Standard Operating Procedure

1. **Purpose**
The purpose of this procedure is to identify the steps to be taken when a Title IX complaint of sexual misconduct or gender discrimination is made against faculty, staff, administrators, vendors, and/or guests of the College.

2. **Scope**
All Title IX Investigations.

3. **Prerequisites**
None.

4. **Responsibilities**
The Title IX Coordinator, the Title IX Investigator(s), the Director of Labor Relations and Organizational Development, and the Executive Director of Human Resources.

5. **Procedure**

1. **General**
The College will take steps to stop any sexual misconduct, if found; prevent its recurrence; and remedy its effects on those impacted.

Title IX complaints are complaints from employees or students against other students, faculty, staff, administrators, vendors, and/or guests of the College, related to sexual misconduct or gender discrimination. The applicable College Policy upon which this procedure is based is, “Prohibited Sex or Gender Based Discrimination, Harassment, and Sexual Misconduct.” This procedure applies to complaints alleging all forms of sex discrimination (including sexual and gender-based harassment, assault, and violence) against employees, students, and third parties alleged to have been conducted by employees or third parties of the College.
If the respondent is not an employee or guest but is a student at LCC, a separate procedure is followed, led by LCC’s Office of Student Compliance.

If a complaint is received and determined to not fall under Title IX, the College will investigate and resolve the complaint using other applicable policies, procedures, statutes, practices, and labor agreements.

If the respondent is an employee covered by a labor agreement, the language of that labor agreement will be followed as it relates to due process, options for disciplinary action, and grievances.

2. Considerations

Sexual harassment is a form of sex discrimination prohibited by Title IX. Hostile environment sexual harassment is unwelcome conduct of a sexual nature that is sufficiently serious that it denies or limits a student’s or employee’s ability to participate in or receive the benefits, services, or opportunities of the College’s programs. Sexual harassment can include unwelcome sexual advances, requests for sexual favors, and other verbal, nonverbal, or physical conduct of a sexual nature, such as sexual assault or acts of sexual violence.

Harassment does not have to be of a sexual nature, however, and can include offensive remarks about a person’s sex. For example, it is illegal to harass a woman by making offensive comments about women in general. Both victim and the harasser can be any gender, and the complainant and respondent can be the same sex. Although the law doesn’t prohibit simple teasing, offhand comments, or isolated incidents that are not very serious, harassment is illegal when it is so frequent or severe that it creates a hostile or offensive environment or it denies or limits a student’s or employee’s ability to participate in or benefit from the College’s academic programs, extracurricular programs, research activity, occupational training, or other educational program or activity operated by LCC.

In determining whether this denial or limitation has occurred, LCC considers all relevant circumstances, including the degree to which the conduct affected one or more
students’ education or the employee’s ability to perform their assigned tasks; the type, frequency, and duration of the conduct; the identity of and relationship between the respondent and the subject or subjects of the harassment; the number of individuals involved; the age and sex of the respondent and subject of the harassment; the location of the incidents and the context in which they occurred; other incidents at the College; and whether there were also incidents of gender-based but non-sexual harassment. A sexually hostile environment may deny or limit a student’s or employee’s ability to receive the benefits, services, or opportunities of the College’ programs even if there are not tangible effects, e.g. a drop in the student’s grades or increased absenteeism.

The more severe the conduct, the less the need to show a repetitive series of incidents; this is particularly true if the harassment is physical. A single or isolated incident of sexual harassment may, if sufficiently sever, create a hostile environment. Moreover, a series of incidents at the College, not involving the same people, could – taken together – create a hostile environment, even if each by itself would not be sufficient.

When responding to a Title IX complaint, the College takes immediate and appropriate action to investigate or otherwise determine what occurred. The specific steps in the investigation will vary depending upon the nature of the allegations, the source of the complaint, etc. In all cases, however, the investigation will be prompt, thorough, and impartial.

If there is a dispute about whether harassment occurred or whether conduct was welcome, in cases where it is appropriate to consider whether the conduct would be welcome, determinations should be based on the totality of the circumstances such as: statements made by any witnesses to the alleged incident, evidence about the relative credibility of the alleged harassed victim/complainant and respondent (e.g. the level of detail and consistency of each person’s account should be compared to one another and to the existence or lack of corroborative evidence); evidence that the respondent has been found to have harassed others; evidence that the alleged harassed victim/complainant has made false allegations against other individuals; evidence of the allegedly harassed victim/complainant’s reaction or behavior after the incident or evidence of significant changes in the victim/complainant’s behavior in the weeks or
after the incident; evidence about whether the allegedly harassed person filed a complaint or took other action to protest the conduct after it had occurred (note that failure to immediately report may not be indicative that the alleged harassment did not occur); and any other relevant contemporaneous evidence.

If an employee or guest sexually harasses a student, employee, or guest, and the harassing conduct is sufficiently serious to deny or limit the student’s or employee’s ability to participate in or benefit from the program or employment, and the College knew or reasonably should have known about the harassment, the College is responsible for taking immediate effective action reasonably calculated to end the harassment, eliminate any hostile environment, prevent the recurrence of the harassment, and, as appropriate, remedy its effects. Appropriate steps to end harassment may include separating the accused harasser and the target or taking disciplinary action against the harasser. These steps should not penalize the person who was harassed. In addition, depending on the extent of the harassment, the College may need to provide training or other interventions not only for the respondents but also for the larger College community to ensure that all students and College staff can recognize harassment if it recurs and know how to respond. The College may also be required to provide additional services to the person who was harassed in order to address the effects of the harassment, including when the College initially delayed in responding or responded inappropriately or inadequately to information about harassment.

The College uses a preponderance of the evidence standard (i.e. it is more likely than not that discrimination occurred) when examining allegations of discrimination under Title IX.

3. Complaint
   A. Human Resources is designated to investigate Title IX complaints against employees or guests. All complaints against employees and guests are forwarded to the Title IX Coordinator in Human Resources.
   B. Notice of a complaint can be made in person or orally to an appropriate official, but the College strongly encourages submission of complaints in writing using the Discrimination/Harassment Complaint Form, found here Sexual Misconduct
and Title IX Resources Web Page. Whether the complaint is received formally, in writing, or whether the College learns of the issue through informal notification, the College will pursue resolution using this same procedure.

C. The complaint should clearly and concisely describe the alleged incident(s); when and where it occurred; names of witnesses, if any; and the desired remedy sought.

D. The complaint form should be signed by the person making the complaint and include any supporting documentation. The complainant’s supporting documentation should clearly demonstrate all informal efforts, if any, to resolve the issue(s) with the person involved and/or the person’s supervisor.

E. Upon receipt of the complaint, the College will complete the Title IX Checklist as included in all Title IX folders.

F. If the complainant requests confidentiality or asks that the complaint not be pursued, the College will take reasonable steps to investigate and respond, but the ability to respond may be limited.

G. If the complainant continues to ask that their name or other identifiable information not be revealed, the College evaluates the request in the context of its responsibility to provide a safe and non-discriminatory environment for all students, employees, and guests. The College will inform the complainant if it cannot ensure confidentiality.

H. The complainant will be advised of the investigatory status at regular intervals.

4. Provision of Adequate, Reliable, and Impartial Investigation
   A. The complainant/victim will be notified of the right to file a criminal complaint where appropriate.
   B. All investigation and hearing processes will be impartial and devoid of conflicts of interest that would compromise the objectivity of the process.
   C. Due, or fair, process will be provided to respondents, consistent with applicable collective bargaining agreements.
   D. The College will investigate and resolve Title IX complaints within 60 days from the time the complaint is received unless extenuating circumstances prohibit that completion.
E. The complainant/victim and respondent will be notified promptly in writing of the outcome of the investigation, including whether misconduct/discrimination was found to have occurred.

5. Clery Act
   A. The College complies with all Clery Act Regulations.
   B. The Clery Act requires the College to give timely warnings of crimes that represent a threat to the safety of students or employees. LCC’s Police and Public Safety are responsible for such notifications.
   C. Certain acts of sexual misconduct, such as unwelcome sexual touching, may also be criminal in nature, in which case it may be appropriate for the complainant/investigator to contact law enforcement authorities. Contacting law enforcement authorities does not relieve the College of its obligation to investigate and address acts of sexual harassment. The legal standards applied to criminal investigations are different than the standards applied under Title IX, so the College cannot rely on a police investigation to fulfill its Title IX obligations. Further, certain remedies, such as separating the person reporting the harassment from the alleged respondent at work, can only be implemented by the College and are the College’s responsibilities.
   D. Complainants and victims may pursue complaints with both the College and law enforcement at the same time.
   E. LCC’s Director of Compliance is responsible for ensuring compliance with the Clery Act.

6. Initial Remedial Actions
   A. The investigator assesses whether there is a need to immediately suspend the respondent or take other interim measures, pending investigation. Any interim measure taken will not disproportionately impact the complainant/victim or respondent.
   B. The investigator reviews the complaint with the Title IX Coordinator. Together, the coordinator and investigator determine if the complaint demands investigation and, if so, if it falls under Title IX.
1. If there is no reasonable cause to believe a policy or law has been violated, no investigation will be conducted.

2. If the complaint reveals probable cause that a policy has been violated but does not fall under the confines of Title IX, the Investigator determines whether the complaint will be investigated through Human Resources, Office of Student Compliance, or Risk Management and follows up accordingly.

C. There may be times when the Title IX Coordinator conducts the investigation.

7. Title IX Investigation

A. At the appropriate time in the investigation, the investigator sends a notice to the respondent, with copy to the appropriate union official, providing notice that the investigation has been initiated, consistent with language in the applicable collective bargaining agreement. The notice will generally include a no contact order between the parties.

1. The investigator may determine that the situation requires the respondent to be interviewed without advance notice. In that case, the no contact information is provided during the investigatory meeting, along with no retaliation.

2. The respondent may waive union representation.

B. The investigator conducts the thorough, impartial investigation. The complainant, victim, and respondent may make a request for the investigator to interview witnesses. If the respondent is represented by a Union, he/she may be accompanied by their union representative throughout the process. A non-union employee and/or complainant/victim may be accompanied by a representative of their choice, provided that person is not involved in the proceedings and is not a licensed attorney.

C. During investigatory interview with the Complainant and Respondent, the Title IX Investigator provides each party with related documents as detailed on the

D. The investigator completes the investigation with a finding, based upon a preponderance of the evidence. The finding is reviewed with the HR Title IX Coordinator. If the Title IX Coordinator conducted the investigation, the finding is reviewed with the Human Resources Director of Labor Relations and Organizational Development.
E. The Title IX Investigator or Coordinator completes a final Investigatory Report, which is reviewed by the Human Resources Director of Labor Relations and Organizational Development. This report details interviews with the Complainant, Respondent, and any witnesses; any intermediate steps taken by the College; a credibility assessment; the standard of proof; findings; and appeal information.

F. If a violation(s) is found to have occurred:
   1. The investigator works with appropriate administrators to ensure the violation(s) immediately cease.
   2. The investigator, together with the supervisor of the respondent, determines appropriate countermeasures, consistent with the facts of the case and provisions in the applicable collective bargaining agreement and/or College policies.
   3. If countermeasures include disciplinary action, that disciplinary action is noted in the final Investigatory Report.
   4. If disciplinary action is noted in the Investigatory Report, the HR Coordinator also sends a letter to the Respondent, informing them that their disciplinary action was disclosed to a third party, consistent with Michigan’s Bullard Plawecki Act.

G. Both parties are sent the Investigatory Report at the same time. If reports are sent by US Mail, they are sent via Registered Mail.

H. Any party may appeal the findings and/or remedy by filing a written appeal to the Executive Director of Human Resources within 21 days of receipt of the final outcome document(s). Within 21 days of receipt of the appeal, the Executive Director of Human Resources who will either uphold the investigation findings or remand the matter back to the investigators for a second review of the investigatory findings. If the respondent is represented by a union, he/she may appeal the findings/remedy utilizing his/her grievance process as outlined in the appropriate labor agreement.

I. If the respondent is a member of a bargaining unit, they represented by their union representative at every step of the process and may file a grievance protesting the corrective action as stated in the appropriate collective bargaining
agreement. If the respondent is not a member of a union, they may appeal the disciplinary action to the Board of Trustees, consistent with College policy.

8. Retaliation
   A. Retaliation is not tolerated at LCC. The College will take steps to prevent any retaliation against the person who made the complaint or who was the subject of harassment or against those who provided information as witnesses or who was the respondent. The College will ensure that the harassed person(s) know how to report any subsequent problems, conducting follow-up inquiries to see if there have been any new incidents or any instances of retaliation, and responding promptly and appropriately to address continuing or new problems.

9. File Maintenance
   The Title IX Coordinator maintains complete files of all complaints, whether an investigation is conducted or not. All files are maintained both in paper and through an electronic folder managed offsite.

6. References
   Lansing Community College Board Policy 4.012 - Prohibited Sex or Gender Based Discrimination, Harassment, and Sexual Misconduct.

Revision History

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<td>06.15.12</td>
<td>Various</td>
<td>2</td>
<td>Modified to reflect that complaints may be made by Employees.</td>
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<td>07.17.12</td>
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<td>3</td>
<td>Modified to include language consistent with Yale Voluntary Resolution Agreement</td>
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<td>12.01.15</td>
<td>All</td>
<td>4</td>
<td>Updated policy to conform to OCS requirements and recommendations.</td>
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Divisional Office: Human Resources

Policy Name: Investigating Title IX Complaints of Sexual Misconduct or Gender Discrimination

SOP Owner: Executive Director of HR
Supports College Policy: No
Supports HLC Criterion: No
Criterion: N/A
Approval: N/A

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<td>02.23.17</td>
<td>6</td>
<td>5</td>
<td>Added language to address situations where no advanced notice is given to respondent. Also formatted footer.</td>
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<td>8</td>
<td>Reformatted to new SOP template and modified to be accessible.</td>
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<td>Modified consistent with current practice, including modification of gender pronouns.</td>
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<td>01.29.2020</td>
<td>F, G, H</td>
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<td>Changed order of the items. In H, clarified the role of the Executive Director of HR.</td>
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7. Definitions

None.