complainants about the prior conduct history, if any, of the Respondent;

9. For compliance with Clery Act record retention requirements, all official conduct-related correspondence will be retained for a minimum of seven years.

E. SIM Policy – Hearing Process for Non-Severe Sanctioning

1. The Hearing Panel has the right to request the presence of and interview fact (non-expert) Witnesses;

2. Hearings will generally be private except for Hearing Panel, Students and Advisors. Recording devices (audio

and/or video) of any kind are not permitted for use by the Students, Witnesses or Advisors;

3. Prior to a hearing, Respondents and/or Complainants may challenge a Hearing Panel member on the grounds of conflict of interest. Any such challenge must be made in writing to the Dean of Students, or designee, not less than two Days prior to the hearing. The disqualification challenge of a Hearing Panel member shall be determined by the Dean of Students, or designee. If a challenge is sustained, a new Hearing Panel member will be assigned;

4. A separate hearing for both parties during which the Hearing Panel shall again specify the facts underlying the alleged misconduct and provide the Respondent and Complainant the opportunity to review the information gathered by the University, including time, date and place where the behavior is alleged to have occurred, that makes up the basis for the charge(s). Both parties shall have the opportunity to present evidence relevant to the alleged misconduct and to respond to the information gathered by the University in support of or opposition to the charge(s), including the right to offer counter or explanatory information;

5. During hearings, the Hearing Panel shall explain the University's conduct system and Student rights and make available the SIM Policy. The Hearing Panel shall also explain the private nature of the conduct process (Students' statements remain private except in the event of multiple involved Respondents, Complainants and/or Witnesses in which case newly presented information may be mutually shared) and the fact that the hearing may become a part of the file relating to the case;

6. The Hearing Panel shall 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;

7. All participants in a conduct hearing shall be asked to affirm that their testimony is truthful and may be subject to charges of providing false information pursuant to Section III(J) of the Student Conduct Code;

8. The decision of the Hearing Panel shall include a summary of the testimony, findings, decision and applicable sanction(s). The decision shall be sufficiently detailed to permit review pursuant to the appeal procedures (Section XIII) and will be sent to the Respondent and the Complainant. The decision will not be sent to either the Respondent's Advisor or Complainant's Advisor;

9. Except as provided herein, formal rules of evidence and discovery shall not be applicable in proceedings conducted pursuant to this Policy. The Hearing Panel shall 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, may not be considered in the decision making process or may be afforded less weight than other evidence presented;

10. Written statements shall not be admitted into evidence unless signed by the affiant and witnessed by a person designated by the Dean of Students, or designee;

11. Sanctions shall be levied if it is determined that the Student is responsible for the alleged violation(s) by a Preponderance of the Evidence. If not, the charge(s) will be dismissed. Final decisions may be reviewed by the Senior Vice President for Student Affairs, or designee. The reviewing administrator may reduce, defer or suspend the decision and sanction, or impose conditions with any change, deferral or suspension.

F. SIM Policy – Procedural Protections for Severe Sanctioning

Students charged with violations that may result in severe sanctioning (suspension or dismissal from the University), and the Complainants who brought allegations are accorded the following procedural protections:

1. Complaints will be promptly investigated and adjudicated following the procedures herein outlined;
2. A written or electronic notice of misconduct charges and the location of the SIM Policy;
3. The Respondent and Complainant who wish to have an Advisor should inform OSCCR in writing at least two Days prior to the scheduled date of the hearing preparation meeting. The Advisor's role is to support Students during the conduct process, which may include the hearing preparation meetings as well as the hearings. During hearings Advisors may not address the Hearing Panelists or play any other role during hearings. All communication involving Advisors during hearings must be between the Advisor and Student. An Advisor may not appear in lieu of the Student to either the hearing preparation meeting or the hearing.
4. A scheduled hearing preparation meeting with an OSCCR administrator separately for both parties at which:

a. The Respondent and the Complainant may review all the information gathered by the University that makes up the basis for the charge(s);

b. The Respondent and the Complainant may ask the OSCCR administrator questions regarding the conduct process;

c. In the event a Respondent or a Complainant provides new Witnesses during the hearing preparation meeting, then the names of those Witnesses will be provided to DPS for formal interview, and the investigation report will be supplemented with their statements. Once the investigation report is updated with any additional Witness interviews and information, the Respondent and the Complainant will be permitted another opportunity to review the updated report, evidence and information;

d. The OSCCR administrator shall explain the cross examination processes and procedures and Student rights and make available the SIM Policy. The OSCCR administrator shall also explain the private nature of the conduct process (Student statements during the hearing shall remain private except in the event of multiple involved parties, in which case newly presented information related to another Respondent may be mutually shared) and the fact that the hearing may become part of the file relating to the case;

e. The Complainant is informed that no conduct record will be generated in regards to the Complainant, however the Complainant may be permitted future access to the conduct case file;

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 Conduct Administrators on 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 Conduct Administrators will review for relevance when proffered and ask if appropriate;

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 Conduct Administrators on 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 Conduct Administrators will review for relevance when proffered and ask if appropriate;

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

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

8. If a further hearing is necessary, a supplemental proceeding will be scheduled;

9. A Student's conduct history will be considered when assigning sanctions for subsequent violations. Increased sanctions may therefore be assigned based on previous violations of all types, including violations of the Student Conduct Code and the Student Title IX Policy, not just those of a similar type;

10. Unless required by law, privacy laws prevent notification or disclosure to Student Complainants about the prior conduct history, if any, of the Respondent.

11. For compliance with Clery Act record retention requirements, all official conduct-related correspondence will be retained for a minimum of seven years.

G. SIM Policy – Hearing Process for Severe Sanctioning

The following procedural guidelines shall be applicable in conduct proceedings with potential severe sanctioning (suspension or dismissal from the University):

1. The Conduct Administrators on the Hearing Panel may request DPS interview fact (non-expert) Witnesses;

2. LMU reserves the right to copy the Respondent's and the Complainant's Advisors on communication regarding scheduling of hearing preparation meetings, review of reports and scheduling of the hearing;

3. A hearing with cross examination (conducted via

videoconferencing) during which the Hearing Panel shall specify the nature of the alleged misconduct and provide the Respondent and Complainant the opportunity to again review the information and evidence gathered by the University that make up the basis for the charge(s). Respondents and Complainants shall have the opportunity to present evidence relevant to the alleged misconduct and to respond to the information gathered by the University, including the right to offer counter information. The University reserves the right to postpone the hearing if new information is presented that had not been made previously available to all parties, and a supplemental hearing will be scheduled.

The Hearing Process will proceed where a Respondent fails to appear after timely notice and a determination of the charged misconduct made based upon the facts and evidence submitted in support of the alleged misconduct at that hearing (failure to check one's e-mail is not sufficient justification for not attending a scheduled hearing). A Student Complainant who fails to appear after timely notice will be deemed to have abandoned their complaint and the charges will be dismissed unless the case and the facts and evidence presented in support of the charged misconduct independent of the Complainant warrants the continuation of the conduct process;

4. Hearings will generally be private except for the Hearing Panel, parties and Advisors. Hearings will 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 Students, Witnesses or Advisors. Respondents and Complainants are expected to be visible to the Conduct Administrators and each other throughout the hearing (with the exception of requested breaks). The recording of the hearing will be part of the conduct file and may be accessible to the Respondent and Complainant by contacting OSCCR. Transcriptions of hearings will not be made available;

5. Prior to the hearing, a Respondent or Complainant may challenge a Hearing Panel member on the grounds of a conflict of interest. Any such challenge must be made in writing to the Dean of Students, or designee, not less than two Days prior to the hearing. The disqualification challenge of a Hearing Panel member shall be determined by the Dean of Students, or designee. If a challenge is sustained, a new Conduct Administrator will be assigned, which may not impact the date and time of any scheduled hearing;

6. The Conduct Administrators on the Hearing Panel shall exercise control over the procedures to avoid

needless consumption of time. Any person, including an Advisor, who is disruptive during the hearing, refuses to follow the rules or procedures and/or fails to adhere to the admonitions and rulings of the Hearing Panel may be excluded from the proceedings;

7. The decision of the Conduct Administrators on the Hearing Panel shall include a summary of the testimony and evidence in support of the findings, the findings, decision and applicable sanction(s). The decision shall be sufficiently detailed to permit review pursuant to the appeal procedures (Section XIII) and will be sent to the Respondent and the Complainant. The decision will not be sent to either the Respondent's Advisor or Complainant's Advisor;

8. All participants in a conduct hearing shall be required to affirm that their testimony is truthful and may be subject to charges of providing false information pursuant to Section III(J) of the Student Conduct Code;

9. Except as provided herein, formal rules of evidence and discovery shall not be applicable in proceedings conducted pursuant to this Policy. The Hearing Panel shall give effect to recognized rules of privacy (including 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, may not be considered in the decision making process or may be afforded less weight than other evidence presented;

10. Sanctions shall be levied if it is determined that the Student is responsible for the violation(s) by a Preponderance of the Evidence. If not, the charge(s) will be dismissed. Final decisions may be reviewed by the Senior Vice President for Student Affairs, or designee. The reviewing administrator may reduce, defer or suspend the decision and sanction, or impose conditions with any change, deferral or suspension.

XI. Sanctions

Violations of the provisions of Section VIII (Prohibited Conduct) of this Policy will result in the imposition of sanctions in service of the mission of this Policy. Factors to be considered in the determination of sanctions include, but are not limited to, the nature and severity of the violation, the present demeanor, contrition and past disciplinary record of the Respondent, including the willingness to accept responsibility for their behavior, the nature of the offense and the severity of any damage, injury or harm resulting from it, as well as the ability to potentially repair that harm and any and all health and safety considerations of the University

Community and/or those involved.

A. Conduct Probation

The Student is no longer in “good conduct standing” with the University for duration of probation. The Student is given written notice that further infractions of University policies may result in further, increased sanctions. The Student may also be restricted from eligibility for or participation in present and future Student and University activities, including, but not limited to, co-curricular and organizational activities, ASLMU positions and activities, Resident Advisor positions, Study Abroad programs, orientation leadership positions and other Student leadership positions.

B. Dismissal from the University

Permanent separation of the Student from the University. Permanent notification may appear on the Student’s University transcript. The Student will also be banned from campus and University Premises. The sanction of dismissal requires the review and approval by the Senior Vice President for Student Affairs, who may alter, defer or suspend this recommended sanction. Any alteration, deferral or suspension of this sanction may be subject to specified conditions. Notification of dismissal may be sent to the appropriate University offices and officials.

C. Educational Programs

The Student is assigned to attend educational programming either in person or online to increase awareness of the effects and issues related to their behaviors.

D. Housing Probation

The Student is given written notice that any further infractions of University policies or Housing policies may result in removal from University housing and/or determination that the Student be ineligible for or restricted from present and future housing opportunities. The Student is required to meet with their Resident Director or Housing designee within two weeks of being placed on housing probation.

E. Ineligibility for Participation in Graduation Ceremonies

Prohibition from participation in graduation ceremonies.

F. Meetings

Meetings with a University staff or faculty member may be assigned as an educational sanction to provide the Student with an opportunity to discuss strategies to prevent future

violations. Students may be asked to meet with an individual more than once.

G. No Contact Orders

The Student is given written notice not to have verbal, written or electronic contact with another LMU community member for a specified period of time, which may include their remaining tenure at the University. This order includes all interpersonal communication, including, but not limited to, social interaction, telephone correspondence, email, text message and/or social networking website.

H. Removal from or Relocation within University Housing

Students may be removed from University Housing facilities or a particular University Housing facility, be relocated to another University Housing facility or have their University Housing license agreement terminated. If removed, a Student may be prohibited from entering University Housing facilities and ineligible for future University Housing.

I. Restriction from Campus, University Premises, Facilities or Events

Excluding a Student from campus, University Premises, University facilities or events means that the Student is not allowed to be on the campus, University Premises, at University facilities or in attendance of an event for or during specific time periods. Restrictions may include authorizing access to limited University Premises or facilities for specific purposes (e.g. to attend class) or being required to fulfill academic requirements via online educational tools.

J. Suspension from the University

Separation of the Student from the University for a stated period with an opportunity for reinstatement consideration. Permanent notification of the suspension may appear on the Student’s University transcript. While suspended, the Student is ineligible for and shall not participate in any University-approved Activities and may be excluded from campus and University Premises. Suspended time will not count against any time limits of graduate schools or programs for completion of a graduate degree. The sanction of suspension requires the review and approval of the Senior Vice President for Student Affairs, who may alter, defer or suspend this recommended sanction. Any alteration, deferral or suspension of this sanction may be subject to specified conditions. Notification of suspension may be sent to the appropriate University offices and officials.

K. Warning

The Student is given verbal and/or written warning that

future misconduct may result in more severe disciplinary action.

L. Other Sanctions

The University and its Conduct Administrators and Hearing Panels retain the right to impose additional and/or different sanctions according to the specific circumstances and needs of a situation.

XII. Informal Resolution Process

A. Overview

1. The University recognizes that it is important to take into account the needs of Students, some of whom may not wish to proceed through the conduct process. The University may, in appropriate circumstances, offer Complainants and Respondents the option of proceeding through an informal resolution process. The informal resolution process is designed to redress the harm caused by the underlying conduct and prevent its recurrence in a manner that meets the needs of the Complainant and effected parties while still maintaining the safety of the overall campus community. In cases where the University offers the option of informal resolution, if the parties agree to participate in the informal resolution process, the University will postpone initiation of the conduct process.

B. When Informal Resolution May be Used

1. The University, at its sole discretion, may offer the informal resolution process in lieu of the conduct process.

2. OSCCR, in consultation with the Title IX Coordinator, or designee, will determine whether the informal resolution process is appropriate on a case-by-case basis. The University reserves the right to discontinue the informal resolution process at any time prior to the signing of the informal resolution agreement.

C. Informal Resolution Process - Procedures

1. Either party may request to proceed with the informal resolution process at any point in the investigation process, prior to the start of a hearing. The appropriateness of informal resolution will be determined by the University prior to the commencement of informal resolution procedures.

2. If the University determines that it is appropriate to offer informal resolution regarding the complaint, an OSCCR administrator will explain the informal resolution process to the Complainant, inform the Complainant that

participation is voluntary, and ask if the Complainant wants to engage in the informal resolution process in lieu of the conduct process.

3. If the Complainant informs OSCCR that they would like to engage in the informal resolution process, the University will inform the Respondent that the Complainant has requested the informal resolution process. The University will explain the requirements of the informal resolution process to the Respondent including, but not limited to, potential consequences that may result from participating in the process. The Respondent will be informed that participation in the informal resolution process is voluntary.

4. If both the Complainant and Respondent agree to participate in the informal resolution process, they must inform OSCCR in writing. Prior to the resolution of the informal resolution process, the Complainant and/or Respondent may request the informal resolution process end and the complaint proceed through the conduct process.

5. The informal resolution process will be facilitated by a trained facilitator.

6. Individuals who wish to participate in an informal resolution process must successfully complete preparatory meetings with the facilitator. Individuals may be accompanied by a support person at any meetings related to the informal resolution process.

7. Informal resolution may include one or more of the following restorative approaches:

a. Restorative Conference: A facilitated interaction where individuals who have experienced harm can come together with an individual(s) who assumes responsibility for repairing harm, with the goal of creating a plan or agreement to repair the harm (to the extent possible). With both parties' agreement, a restorative conference can include multiple members of the community to explore individual and community impact, harm, obligations, and opportunity for repairing them;

b. Restorative Shuttle Agreement/Impact Statement: An indirect, facilitated conversation individually with the Complainant, the Respondent and/or other participants to discuss experience and perspective and explore interests while working towards meeting expressed needs. This negotiated process does not require direct interaction between the parties or the parties and other participants, but rather, independently, with a coordinator to create an agreement to repair harm.

8. After consultation and intake with the trained facilitator, the Complainant and the Respondent must voluntarily agree on the process(es) that best meet(s) the interests and needs of the parties.

9. If the informal resolution process is not accepted or fully completed by all parties, then the matter may be referred back to OSCCR, and the conduct process may be initiated.

D. Informal Resolution Process Agreements

1. A mutual voluntary resolution agreement may include requirements that the Respondent complete various responsive actions. The trained facilitator will explain to the Complainant and Respondent the types of responsive actions available and appropriate on a case-by-case basis.

2. Typically, an agreement also includes agreed upon consequences when obligations under the agreement are not fulfilled, which may include being charged with a violation of the Student Conduct Code for failure to comply with University officials or other applicable University policies.

3. Any agreement reached in the informal resolution process will be reviewed by the Title IX Coordinator, or designee.

4. As part of the successful completion of the informal resolution process, which may include completion of agreement items, the Respondent will not be charged with a violation of the SIM Policy.

5. Once an agreement is signed, the complaint is considered resolved and cannot be referred back to the conduct process.

E. Information obtained during Informal Resolution Process

1. Information shared or obtained during the informal resolution process will be treated as private to the extent permitted by law and will not result in subsequent disciplinary actions by the University.

2. Should the process revert to the conduct process, information obtained through the informal resolution process may not be utilized in the conduct process.

3. To fairly assess pattern or systemic behavior, the Title IX Coordinator may maintain records of all reports and conduct referred for informal resolution.

XIII. Appeal Procedures

A. Decisions by the Hearing Panel or, in some instances, conduct sanctions levied may be appealed by the Respondent or Complainant to the Student Conduct Appeal Committee. Appeals to the Student Conduct Appeal Committee are limited to one or more of the following grounds:

1. The sanction is inappropriate;

2. The procedures provided for in the Code were not materially followed resulting in significant prejudice to the Appellant that effectively denied Appellant a fair hearing;

3. New relevant evidence is available, which in the exercise of reasonable diligence could not have been produced at the time of the hearing; or

4. The decision is not supported by substantial evidence.

B. All petitions for appeals shall be submitted to:

The Student Conduct Appeal Committee
c/o The Office of Student Conduct & Community
Responsibility
Malone Student Center 355
OSCCR@lmu.edu

C. Appeal petitions must be submitted by the Respondent or Complainant via written statement and received by the Student Conduct Appeal Committee c/o OSCCR within five 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 Student party. Failure to file the appeal petition within the limitations period results in the decision becoming final and conclusive.

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

D. 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 Student Conduct Appeal Committee shall be convened. The non-appealing party (either Complainant or Respondent) will receive access to the submitted appeal petition, and be afforded the opportunity to submit a timely written statement in opposition to the appeal.

E. In appeals of decisions in conduct cases without the potential for severe sanctioning (suspension or dismissal from the University), the Student Conduct Appeal Committee will review the DPS investigation report or documentation of alleged behavior, the Hearing Panel's summary of the testimony, findings, decision and the recommended sanction,

the Student's disciplinary history and the written statements of the Respondent and the Complainant filed with the appeal petition or in response to the appeal petition.

F. In appeals of decisions in conduct cases involving the potential for severe sanctioning (suspension or dismissal from the University), the Student Conduct Appeal Committee will review the DPS investigation report, the video and audio recording of the hearing, the findings, decision and recommended sanctions (if applicable), the Respondent's disciplinary history and the written statements of the Respondent and of the Complainant filed with the appeal petition or in response to the appeal petition.

G. Both parties shall have the opportunity to submit an appeal and absent an appeal by both parties, the non-appealing party shall 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.

H. Concurrent with the filing of an appeal petition, Respondents or Complainants may challenge a member of the Student Conduct Appeal Committee on the grounds of a conflict of interest. All disqualification challenges of Student Conduct Appeal Committee members shall be determined by the Senior Vice President for Student Affairs, or designee. If a challenge is sustained, the proceedings will continue without the participation of the disqualified member in the event that a quorum exists with the remaining members. If disqualification results in the lack of a quorum a new Committee will be assembled without the previously challenged member.

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

J. So long as supported by the evidentiary record, the Student Conduct Appeal Committee shall give deference to the determinations of the Hearing Panel. The Student Conduct Appeal Committee shall not alter the underlying decision of the Hearing Panel if supported by substantial evidence and reasonable inferences arising therefrom. If the appeal submitted by the Respondent or Complainant is granted, the Committee may make one of the following recommendations to the Senior Vice President of Student Affairs, or designee:

1. The case may be referred back to the Hearing Panel

who made the original decision for reconsideration of the appropriateness of the sanctions assigned;

2. The case may be referred back to the Hearing Panel who made the original decision to consider new, significant relevant evidence, which in the exercise of reasonable diligence could not have been produced at the time of the hearing;

3. The case may be referred back to the Senior Vice President for Student Affairs, or designee, for reassignment to a new Hearing Panel if specified procedural errors in interpretation of the Policy resulted in significant prejudice to the Appellant that effectively denied the Appellant a fair hearing;

4. The determination may be reversed, if the decision is not supported by substantial evidence.

K. Except as provided herein, formal rules of evidence and discovery shall not be applicable in these proceedings conducted pursuant to the Policy. The Student Conduct Appeal Committee shall give effect to the recognized rules of privacy (including FERPA) and privilege but shall otherwise admit matters into evidence that reasonable persons would accept as having probative value in the conduct of their affairs. Unduly repetitious or irrelevant evidence may be excluded.

L. The Student Conduct Appeal Committee may take presumptive notice of matters that would be of general knowledge to other University Students.

M. The Student Conduct Appeal Committee shall be provided copies of the Student's disciplinary record when reference to the Student's disciplinary history is included in the decision made by the Hearing Panel.

N. Unless otherwise determined by the Senior Vice President for Student Affairs, or designee, the imposition of sanctions will be deferred during the appeal process.

O. A quorum for the Student Conduct Appeal Committee shall be three members with a minimum of one Student and one faculty member.

P. Procedural, evidentiary and final recommendations of the Student Conduct Appeal Committee shall be by majority vote of the members present and voting. A tie vote in an appeal proceeding will result in affirmation of the original decision. Procedural or evidentiary issues in Student Conduct Appeal Committee proceedings shall be determined by the Committee's presiding chair in accordance with the Policy.

XIV. Exceptional Procedures

A. Final decisions of the Hearing Panel recommending a suspension or dismissal from the University shall be reviewed and approved by the Senior Vice President for Student Affairs.

B. Students may also be relocated or removed from University Housing facilities on an interim or temporary basis as an appropriate Supportive Measure.

C. Unless otherwise determined by the Senior Vice President for Student Affairs, or designee, the imposition of sanctions will be deferred during the appeal process.

D. A conduct hold may be placed on a Student's file/account and a notation may be entered on the Student's University transcript when the Student has been dismissed or suspended from the University or has officially or unofficially withdrawn, taken a leave of absence or has been academically disqualified while SIM Policy proceedings are pending. In addition, when the Student has incomplete sanctions or open conduct cases and leaves the University for any reason, including, but not limited to, leave of absence, withdrawal or academic disqualification, a conduct hold may be placed on the Student's file/account and the Student may also be prohibited from entering campus during the period of the conduct hold. This conduct hold must be cleared before a Student will be allowed to return to the University.

E. A notation may be entered on the Respondent's University transcript at the discretion of the University if the Student is found responsible for a specific sexual or interpersonal misconduct charge.

F. Prior to graduation, Students charged with an alleged Policy violation in which the charges have not yet been adjudicated, may in the University's discretion be prohibited from participating in graduation ceremonies until the SIM Policy proceedings have been adjudicated and, if found responsible, sanctions completed.

XV. Retaliation

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.

The University will respond to any accusations of Retaliation

against the Complainant, Respondent or Witnesses because of participation in the investigation or adjudication of a report of sexual or interpersonal misconduct. Any person(s) 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 by a Student for filing or being named in a complaint for sexual or interpersonal misconduct or having participated in the investigation of such a complaint, should promptly notify DPS at 310.338.2893 or public.safety@lmu.edu. Any person who believes that they have been retaliated against for the above-mentioned reasons by a faculty or staff member as an individual or on behalf of the University should contact the Title IX Coordinator at 310.568.6105 or Sara.Trivedi@lmu.edu.