

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

I. INTRODUCTION

Loyola Law School (“LLS” or law school) recognizes the significant, unacceptable and nationwide existence of sexual and interpersonal misconduct on college and graduate school campuses. LLS is dedicated to the prevention of such misconduct and to providing a caring, supportive and effective response when such misconduct occurs. Accordingly, LLS encourages students and law school community members to report such misconduct so that the law school can take appropriate responsive action.

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

Students should report all forms of sexual misconduct (student-on-student; student and non-student; faculty/staff-on-student) and interpersonal misconduct by filing a report with Campus Safety and Security at 213-736-1121 (x1121 on campus).

In addition, a case for alleged student-on-student sexual misconduct or interpersonal misconduct will be initiated and adjudicated according to Section VIII of this policy, and not according to the process articulated in the law school Discipline Code specified in Student Handbook Section 12.0.

Sexual or interpersonal misconduct involving a Student and any non-student in the LLS community is governed by and adjudicated under the LLS Discriminatory Harassment and Complaint Process.

All persons, including law school faculty and staff, are prohibited from taking any retaliatory action against any other member of the law school 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 Standards of Conduct and the Discipline Code and appropriate sanctions for determined violations may include dismissal from the Law School. Retaliation by non-students will be adjudicated and determined in accordance with the LLS Discriminatory Harassment and Complaint Process. Any Student who believes that they have been retaliated against for having filed, or being named in, a complaint for sexual or interpersonal misconduct or having participated in the investigation of such a complaint, should promptly notify the Campus Safety and Security at 213-736-1121 (x1121 on campus). Alleged retaliation by a faculty or staff member should also be reported to Deputy Title IX Coordinator.

For additional information on sexual and interpersonal misconduct awareness, prevention and training, including bystander intervention, please visit the LMU CARES office online: <http://studentaffairs.lmu.edu/lmucares/> or contact Loyola Law School Deputy Title IX Coordinator.

Sara Trivedi, LMU Title IX Coordinator, (310) 568-6105.

Matthew Riojas, Loyola Law School Deputy Title IX Coordinator, (213) 736-8152

II. POLICY

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

Any allegation that a student has participated in sexual or interpersonal misconduct will be adjudicated through the process described in Section VIII of this policy. Any student found to have violated this policy will be subject to disciplinary action as set forth in the Student Handbook, including disciplinary warnings through suspension or dismissal from the Law School. If a Complainant chooses not to participate in the Law School conduct process, the Law School reserves the right to initiate that process if, in the opinion of the investigating Associate Dean, sufficient evidence exists without the participation of the Student Complainant to make a determination that the policy had been violated by the putative Respondent utilizing the Preponderance of the Evidence standard.

A. Adjudication of alleged incidents under this policy.

All alleged incidents of student-on-student sexual and interpersonal misconduct will be adjudicated in accordance with this policy, utilizing the preponderance of the evidence standard and will involve a hearing with cross examination. These proceedings pursuant to this policy shall be prompt, fair and impartial and adjudicated by officials who have received regular training regarding incidents of this nature.

B. Interim Measures To Ensure Well-Being of Students.

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

C. Notice.

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

D. No Contact Orders.

No Contact Orders (NCO) will also be utilized by Campus Safety and Security both during the investigation and through the completion of the disciplinary process. Both parties will be expected to sign a document stating their awareness of the NCO and the stipulations of no contact. Safety and Security will provide information about available community resources.

E. Disclosure of Underage/Excessive Consumption of Alcohol or Possession of Illegal Substances.

Except as required by law, including without limitation, disclosure to licensing boards and agencies, violations of the Discipline 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 law school 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.

F. Special Training for Investigation and Disciplinary Proceedings.

Disciplinary proceedings regarding alleged incidents of sexual and interpersonal misconduct will be coordinated by an Associate Dean who is regularly trained in the adjudication of these types of incidents.

A pre-hearing meeting will be scheduled separately with both the Complainant and the Respondent, where both parties will be permitted to review the investigatory report and supporting evidence, identify additional witnesses and ask questions about the conduct process. All disciplinary proceedings involving allegations of sexual and interpersonal misconduct will include a hearing with cross examination. Complainants and Respondents will be permitted to ask questions of the opposing party and witnesses.

All Judicial Officers receive training regarding the adjudication of allegations of sexual and interpersonal misconduct.

G. Prior Sexual History.

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

H. Determination of Notification. Once a determination of the charges has been made, a determination notification letter will be concurrently sent to Complainant and Respondent.

I. Complainants are encouraged to report all instances of sexual or interpersonal misconduct regardless of the amount of time that has passed since the alleged misconduct occurred. The University reserves the right to take disciplinary action regarding allegations involving current LMU students irrespective of the length of time since the alleged misconduct occurred.

J. Student Conduct Code proceedings are independent from criminal or civil proceedings and will normally proceed without regard to the pendency or potential pendency of criminal or civil proceedings.

III. DEFINITIONS

A. Sexual Assault.

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

B. Sexual Harassment.

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

For purposes of this policy, **Sexual Harassment** includes, but is not limited to, invasion of sexual privacy, audio or video recording or photographing of a sexual nature utilizing a 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, exposing one's genitals in non-consensual circumstances, coercing another against their will to expose their genitals or breasts and prostituting another person.

C. Sexual Exploitation.

For purposes of this policy, **Sexual Exploitation** is defined as 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, and prostituting another person.

D. Consent.

- a. **Consent** is defined as the unambiguous and willing participation or cooperation in act, behavior or attitude that is commonly understood to be consistent with the exercise of free will. It is the responsibility of each person involved in the sexual activity to ensure that he or she has the affirmative consent of the other(s) to engage in the sexual activity. Consent requires participants who are lawful adults, fully conscious, equally free and legally competent to act, have clearly communicated their willingness, cooperation or permission to participate in the specific sexual activity engaged in, are positive and clear about their desires and are able to cease ongoing consensual activity at any time. Refusal to consent does not have to be verbal; it can be expressed with clear gestures, body language or attitude. Lack of protest or resistance does not mean consent, nor does silence mean consent. Prior sexual history between the Complainant and Respondent, by itself, does not constitute Consent, nor does consenting to sexual activity with one person imply consent to sexual activity with another person.
- b. 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 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.
 - iii. The individual has acted or spoken in a manner which expresses a lack of consent or a refusal to consent.
- c. The following are invalid excuses for failing to obtain affirmative consent from the Complainant:
 - i. The Respondent's believe 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.

E. Domestic Violence.

For purposes of this policy, **Domestic Violence** is defined as a felony or misdemeanor crime of violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabited with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under California law or by any other person against an adult or youth victim who is protected from that person's acts under California law.

F. Dating Violence.

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

1. Who is or has been in a social relationship of a romantic or intimate nature with the victim; and
2. Where the existence of such a relationship shall be determined based on the Complainant's statement and with consideration of the following factors:
 - a. The length of the relationship.
 - b. The type of the relationship.
 - c. The frequency of interaction between the persons involved in the relationship.
3. **Dating Violence** includes, but is not limited to, sexual or physical abuse or the threat of such abuse. Dating Violence does not include acts covered under the definition of Domestic Violence.

G. Stalking.

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

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

H. Complainant.

Complainant means the individual(s) who files(s) a Discipline Code complaint with the University.

I. Hostile 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 benefits or opportunities, from both a subjective (the Complainant's) and an objective (reasonable person's) viewpoint.

J. Respondent.

Respondent means the individual(s) against whom a Discipline Code complaint is made.

K. Retaliation

Retaliation means any 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 may, among other non-permitted conduct or behaviors, include threats, intimidation, coercion, harassment, reprisals, spreading negative information about an individual, exclusions from academic and non-academic programs, and/or adverse actions related to employment.

IV. CALIFORNIA LAW

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

A. Excerpts from Sections 11165.1 and 261 of the California Penal Code:

Sexual assault includes rape, statutory rape, rape in concert, incest, sodomy, oral copulation, sexual penetration, lewd or lascivious acts upon a child, child molestation and the following:

1. Penetration, however slight, of the vagina or anal opening of one person by the penis or another person whether or not there is emission of semen. Sexual contact between the genitals or anal opening of one person and the mouth or tongue of another person.
2. 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.
3. 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 valid medical purpose.
4. The intentional masturbation of the perpetrator's genitals in the presence of a child.

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

1. Where a person is incapable, because of a mental disorder or developmental or physical disability, of giving legal consent and this is known or reasonably should be known to the person committing the act
2. Where it is accomplished against a person's will by means of force, violence, duress, menace or fear of immediate and unlawful bodily injury on the person or another
3. Where a person is prevented from resisting by any intoxicating or anesthetic substance, or any controlled substance, and this condition was known, or reasonably should have been known, by the accused
4. Where a person is at the time unconscious of the nature of the act, and this is known to the accused

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

 - (A) Was unconscious or asleep.
 - (B) Was not aware, knowing, perceiving or cognizant that the act occurred.
 - (C) Was not aware, knowing, perceiving or cognizant of the essential characteristics of the act due to the perpetrator's fraud in fact.
 - (D) Was not aware, knowing, perceiving or cognizant of the essential characteristics of the act due to the perpetrator's fraudulent representation that the sexual penetration served a professional purpose when it served no professional purpose.
5. Where a person submits under the belief that the person committing the act is someone known to the victim other than the accused, and this belief is induced by any artifice, pretense or concealment practiced by the accused, with the intent to induce the belief.
6. Where the act is accomplished against the victim's will by threatening to retaliate in the future against the victim or any other person, and there is a reasonable possibility that the perpetrator will execute the threat. As used in this paragraph, "threatening to retaliate," means a threat to kidnap or falsely imprison, or to inflict extreme pain, serious bodily injury or death.
7. Where the act is accomplished against the victim's will by threatening to use the authority of a public official to incarcerate, arrest or deport the victim or another, and the victim has a reasonable belief that the perpetrator is a public official. The perpetrator does not actually have to be a public official.

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

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

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

The governing boards of independent postsecondary institutions shall adopt a policy concerning Sexual Assault, Domestic Violence, Dating Violence and Stalking, as defined in the federal Higher Education Act of 1965 involving a Student, both on and off campus. This policy shall include an affirmative consent standard in the determination of whether consent was given by both parties to sexual activity. "Affirmative consent" means affirmative, conscious, and voluntary agreement to engage in sexual activity. It is the responsibility of each person involved in the sexual activity to ensure that they have the affirmative consent of the other or others to engage in the sexual activity.

of protest or resistance does not mean consent, nor does silence mean consent. Affirmative consent must be ongoing throughout a sexual activity and can be revoked at any time. The existence of a dating relationship between the persons involved, or the fact of past sexual relations between them, should never by itself be assumed to be an indicator of consent.

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

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

A current or previous dating or marital relationship shall not be sufficient to constitute consent where consent is at issue in a prosecution under Section 261, 262, 286, 287, or 289.

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

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

Any person who willfully, maliciously and repeatedly follows or willfully and maliciously harasses another person and who makes a credible threat with the intent to place that person in reasonable fear for his or her safety, or the safety of his or her 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. 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, 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 the 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 husband and wife;
5. The continuity of the relationship;
6. The length of the relationship.

V. Complainant/Respondent Rights

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

1. Access to an advisor, if they do not have one of their own, to assist with the conduct process. Complainants and Respondents may select the Advisor of their choice, regardless of family relationship or lack of affiliation to the University (see Section IX for more details);
2. Receive a written notification of available on and off campus counseling, health, mental health, victim advocacy, legal assistance, visa and immigration assistance, student financial aid, and other services available as well as notification of the procedures for institutional disciplinary action and their rights and options as defined in sexual and interpersonal misconduct cases;
3. Make a complaint to Campus Safety and Security;
4. File a police report and take legal action separate from and/or in addition to filing a complaint seeking disciplinary action pursuant to this policy;

5. Be informed of the disciplinary finding (responsible or not responsible) in writing;
6. Present material witnesses to the alleged incident;
7. Appeal rights as outlined in this policy (Section VIII);
8. Opportunity to cross examine the opposing party and any Witnesses to determine credibility of information;
9. Refuse any/all of the above. If Complainant refuses to participate in a hearing with cross examination, the University will not proceed with the conduct process unless sufficient evidence exists without the participation of the Student Complainant. If Respondent refuses to participate in a hearing with cross examination, the University will nonetheless proceed with the conduct process and, if supported by the evidence presented, hold the Respondent accountable for proved violations of the subject Student Conduct Code charges.

VI. TITLE IX

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

LLS has a Deputy Title IX Coordinator and Loyola Marymount University has a Title IX Coordinator.

LLS encourages prompt reporting of crime to Campus Safety and Security and/or law enforcement. A criminal investigation into allegations of Sexual Harassment or sexual violence does not relieve LLS of its duty under Title IX to resolve complaints promptly and equitably. Even if a Student elects not to file a complaint pursuant to this policy, does not request that LLS take any action on the Student's behalf or is unable to make a report to LLS and/or law enforcement, if LLS knows or reasonably should know about possible Sexual Harassment, sexual violence or interpersonal misconduct, it must promptly investigate to determine what occurred and then take appropriate steps to resolve the situation. In appropriate circumstances, LLS may report crimes to law enforcement when a victim decides not to report or cannot report the crime.

Questions about Title IX or this policy may be directed to the Title IX Coordinator in the Human Resources Department or the Deputy Title IX Coordinator. The Title IX Coordinator and Deputy Title IX Coordinator are notified of reported incidents of sexual and interpersonal misconduct and monitors the Law School's response to such misconduct.

If you believe that Loyola Law School does not respond appropriately to your allegations of sexual assault, harassment, or misconduct after you have filed a report with Campus Safety and Security or gone through the adjudication process, you have the option to file a complaint with the Office of Civil Rights.

1. You may file a complaint in person, online, or by mail
 - a. In person: via telephone (800) 421-3481.
 - b. Online: via email: OCR@ed.gov; or
 - c. By mail: write letter to:
U.S. Department of Education Office for Civil Rights,
Lyndon Baines Johnson Department of Education Building,
400 Maryland Avenue, S.W.,
Washington, D.C. 20202-1100.
2. For more information about filing a complaint please visit:
<https://www2.ed.gov/about/offices/list/ocr/complaintintro.html>

VII. REPORTING MISCONDUCT.

A. Reporting Misconduct.

The Law School and LMU encourage prompt reporting of crime to Campus Safety and Security, the Office of Student Affairs and/or law enforcement. Even if a Student elects not to file a Discipline Code complaint, does not request that the Law School or LMU take any action on the Student's behalf or is unable to make a report to the Law School and/or law enforcement, if the Law School knows or reasonably should know about possible Sexual Harassment, sexual violence or interpersonal misconduct, the Law School must promptly investigate to determine what occurred

and then take appropriate steps to resolve the situation. In appropriate circumstances, the Law School may report crimes to law enforcement when a victim decides not to report or cannot report the crime. The law school encourages students to report sexual harassment, sexual misconduct or interpersonal misconduct so that the law school can investigate and respond effectively. Once the law school receives a report, it must investigate.

B. Confidentiality.

Title IX requires all universities to identify “responsible employees” as those who are obligated to report all details of an incident, including the identities of those involved, to Campus Safety and Security whenever that information is brought forward to the employee. Responsible employees include faculty, administrative staff and some student staff. Responsible employees do not include the following:

Professional, licensed counselors, such as Dr. Michael Douglas in the Student Affairs Counseling Office (502 Casassa, 213-736-1122), are not required to report any information regarding an alleged sexual or interpersonal misconduct, to Campus Safety and Security, the Title IX Coordinator or any other reporting body, without consent from the student.

Pastoral counselors, such as Catholic priests and women religious, are not required to report any information regarding an alleged sexual or interpersonal misconduct, to Campus Safety and Security, 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.

Student Health Services (SHS) Staff, such as doctors and nurse practitioners at SHS (310) 338-2881, are not required to report any information regarding an alleged sexual or interpersonal misconduct, to the Department of Safety and Security, the Title IX Coordinator or any other reporting body on campus, without Consent from the Student. SHS Staff will be required to report signs of physical or sexual abuse to law enforcement.

Community Resource Advisor (CRA), whose names can be found on the Student-on-Student Sexual and Interpersonal Misconduct Policy website, may speak with students regarding incidents of sexual and interpersonal misconduct without automatically triggering a University investigation into the matter. These individuals may 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 a Community Resource Advisor, they will be obligated to report that information to the Deputy Title IX Coordinator. Reports by the Community Resource Advisor will not trigger a University investigation unless the Deputy Title IX Coordinator in consultation with the Associate Dean for Student Services or designee determines that an investigation is necessary because:

- a. The Respondent has known prior allegations of sexual or interpersonal misconduct and a potential for a campus safety risk exists; or
- b. The location in which the alleged incident occurred is a location where previous complaints of sexual or interpersonal misconduct occurred creating the potential for a unsafe environment for the LLS community; or
- c. A threat to the campus community at large has been identified; or
- d. A frequency or pattern is detected that suggests an unsafe environment exists for the LLS community or an LLS community member; or
- e. The Sexual or interpersonal misconduct was perpetrated with a weapon; or
- f. The Victim is a minor; or
- g. Some combination of the above factors exists.

C. Law School Employees Are Obligated to Inform Campus Safety and Security.

Any law school employee (other than the confidential resources or Community Resource Advisor identified in the Resources listing) who receives a report is required to inform Campus Safety and Security about the report they have received. Campus Safety and Security and the law school will follow up on any report it receives about possible misconduct, whether from a student, other member

of the community or an anonymous source, including informing the Deputy Title IX Coordinator of any reports of Sexual or Interpersonal Misconduct.

Before a student reveals information, University employees will try to ensure that the student understands the employee's reporting obligations—and, if the student wishes to maintain confidentiality, direct the student to confidential resources. A student may choose to make a full report or request confidentiality as he or she determines.

E. Student Requests for Confidentiality.

A complainant may report misconduct pursuant to this section and request that the law school not disclose his or her identity to anyone else, including the person who allegedly committed the misconduct. While such a request may limit the law school's ability to investigate and respond to the reported misconduct, the Deputy Title IX Coordinator, in consultation with appropriate school officials, will consider the request in light of LLS' commitment to provide a safe and non-discriminatory environment for all students and will honor the request, provided such accommodation can be made consistent with LLS' duties to protect the law school community from sexual and interpersonal misconduct. The Community Resource Advisor with whom the complainant met will promptly notify the complainant making the request whether the law school will be presently able to honor it.

Whether or not LLS is able to grant a request to keep the complainant's identity confidential, law school personnel will reveal information about investigations and disciplinary proceedings related to sexual harassment, sexual misconduct or interpersonal misconduct only to those who need to know in order to carry out their duties and responsibilities.

F. Advisor.

At any time prior to or during proceedings regarding an allegation of sexual or interpersonal misconduct governed by this policy, Complainants and Respondents may choose an advisor of their choice to accompany them during the investigative process or any related meeting that is part Sexual and Interpersonal Misconduct investigative and adjudicative proceedings. An advisor is any individual who provides the complainant or respondent support, guidance, or advice. This advisor may be a parent, a community advocate, or any other person. The advisor's role is purely supportive; the advisor may not speak on behalf of the complainant or respondent.

VIII. VIOLATIONS OF THIS POLICY.

All allegations of student-on-student sexual harassment, sexual misconduct, or interpersonal misconduct as defined in this policy will be reviewed, and action taken as warranted, according to the process delineated in this section. Proceedings shall be prompt, fair and impartial. Like the Discipline Code, the proceedings defined in this section do not, and are not intended to, emulate the criminal justice system, its processes and/or procedures.

A. Investigation and Adjudication.

Once a report has been received, the law school will initiate an investigation.

1. The investigation shall be conducted by an Associate Dean.
2. The law school will notify the respondent in writing that a report of sexual and/or interpersonal misconduct has been made. The notice will generally describe the allegations in the report. The complainant and respondent will be given the opportunity to meet separately with the Associate Dean to review the Policy and these Procedures. The parties shall have the right to present any relevant evidence in support of or in opposition to the allegations of misconduct in the report. Should either party request, s/he may review, in the office of the Associate Dean, the report of misconduct and any information or evidence submitted in support of or in opposition to the report.
3. The Associate Dean conducting the investigation will have successfully completed required University training and may also employ the services of a qualified private consultant investigator (or team of investigators) to assist in the fact-gathering portion of the investigation.

4. The law school's investigation and adjudication of any reports will continue during any law enforcement proceeding. The Associate Dean conducting the investigation may need to temporarily delay an investigation while the police are gathering evidence but will resume the investigation after s/he learns that the police department has completed its evidence-gathering and will generally not wait for the conclusion of any related criminal proceeding.
5. The Associate Dean and/or the investigator (or team of investigators) assisting the Associate Dean will gather pertinent documentary materials (if any) and other information. The Associate Dean will determine the manner of the investigation, but it will typically involve talking to the complainant, the respondent, other involved or observing parties, and reviewing other relevant information, such as emails, voicemail messages, text messages, photographs, on and off campus conduct, etc.

B. Determination of Discipline.

1. The Associate Dean conducting the investigation will review all evidence regarding the report and make a determination of whether the policy has been violated. Using the preponderance of evidence standard, the Associate Dean will determine whether this policy or any of the Standards of Conduct have been violated.
2. If the Associate Dean concludes that either this policy or the Standards of Conduct have been violated, the Associate Dean will determine the appropriate sanction, pursuant to Section 12.1 of the Student Handbook. Sanctions may include, but are not limited to, expulsion, indefinite suspension, suspension until a specified date, formal censure, oral censure, academic penalty, disciplinary probation, and revocation of the degree.
3. The Associate Dean shall notify the complainant and the respondent of his/her conclusion in writing. Either the complainant or the respondent will have the right to appeal the decision.

C. Appeal.

1. Once written notification of the resolution has been provided, the complainant and the respondent will have the opportunity to appeal the outcome, including any discipline or corrective measure imposed, and/or the issue of whether there has been a Policy violation.
2. Any appeal must be submitted in writing to the Deputy Title IX Coordinator within ten (10) calendar days of being notified of the outcome of the investigation or hearing.
3. Appeals will be heard *de novo*.
4. Appeals will be considered by a hearing board consisting of two members of the law school's Student Conduct Committee. The Deputy Title IX Coordinator will refer the appeal to the chair of the Student Conduct Committee.

IX. RESOURCE ADMINISTRATOR

Prior to the commencement of proceedings regarding an allegation of sexual or interpersonal misconduct governed by this policy, both the Complainant and the Respondent will be assigned Advisors by the Associate Dean for Student Services or designee to assist the students as they progress through the process outlined in this policy. Students are not required to utilize their appointed Advisors, and may select a different Advisor. In the unique instance of an incident involving Sexual Harassment/Sexual Misconduct and interpersonal misconduct, Complainants and Respondents may choose an Advisor of their choice.

If the Student chooses an Advisor for incidents involving sexual and/or interpersonal misconduct, the student should inform the Judicial Officer in writing or via e-mail at least two (2) days prior to the scheduled date of the hearing.

What Should You Do if You Experience Sexual Assault, Sexual Violence, Domestic Violence, Dating Violence or Stalking?

A. Go to a safe place as soon as you can

B. Preserve all physical evidence

Do not wash your face or hands, bathe, brush your teeth, drink or eat, douche or change clothes. If you do change your clothes, put all clothing you were wearing at the time of the assault in individual paper bags (not plastic). It is important to preserve as much evidence as possible for investigation and processing of criminal and/or disciplinary charges.

C. Contact LLS Campus Safety & Security at 213-736-1121 (x1121). Public Safety can assist you in reporting a crime that occurred off-campus to the appropriate authorities. You may decline to report your experience to such authorities.

D. Seek immediate or prompt medical treatment (typically within 72 hours)

It is important to seek immediate or prompt and necessary follow-up medical attention for several reasons:

1. To assess and treat any physical injuries you may have sustained.
2. To determine the risk of sexually transmitted diseases or pregnancy and take appropriate medical measures.
3. If you choose, you may have evidence collected and preserved to aid in the investigation and processing of criminal and/or disciplinary prosecution.

It is best for any physical evidence to be collected within the first 24 hours following the incident. (The quality and quantity of evidence collected later than this may be substantially diminished.)

E. Visit the Rape Treatment Center at Santa Monica-UCLA Medical Center – (310) 319-4000 and/or utilize the other resources in closer proximity to LLS, as listed on our website.

The Rape Treatment Center can provide general medical treatment and, if you choose, collection of evidence. A medical exam could include treatment of any physical problems; evaluation of risks; various lab tests for sexually transmitted diseases and pregnancy; appropriate treatment; identification and collection of physical evidence of any Sexual Assault.

A specially trained nurse will perform the evidence collection exam. A Sexual Assault advocate or a support person of your choice may be present throughout the procedure.

The Rape Treatment Center hospital emergency department follows national standards for victim care, Sexual Assault exams and evidence collection procedures. If the decision is made to conduct an evidence collection exam, the anonymous evidence may be held for six months or longer. This means you do not have to decide immediately whether or not you want to press charges.

The Rape Treatment Center also provides long term counseling support for victims of Sexual Assault and Sexual Violence, as well as advocacy and accompanying services.

F. Schedule non-emergency medical treatment

Even if you choose not to go to the hospital or to seek immediate medical attention, it is still important to get medical attention to treat any physical problems and to conduct various lab tests for sexually transmitted diseases and pregnancy. Please consult the list of local resources on the website.

G. Utilize counseling services

LLS's Counseling Office (Dr. Michael Douglas, 213-736-1122, 502 Casassa) is available for students in crisis. Dr. Douglas will quickly make an appointment to see you if you have an emergency.

H. For additional Resources please visit:

[LMU CARES](#)

[Loyola Law School and Community Sexual Assault and Interpersonal Misconduct Resource Contact List](#)

Utilize [Project Callisto](#) a confidential recording, reporting and support resource tool for student survivors.