LANSING COMMUNITY COLLEGE
STUDENT SEXUAL MISCONDUCT
COMPLAINT PROCESS

Lansing Community College (LCC) strives to protect the learning and employment environment for all students. Your health, safety and well-being are a primary concern to the College. If you, or someone you know, may be the victim of any form of sexual misconduct, you are strongly urged to seek immediate assistance. Assistance can be obtained 24 hours a day, seven days a week, from:

Lansing Community College Police and Public Safety – (517) 483-1800
Local Police (Lansing Police Department) – 911
Michigan Sexual Assault Hotline – (855) 864-2734 – or text (866) 238-1454
MSU Sexual Assault Crisis Hotline – (517) 372-6666
RAINN Sexual Assault Hotline – (800) 656-4673
Joyful Heart Hotline- (212)-475-2026
Listening Ear Crisis Center (East Lansing, MI) – (517) 337-1717
Loveisrespect.org - (866) – 331-9474 – or text loveis to 22522
Women’s Center of Greater Lansing – (517) 372-9163
EVE, Inc. – (517) 372-5572
CARE – (517) 272-7436
SAFE Center (domestic violence) – (St. Johns, MI) - (877) 952-7283
National Domestic Violence Hotline – (800) 799-7233

During business hours Monday through Friday, you are also strongly urged to contact one of the following Title IX Coordinators as soon as reasonably possible to report any sexual misconduct you believe may have occurred.

TO FILE A COMPLAINT AGAINST A STUDENT:

File Report Against Student

STUDENT TITLE IX COORDINATOR:
Christine Thompson
Director of Student Compliance, Student Title IX Coordinator
Location: GB 1210
Phone: (517) 483-9632
Email: thompasc@lcc.edu

DEPUTY STUDENT TITLE IX COORDINATOR:
Greg Mallek
Athletic Director, Deputy Student Title IX Coordinator
Location: GB 4147
Phone: (517) 483-1622
Email: mallekg@lcc.edu

TO FILE A COMPLAINT AGAINST AN EMPLOYEE:

File Report Against Employee
(https://lcc.edu/consumer-information/sexual-misconduct.html)

EMPLOYEE TITLE IX COORDINATOR:
Lori Willett
HR Manager, Employee Title IX Coordinator
Location: ADM 106.10
Phone: (517) 483-1979
Email: willetl1@lcc.edu

This process covers complaints of alleged sexual misconduct/harassment by College students in accordance with the College’s Prohibited Sex or Gender Based Discrimination, Harassment, and Sexual Misconduct Policy. A copy of the Policy may be found here:


Please see the Policy for expanded definitions of sexual misconduct terms used throughout this process.

Further information about Title IX and sex discrimination in education is available from the Office for Civil Rights, 400 Maryland Avenue, SW, Washington, DC 20202-1100 (by Customer Service Hotline: 800-421-3481; TDD: 877-521-2172; email: ocr@ed.gov
INTRODUCTION

OVERVIEW AND PURPOSE

The College is committed to providing programs, activities and an educational environment free from sex and gender discrimination. As a recipient of federal funds, Lansing Community College is required to comply with Title IX of the Higher Education Amendments of 1972, 20 U.S.C. 1681 et seq., which prohibits discrimination on the basis of sex in educational programs or activities. As a public institution, the College also must provide due process to students accused of sexual misconduct. This procedure is designed to provide a fair process for both parties while also ensuring a complainant’s protections under Title IX.

All members of the Lansing Community College Community, regardless of their sexual orientation or their gender or gender expression, have the right to engage in their College education, work, and other activities free from all forms of sex or gender based discrimination or harassment, including sexual misconduct. Sexual misconduct includes all forms of sexual harassment as well as acts of sexual assault, dating or domestic violence, stalking, sexual exploitation, intimidation, and retaliation; each as more fully defined below. All members of the LCC community are expected to conduct themselves in a manner that does not infringe upon the rights of others. In addition to sexual misconduct, Title IX also includes, but is not limited to, pregnancy/pregnancy-related issues and equality in athletics, academic programs, and activities.

Sexual misconduct violates College policy and federal civil rights laws and may also be subject to criminal prosecution. The College is committed to fostering a community that promotes prompt reporting of all types of sexual misconduct and prompt, timely and fair resolution of sexual misconduct complaints. In addition, the College community is highly encouraged to report any and all potential sex or gender harassment to the Student Title IX Coordinator, so that a proper review of the information can be made. Creating a safe environment is the responsibility of all members of the College community.

The College is also required and committed to upholding the First Amendment of the United States Constitution. Nothing in this process is intended to abridge the rights or freedoms guaranteed by the First Amendment.

SECTION 1: DEFINITIONS

1.1 Alcohol is a substance that is a beverage containing alcohol.

1.2 Clery Act refers to the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act.\(^1\)

1.3 College means Lansing Community College (LCC).

1.4 College Property includes buildings, grounds, structures, and real estate, and vehicles that are owned, rented, leased or otherwise utilized by or under the control of LCC.

1.5 Complainant is any person who may be a victim of sexual misconduct

1.6 Consent, for purposes of this Policy, is present when clearly understandable words or actions manifest a knowing, active, voluntary, and present and ongoing agreement to engage in specific sexual or intimate conduct. Consent must be all of the following:

- **Knowing** consent must demonstrate that the individuals involved understand, are aware of, and agree to everything about the “who” (partners), “what” (acts), “where” (location), “when” (time), and “how” (conditions) of the sexual activity.
- **Active** consent must take the form of “clearly understandable words or actions” that reveal one’s expectations and agreement to engage in specific sexual activity. This means that silence, passivity, submission, or the lack of verbal or physical resistance (including the lack of a “no”) should not, in and of themselves, be understood as consent. Consent cannot be inferred by an individual’s manner of dress, the giving or acceptance of gifts, the extension or acceptance of an invitation to go to a private room or location, or going on a date.
- **Voluntary** consent must be freely given and cannot be the result of external pressures such as force (violence, physical restraint, or the presence of a weapon), threats (indications of intent to harm, whether direct or indirect), intimidation (extortion, menacing behavior, bullying), coercion (undue pressure, hazings) or fraud (misrepresentation or material omission about oneself or the present situation in order to gain permission for sexual or intimate activity).
- **Present and ongoing** consent must exist at the time of the sexual activity. Consent to previous sexual activity does not imply consent to later sexual acts; similarly, consent to one type of sexual activity does not imply consent to other sexual acts. Consent may also be withdrawn at any time, provided the person withdrawing consent makes that known in clearly understandable words or actions.
1.7 **Dating or Domestic Violence** includes all violent criminal offenses (e.g., physical violence, interfering with personal liberty, etc.) as well as intimidation, harassment, physical abuse, or sexual abuse, when it is caused by someone in an intimate relationship with another person. Examples of such actions include physical abuse (hitting, slapping, shoving, grabbing, biting, hair pulling, etc.); sexual abuse (marital rape, treating one in a sexually demeaning manner, coercing or attempting to coerce sexual contact without consent, etc.); and psychological or emotional abuse (name-calling, persistently undermining an individual’s sense of self-worth or self-esteem, intentionally damaging one’s relationships with others, etc.).

All dating or domestic violence is prohibited by this Process.

- **Dating violence** is committed by a person who has been in a dating relationship or a social relationship of a romantic or intimate nature with another person. Whether there was such relationship will be gauged by its length, type, and frequency of interaction.

- **Domestic violence** is committed by a person who is the complainant’s current or former spouse, current or former domestic partner, current or former cohabitant, or a person similarly situated under domestic or family violence law.

1.8 **Dean** refers to the Dean of Student Affairs (and/or their designee). The College has designated the Dean’s designee as the Student Title IX Coordinator for purposes of this process and in accordance with federal regulations.

1.9 **FERPA** refers to the Family Educational Rights and Privacy Act.

1.10 **Force** means physical force, violence, threat, intimidation, or coercion.

1.11 **Hearing Panel** means a group of trained faculty and staff appointed by the Dean of Student Affairs (or their designee) to specifically hear complaints of alleged sexual misconduct.

1.12 **Incapacitation**, for purposes of this Policy - Consent is never present when an individual does not have the capacity to give consent due to age, mental or physical condition, or disability that impairs the individual’s ability to understand and give a knowing, active, voluntary, present, and ongoing agreement to engage in specific sexual or intimate conduct. A person does not have the capacity to give consent if his or her judgment or awareness is impaired due to consumption of alcohol, drugs, or inhalants (voluntarily or involuntarily), or being in a state of unconsciousness, sleep or other state in which the person is unaware that sexual activity is occurring. Signs of incapacitation include when an individual demonstrates that they are unaware of where they are, how they got there, or why or how they became engaged in a sexual interaction.

Some indicators of a lack of capacity to give consent due to consumption of alcohol, drugs, or inhalants may include, but are not limited to:

- Lack of full control over physical movements (for example, difficulty walking or standing without stumbling or assistance);
- Lack of awareness of circumstances or surroundings (for example, lack of awareness of where one is, how one got there, who one is with, or how or why one became engaged in sexual interaction);
- Inability to effectively communicate for any reason (for example, slurring speech, difficulty finding words, etc.).

If a person appears to be giving consent but may not have the capacity to do so, the apparent consent is not effective. If there is any doubt as to a person’s capacity to give consent, it should be assumed that the person does not have the capacity to give consent and that any sexual activity will constitute sexual misconduct.

Being impaired by alcohol and/or other substances does not excuse one from the responsibility to obtain consent. Being impaired is never an excuse for committing Sexual Misconduct.

1.13 **Investigator** refers to the Student Conduct Officer/Title IX Investigator who is trained and designated to conduct investigations of alleged sexual misconduct. The Student Title IX Coordinator and the Deputy Title IX Coordinator are also trained investigators and may be part of an investigative team at any time when necessary.

1.14 **Off campus conduct** means conduct that occurred any place other than on College property, at College sponsored events, and while pursuing an academic program.

1.15 **Reporter** means any person who submits a report alleging that a student violated the Student Code of Conduct (including sexual misconduct) or the Student General Rules and Guidelines.

1.16 **Respondent** means any student accused of violating the Prohibited Sex or Gender Based Discrimination, Harassment, and Sexual Misconduct Policy.

1.17 **Sexual Assault** is any non-consensual sexual contact, including but not limited to non-consensual sexual penetration (see below). All sexual assault is prohibited by this Process.

- **Non-Consensual Sexual Contact** is any intentional sexual touching, however slight, by any person upon another person that is without consent and/or accomplished by force. This includes intentional contact with a person’s breast, buttock, groin, or genitals, or touching another with any of these body parts or with any object, or making another touch you or themselves with or on any of these body parts, or any other intentional bodily contact in a sexual manner.

- **Non-Consensual Sexual Penetration** is any sexual penetration, however slight, by a person upon another person that is without consent and/or accomplished by force. This includes vaginal or anal penetration, no matter how slight, by any body part or object; or oral copulation (mouth to genital contact), no matter how slight the penetration or contact.

1.18 **Sexual Exploitation** is taking advantage of another for the advantage or benefit of oneself or a third party. This includes, but is not limited to, the following actions (including when they are done by electronic means, methods or devices):
• Invasion of sexual privacy (e.g., engaging in sexual voyeurism or permitting others to witness or observe the nudity or sexual or intimate activity of another person) without that person’s consent;
• Indecent or lewd exposure or inducing others to expose themselves when consent is not present;
• Recording any person’s nudity or sexual or intimate activity in a private space without that person’s consent;
• Sharing or distributing sexual information, or images or recordings of a person’s nudity or sexual activity, without that person’s consent;
• Recruiting, harboring, transporting, providing, or obtaining another person for the purpose of sexual exploitation, such as prostitution;
• Knowingly exposing someone to or transmitting HIV or an STI/STD to another person;
• Inducing incapacitation in another person with the intent to engage in sexual conduct, regardless of whether prohibited sexual conduct actually occurs.

1.19 Sexual Harassment is unwelcomed, sexual, sex-based, and/or gender-based verbal, written, electronic, online, and/or physical conduct which is so severe or pervasive that it unreasonably interferes with a person’s College employment, academic performance, or participation in College programs or activities and creates a working, learning, program, or activity environment that a reasonable person would find intimidating, hostile, or offensive. Sexual harassment may include, for example, unwelcome sexual advances, requests for sexual favors, acts of sexual violence, physical contact of a sexual nature, or a variety of verbal or non-verbal conduct of a sexual nature.

A hostile work/educational environment is created when sexual harassment is sufficiently severe, persistent, or pervasive, and objectively offensive that it unreasonably interferes with, denies, or limits someone’s ability to participate in or benefit from the college’s educational or employment programs or activities.

1.20 Stalking means a course of harassment directed at a specific person that would cause a reasonable person to feel frightened, intimidated, threatened, harassed, or molested, or to fear for her, his, or others’ safety, or to suffer substantial emotional distress. Conduct that can amount to stalking may include any combination of actions directed at another person, whether done directly, indirectly, through others, via devices, or by any other methods or means (specifically including electronic means), including but not limited to:
• Following, appearing within sight of, or confronting a person;
• Being or remaining in close proximity to a person;
• Appearing at a person’s residence or place of employment;
• Monitoring, observing, or conducting surveillance of a person;
• Threatening (directly or indirectly) a person;
• Communicating with a person by telephone, mail, or electronic communications;
• Placing an object on or delivering an object to a place owned, leased, or occupied by a person;
• Interfering with or damaging a person’s property (including pets).

1.21 Student means any student who is registered or enrolled at the College at the time of the alleged sexual misconduct (including, but not limited to, sexual misconduct that is alleged to have occurred during any academic recess, provided that there is an expectation of the student’s continued enrollment at the College). If a student who was currently enrolled at the time of the alleged sexual misconduct subsequently withdraws from all courses, the College will maintain personal jurisdiction.

1.22 Student Code of Conduct means the LCC Student Code of Conduct, as enforced by the Office of Student Compliance.

1.23 Substance refers to an illegal drug that is unlawful to use, possess, sell, or transfer under state or federal law (in cases where federal and state laws conflict, federal law applies). Substance also refers to inhalants that produce mind-altering effects when inhaled. Substance also refers to prescription drugs and over-the-counter medications which cause impairment to the point of incapacitation.
SECTION 2: JURISDICTION | TIMING | RETALIATION AND RELATED MISCONDUCT | CRIMINAL PROCEEDINGS

2.1 JURISDICTION

2.1.1 Personal Jurisdiction.
Any person may file a complaint of sexual misconduct against a student (as defined in Section 1.21) under this process.

2.1.2 Geographic Jurisdiction.
This Process applies to any allegation of sexual misconduct against a College student, regardless of where the alleged sexual misconduct occurred. Although there is no geographical limitation to invoking this process, sexual misconduct that is alleged to have occurred at a significant distance from the College may be more difficult to investigate. In addition, with respect to any complaint (a) by a person who is not a member of the College community, and (b) relating to Non-College Conduct, the College reserves the right to determine, in its sole discretion, whether the conduct described in the complaint constitutes a sufficient risk or harm to the College community to warrant processing the complaint.

2.2 TIMING

2.2.1 Timing of Complaints and Availability of Procedures.
So long as there is personal jurisdiction over the responding student pursuant to Section 2.1.1, above, there is no time limit to invoking this process in responding to complaints of alleged sexual misconduct. Nevertheless, students are encouraged to report alleged sexual misconduct immediately in order to maximize the College's ability to obtain evidence and conduct a thorough, impartial, and reliable investigation.

Delays in reporting alleged sexual misconduct may result in the loss of relevant evidence and witness testimony and may impair the College's ability to engage in this process.

If the responding student will be graduating, the conferral of a degree may be deferred until proper resolution of any sexual misconduct charges, provided that a hearing opportunity will be scheduled for the earliest practicable date that may reasonably accommodate the parties and their witnesses.

2.3 RETALIATION AND RELATED MISCONDUCT

2.3.1 Retaliation.
No person will be penalized for good faith utilization of channels available for resolving concerns dealing with prohibited discrimination or harassment. It is a violation of Student Code of Conduct to retaliate against any individual for making a good faith report, providing information, exercising one’s rights or responsibilities under the Policy, or otherwise being involved in the process of responding to, investigating, or addressing or opposing any alleged incidents of prohibited discrimination or harassment, including allegations of sexual misconduct.

For these purposes, retaliation includes, but is not limited to: intimidation, threats, harassment, and other adverse action, threatened or taken, against any such complainant, respondent or third party. Retaliation should be reported promptly to the Office of Student Compliance and may result in disciplinary action independent of the sanction or interim measures imposed in response to the underlying allegations of sexual misconduct.

2.3.2 Other Related Misconduct.
In accordance with this process, the Panel is empowered to hear allegations of, and to impose sanctions for, sexual misconduct and any other violation(s) of the College's Student Code of Conduct directly related to the alleged sexual misconduct. Such related misconduct may include, without limitation, violations of the rules of privacy as articulated herein, violations of the Student Title IX Coordinator’s directives discussed in Section 3.4, below, and/or violations of other Student Code of Conduct provisions that occurred in the course of the alleged sexual misconduct.

It is not the practice of the College to pursue disciplinary action against a complainant or witness for their improper use of alcohol or drugs (e.g., underage drinking), provided that such student is acting in good faith as a complainant or witness to the events of the alleged sexual misconduct.

Students who appear before the Panel, whether as parties to the proceedings or as witnesses, are expected to provide truthful testimony in accordance with the College's Student Code of Conduct.
2.4 EFFECT OF CRIMINAL PROCEEDINGS

Because sexual misconduct may constitute both a violation of College policy and criminal activity, the College encourages students to report alleged sexual misconduct promptly to local law enforcement agencies. Criminal investigations may be useful in the gathering of relevant evidence, particularly forensic evidence. Because the standards for finding a violation of criminal law are different from the standards for finding a violation of the Student Code of Conduct, criminal investigations or reports are not determinative of whether sexual misconduct, for purposes of this process or the Student Code of Conduct, has occurred. In other words, conduct may constitute sexual misconduct under this process even if law enforcement agencies lack sufficient evidence of a crime and therefore decline to prosecute. In such cases, the complainant may not initially understand the results of the criminal investigation, the nature of criminal procedure, or the grounds for the law enforcement decision not to prosecute. The complainant in such cases may request that the Student Title IX Coordinator provides a list of advocacy resources in the community who may be able to assist the complainant with any meetings with the prosecutor to gain an understanding of the decision to decline a prosecution.

The filing of a complaint of sexual misconduct under this process is independent of any criminal investigation or proceeding, and (except that the College's investigation may be delayed temporarily while the criminal investigators are gathering evidence) the College will not wait for the conclusion of any criminal investigation or proceedings to commence its own investigation and take interim measures to protect the complainant and the College community, if necessary, as described in Section 3.4.

SECTION 3: THE PROCESS - INITIAL STEPS

The Student Title IX Coordinator is not required to assign an investigator or otherwise investigate any report alleging facts that, if true, would not constitute a violation of this policy. In all cases, the final decision on whether, how, and to what extent the College will conduct an investigation, and whether other measures will be taken in connection with any allegation of sexual misconduct or retaliation, rests solely with the Student Title IX Coordinator. The report, upon initial review by the Student Title IX Coordinator and/or after completion of intake meetings with the complainant and respondent, may be dismissed, recommended to follow Student Code of Conduct procedures, or follow the following process for Sexual Misconduct Complaints.

3.1 INTAKE MEETING WITH COMPLAINANT

Upon receipt of notice of any allegation of sexual misconduct, the Student Title IX Coordinator will first schedule an individual intake meeting with the complainant in order to provide to the complainant a general understanding of this process and to identify forms of support or immediate interventions available to the complainant. The intake meeting may also involve a discussion of any interim measures (in accordance with 3.4 below) that may be appropriate in light of the known information.

At the initial intake meeting with the complainant, the Student Title IX Coordinator will gather basic information about the alleged incident and seek to determine how the complainant wishes to proceed, (e.g., whether the complainant wishes to pursue Formal Resolution, Informal Resolution, or does not wish to pursue resolution of any kind).

3.2 COMPLAINANT WISHES TO PURSUE FORMAL OR INFORMAL RESOLUTION | INTAKE MEETING WITH RESPONDENT

3.2.1 Formal or Informal Resolution.
If the complainant wishes to proceed with either Formal or Informal Resolution, the Student Title IX Coordinator will determine the name of the responding student, and the date, location, and nature of the alleged sexual misconduct, and will provide the responding student with written notice of the allegation(s) including sufficient details.

3.2.2 Respondent Intake Meeting.
An individual intake meeting will be scheduled with the responding student in order to provide the respondent with a general understanding of this process and to identify forms of support or immediate interventions available to the respondent. At the initial intake meeting with the respondent, the Student Title IX Coordinator will gather any additional basic information about the alleged incident and may also discuss any interim measures (in accordance with 3.4 below) that may be appropriate in light of the known information.
3.2.3 Formal or Informal Resolution Request.
If the complainant wishes to proceed with Formal Resolution, the Student Title IX Coordinator will promptly prepare and forward a formal complaint to the investigator(s) for investigation, in accordance with Section 4.1 below. The formal complaint will set forth the name of the complainant, the responding student, the date, location, and nature of the alleged sexual misconduct.

If the complainant wishes to proceed with Informal Resolution, the Student Title IX Coordinator will promptly initiate Informal Resolution proceedings in accordance with Section 5.

3.3 COMPLAINANT DOES NOT WISH TO PURSUE RESOLUTION OR REQUESTS CONFIDENTIALITY

If the complainant does not wish to pursue Formal or Informal Resolution and/or requests that their complaint remain confidential, Title IX nevertheless requires the College to investigate and take reasonable action in response to the complainant's information. The Student Title IX Coordinator will inform the complainant, however, that the College's ability to respond may be limited. The Student Title IX Coordinator may refer the allegation to a designated investigator to conduct a preliminary investigation into the alleged sexual misconduct. The investigator may weigh the complainant's requests against the following factors: the seriousness of the alleged sexual misconduct; whether there have been other complaints of sexual misconduct against the same responding student; and the responding student's right to receive information about the allegations if the information is maintained by the College as an educational record under FERPA.

The Student Title IX Coordinator will inform the complainant if the College cannot ensure confidentiality. Even if the College cannot take disciplinary action against the responding student because the complainant insists on confidentiality or that the complaint not be resolved, the Student Title IX Coordinator reserves the authority to undertake an appropriate inquiry, issue a no-contact order, and take other reasonably necessary measures, including the interim measures described in Section 3.4.

3.4 INTERIM MEASURES

In all complaints of alleged sexual misconduct, regardless of whether the complainant wishes to pursue Formal Resolution, Informal Resolution, or no resolution of any kind, the College will undertake an appropriate inquiry and take such prompt and effective action that is reasonably practicable under the circumstances to support and protect the complainant, including taking appropriate interim measures before the final outcome of the investigation and hearing, if any. Accordingly, at or after the intake meeting, the Student Title IX Coordinator may impose a no-contact order, which typically will include a directive that the parties refrain from having contact with one another, directly or through another party, whether in person or via electronic means, pending the investigation and, if applicable, the hearing.

The Student Title IX Coordinator, also may take any further protective action that they deem appropriate concerning the interaction of the parties pending the hearing, if any, including, without limitation, directing appropriate College officials to alter the students' academic and/or College employment arrangements and/or issuing an interim suspension as outlined in the Student Code of Conduct. When taking steps to separate the complainant and the responding student, the Student Title IX Coordinator will seek to minimize unnecessary or unreasonable burdens on either party; provided, however, that every reasonable effort will be made to allow the complainant to continue in their academic and/or College employment arrangements. Violations of the Student Title IX Coordinator’s directive and/or protective actions will constitute related offenses that may lead to additional disciplinary action.

3.5 RESPONDING STUDENT ACCEPTS RESPONSIBILITY

At any time prior to a hearing or Informal Resolution, the responding student may elect to acknowledge their actions and take responsibility for the alleged sexual misconduct. In such cases, the Panel Chair, Presiding Officer, or Student Title IX Coordinator will propose a resolution to the complainant and a sanction(s). If both the complainant and the responding student agree to such proposed sanction(s), the complaint is resolved without a hearing and both parties will waive their rights to appeal. If either the complainant or the responding student objects to the proposed sanction(s), a hearing before the Panel will be convened for the exclusive purpose of determining a sanction(s), which determination is subject to appeal pursuant to Section 4.7.17 below. For purposes of this sanction hearing, all of the other provisions of this process relating to the imposition of a sanction(s) for sexual misconduct will apply (Section 4.7, provisions 13-16, including, for example, the provision for an Impact Statement).
SECTION 4: FORMAL RESOLUTION

A complainant may elect to pursue a Formal Resolution, which involves a hearing before the Panel, as described in this section. Such a hearing is also referred to as Formal Resolution. A fair and equitable Formal Resolution will be completed within a reasonably prompt timeframe for the major stages of the complaint process, taking into consideration the complexity of the investigation and the severity and extent of the harassment. The process may be extended for good cause by the Student Title IX Coordinator.

4.1 INVESTIGATION

When the complainant indicates a desire to pursue Formal Resolution, the Student Title IX Coordinator will forward the complaint to the investigator(s). The Student Title IX Coordinator and the Deputy Student Title IX Coordinator may serve as investigators on any case, if necessary. The investigation will be conducted in a prompt, equitable, and impartial manner. The investigator(s) will receive annual training that draws on policy, process, and professional resources.

Investigators are neutral fact-finders, who, during the course of the investigation, typically conduct interviews with the complainant, the responding student, and each third-party witness (including expert witnesses, where applicable); visit and take photographs at each relevant site (if necessary); and, where applicable, coordinate with law enforcement agencies to collect and preserve relevant evidence.

The completed investigative report includes, among other things, summaries of interviews with the complainant, the responding student, and each witness; summaries of interviews with expert witnesses (where applicable); photographs of the relevant site(s) and related logs; other photographic, electronic, and forensic evidence; and a detailed written analysis of the events in question.

An investigation will be completed within a reasonable, prompt, and equitable timeframe, but may be delayed with good cause, as determined by the Student Title IX Coordinator. If a hearing is recommended by the investigator(s), the Panel Chair and the Panel will be provided with a copy of the investigative report. In addition, the investigator(s) will be present at the Panel hearing to answer any questions the Panel or the parties may have with regards to the investigative report.

The investigator(s) will keep the complaint and investigation confidential to the extent possible or as required by law.

4.2 RECOMMENDING A HEARING

The complainant and respondent will be provided with the opportunity to respond to the evidence, witness statements/interview notes and the investigative report in writing in advance of a decision of responsibility and/or panel hearing. The investigative team will determine whether or not there is enough information to recommend a hearing. Once the investigative report and complainant and respondent response is completed, an independent review of the report will be conducted by the Student Title IX Coordinator (and/or designee) prior to final delivery to the parties. If credibility of the parties is in dispute, is material to the outcome, and the respondent is facing potential suspension or expulsion; a hearing will be recommended.

If the investigative team determines that a hearing should be recommended, notice of that determination (including the final investigative report) will be distributed, concurrently, to both parties and to the Student Title IX Coordinator. If a hearing is not recommended, a notification (including the final investigative report) will be distributed concurrently, to the both parties and to the Student Title IX Coordinator.

The investigative report will specify which alleged violations of the Student Code of Conduct, including any sexual misconduct, and if applicable, other relevant alleged misconduct. If a hearing is recommended, the investigative report will be reviewed by the Panel prior to and during the hearing.

If the responding student has been placed on an interim suspension (in accordance with the Student Code of Conduct), the Panel will use all information that is provided to the College (and may be in lieu of an investigative report) in addition to any subsequent information received, as the basis for any sexual misconduct allegation.

If the case involves a reluctant complainant and the investigative team has recommended a hearing, the investigative team will present information to the Panel in place of the complainant. The team may have the option to pursue an informal resolution (see Section 5 below) with the approval of the Student Title IX Coordinator.
4.4 COMPLAINANT CHANGES ELECTION TO INFORMAL RESOLUTION

Upon receipt of the investigative report, the complainant may decide to elect Informal Resolution instead of Formal Resolution, by submitting a written request to the Student Title IX Coordinator prior to the hearing date.

4.5 HEARING NOTIFICATION & ADVISORS

4.5.1 Notice of Hearing.
If a hearing is recommended by the investigator(s) or occurs as a result of an interim suspension, the Panel Chair will commence the Formal Resolution process by providing written notice to both parties stating: (1) the date, time, and place of the pre-hearing meeting at which preliminary matters will be discussed, as more fully addressed in Section 4.7.2; and (2) the names of the Panel members selected to serve as the Panel.

4.5.2 Delivery of Notice.
The Notice of Hearing will be delivered, at the Panel Chair's discretion, by email or in person, and will be considered effective immediately upon receipt. The parties are expected to cooperate in the scheduling of the hearing. If either party fails to appear at the scheduled hearing, the Panel Chair may postpone the proceedings or direct that the Panel proceed and determine the complaint on the basis of the investigative report and any other available information, provided the absent party was given appropriate notification of the scheduled hearing date, as outlined in Section 4.5.1.

4.5.3 Advisors to the Parties.
Both the complainant and the responding student may request an advisor be present to support and assist them during the pre-hearing, hearing, and appeal stages of the Formal Resolution process. See Section 4.7.4 for a description of the role outside counsel may play during a hearing. The Panel Chair may disallow a particular advisor in cases where such advisor might be a witness or where such advisor's presence, in the Panel Chair's sole determination, would be obstructive to the process or for other good cause. An advisor may not direct questions to the witnesses at the hearing, but may consult with the student that they are assisting. The Panel Chair will not allow an advisor's presence to inhibit the parties' sharing of information or the conduct of the hearing.

4.6 THE HEARING PANEL

4.6.1 Panel Selection.
Formal Resolution involves a hearing before a trained Hearing Panel made up of two College faculty and an administrator. Each Panel will be led by a Panel Chair. The Panel is a standing group composed of faculty and administrators approved by the Dean (or designee) of Student Affairs. The Student Title IX Coordinator will ensure that all Panel members receive annual training.

4.6.2 Challenges to Panel.
A party wishing to challenge the participation of any Panel member must notify the Panel Chair, in writing, within five (5) business days of the scheduled hearing date stating the specific reason(s) for the objection. Failure to do so will constitute a waiver of any objection to the composition of the Panel. If a party wishes to challenge the participation of any panel member, and notifies the Panel Chair in writing within the allotted timeframe, the Chair will determine whether the challenge has merit and reserves discretion to make changes in the Panel composition at any time. Both parties will have an additional opportunity to challenge the participation of any Panel member at the beginning of the hearing if new information is presented that indicates a bias may be present.

4.7 HEARING PROCEDURES

4.7.1 Pre-Hearing Submissions.
The parties will provide the Panel Chair with a list of witnesses they propose to call, copies of documents, and a description of any other information they propose to present at the hearing, within five (5) business days prior to the pre-hearing meetings or a date set by the Chair. Evidence of the complainant's past sexual history will not be permitted at the hearing unless it is relevant to the complaint. The Chair will provide each party with a copy of the list of witnesses, and identification of copies of documents or other information submitted by each party. In the absence of good cause, as determined by the Chair in their sole discretion, the parties may not introduce witnesses, documents, or other information at the hearing that were not provided to the Chair by the deadline. The parties are also responsible for the attendance of their witnesses at the hearing.

4.7.2 Pre-Hearing Meeting and Determination of Witnesses.
The Chair will schedule individual pre-hearing meetings with both parties prior to the hearing date. At the meeting, the
Chair will review hearing procedures, discuss safety measures and accommodations, the complaint of alleged sexual misconduct (and related misconduct, if applicable), review exhibits, and review the parties' respective lists of proposed witnesses and documents to assist them in eliminating redundant information. The College reserves the right, through the Chair, to add witnesses to the witness lists or submit additional documents at the pre-hearing meeting and/or at the hearing.

4.7.3 Pre-Hearing Discussion.
Once a Panel member has been named to a Panel, they may not publicly or privately discuss the merits of the complaint with anyone not involved in the proceedings, with the parties themselves, or with anyone acting on the behalf of the parties. The Chair will provide the panelists with a copy of the Notice of Hearing, the investigative report, and the list of witnesses submitted by the parties with an instruction to avoid any public or private discussion of the merits of the complaint.

4.7.4 Legal Counsel.
Legal counsel may be present (at the expense of the individual parties) at the hearing on behalf of either party. Such counsel may privately consult with and advise the parties during the proceeding, but may not directly question witnesses, address the Panel, or otherwise directly participate in the hearing.

4.7.5 Conduct of the Hearing.
The hearing will not follow a courtroom model, and formal rules of evidence will not be observed. Accordingly, for example, the parties may elect to rely upon the statements of witnesses contained in the investigative report if such witnesses are unavailable to attend the hearing. The Chair will determine the order of the witnesses (if any) and resolve any questions of procedure arising during the hearing, if any. The parties are responsible for ensuring that their proposed witnesses are present. Members of the Panel will review in advance of the hearing all the written materials provided to them by the Chair in accordance with Section 4.7.1. The parties will have received or been provided the opportunity to review all available materials during earlier stages of the pre-hearing process.

4.7.6 Cross Examination
The Chair and the Panel may question the individual parties and any witnesses, unless permission is granted by the Chair to modify the questioning process (provided the modification does not result in an adversarial tone). Cross examination by both parties and their advisors will be facilitated through the Chair. The Chair will vet all questions for relevance, redundancy or reframing. If necessary, a brief break may be granted to allow both parties an opportunity to prepare and submit questions. The Chair is empowered to disallow or reframe any questions that are irrelevant or redundant; prohibited as outlined in the process; or that are abusive or bullying. After all witnesses have been questioned, each party may make a closing statement and request a short recess to prepare it. If the Panel determines that unresolved issues exist that would be clarified by the presentation of additional information, the Chair may suspend the hearing and reconvene it in a timely manner to receive such additional information. A delay may not be based on the failure of witnesses to appear without good cause or on the proposed introduction of documents or other information that should have been presented at the pre-hearing meeting.

4.7.7 Title IX Coordinator Participation.
A Student Title IX Coordinator or Deputy Student Title IX Coordinator may attend any Panel Hearing at any time to observe the hearing. If the Student Title IX Coordinator or the Deputy Student Title IX Coordinator did not directly participate in the investigation, their presence in the hearing will be for observational purposes only or to address questions by the Panel relevant to the Title IX process.

4.7.8 Testimony or Participation by the Responding Student.
The responding student has the option not to testify during the hearing; however, the exercise of that option will not preclude the Panel from proceeding and determining the complaint on the basis of the investigative report and other available information. In addition, as indicated in Section 4.5.2, if the responding student fails to appear at the hearing, after being duly notified of its place and time, the Panel may proceed with the scheduled hearing and make a determination on the basis of the investigative report and any other available information.

4.7.9 Testimony or Participation by the Complaining Student.
Where credibility is at issue, the complainant must participate in the hearing if a finding of responsibility is to be sustained.

4.7.10 Testimony via Electronic Technology.
Either party and/or witnesses may request to participate via technology as long as the Chair and the Panel can see all parties. Requests to participate via technology should be made timely either in advance of or at the pre-hearing meeting.

4.7.11 Recording.
There will be a single verbatim record, such as a digital recording, of the hearing. Deliberations will not be recorded. The
record will be the property of the College. This recording will be maintained only until the appeal process has concluded (if applicable) or until the time of the appeal has lapsed. For the purposes of FERPA, the recording is considered an educational record.

4.7.12 Standard of Proof.
The responding student will be found to be responsible for the alleged sexual misconduct if the Panel, by a majority vote, concludes that such sexual misconduct more likely than not occurred based upon careful review of all information presented. In making its determination, the Panel will carefully consider all of the information presented and follow the procedures stated in this process in order to ensure as fair a hearing as possible for all parties.

4.7.13 Impact Statement.
If the Panel determines that the responding student is responsible for sexual misconduct, e.g., that the sexual misconduct more likely than not occurred, both the complainant and the responsible student may present the Panel with a written or verbal impact statement for consideration by the Panel. The Panel is not bound by these statements in determining a sanction. Witnesses other than the parties may be allowed to provide a written or verbal character statement to the Panel during the Sanction Phase of the hearing. The Chair may determine, in their sole discretion, whether portions of any written or verbal impact statement should be redacted or withdrawn.

4.7.14 Sanction.
The Panel is required to consider suspending, dismissing, or expelling any student found responsible for sexual misconduct; however, the Panel may recommend to the Chair any sanction that it finds to be fair and proportionate to the violation. In determining an appropriate sanction, the Panel may consider any record of past violations of the Student Code of Conduct, as well as the nature and severity of such past violation(s). The Panel will also consider, as part of its deliberations, whether the sanction will (a) bring an end to the violation in question, (b) reasonably prevent a recurrence of a similar violation, and (c) remedy the effects of the violation on the complainant and the College community. The sanction recommendation will be made by the Panel by majority vote and presented to the Chair for consideration (per 4.2.19 of the Student Code of Conduct). Any sanction imposed will include a written justification to be explained or supported in the written decision of the Panel.

4.7.15 Decision.
The decision of the Panel, including the sanction, if applicable, will be announced to both parties, concurrently, by the Chair or Panel Spokesperson at the conclusion of the hearing. In addition, the Chair will provide a copy of the Panel’s decision described in Section 4.7.19, to both parties, concurrently, and to the Student Title IX Coordinator, within five (5) calendar days following the conclusion of the hearing (or longer if the Chair determines there is good cause).

4.7.16 Effective Date of Sanction.
Sanctions imposed by the Panel become effective immediately until the resolution of any timely appeal of the Panel’s decision. The Provost (or his or her designee) may suspend the determination pending exhaustion of any appeals by the responding student pursuant to Section 4.7.17, or may allow the responding student to attend classes or to engage in other activity on a supervised or monitored basis, or may make such other modifications to the determination as may be advisable in the sole discretion of the Provost (or their designee). The Provost’s (or their designee) decision may not be appealed.

4.7.17 Appeals.
Either party may appeal to the Provost (or his or her designee) the Panel's decision by notifying the Chair of the Panel in writing within ten (10) working days of the date of the Panel's decision. Such appeals shall be in writing by completing the appeal form and including any additional information and delivered to the Office of Student Compliance. Both parties will be notified in writing upon receipt of an appeal.

The Provost (or his or her designee) shall have the sole authority to determine whether or not an appeal warrants further review. An appeal that has been accepted for review shall be limited to review of the verbatim record of the Panel Hearing and supporting documents for one or more of the following reasons only:

a. A material deviation from written procedures that jeopardized the fairness of the process.
b. New information, that was unavailable at the time of the hearing, would have resulted in a different outcome.
c. A demonstrable bias by a member(s) of the Hearing Panel.
d. A sanction that is (substantially) disproportionate to the severity of the violation.

If an appeal is based on (a) & (b) (as listed above) and is approved by the Provost (or his or her designee), the matter shall be returned to a new Panel and Chairperson for a rehearing, which will take into consideration the suggestions made by the
Provost (or his or her designee) in addition to the facts that were originally presented.

If an appeal is based on (c) (as listed above) and is approved by the Provost (or his or her designee), the matter will be returned to a different Panel for a new hearing.

If an appeal is based on (d) (as listed above) and is approved by the Provost (or his or her designee), the matter will be returned to a new Panel to determine sanction(s) only.

The decision of the new Panel, after it has rendered its decision in any of these cases, shall be final upon all involved.

If an appeal is not approved by the Provost (or his or her designee), the matter shall be considered final upon all involved.

After an appeal of the original decision is reviewed, both parties will be notified in writing of the appeal outcome.

4.7.1 Privacy of the Hearing Process.
In order to comply with FERPA and Title IX and to provide an orderly process for the presentation and consideration of relevant information without undue intimidation or pressure, the hearing process is not open to the general public. Accordingly, documents prepared in anticipation of the hearing (including the investigative report, the notice of hearing, and the pre-hearing submissions referenced in Section 4.7.1, above), written statements, testimony, or other information introduced at the hearing, and any transcript of the hearing itself, may not be disclosed outside of the hearing proceedings, except as may be required or authorized by law.

4.7.19 Final Outcome Letter.
The College is required to comply with Title IX, FERPA, and the Clery Act. Accordingly, both the complainant and the responding student must be informed of the hearing outcome in writing (concurrently), and the College may not impose any limitations on the re-disclosure of this information. Following the hearing, the Panel will issue a written decision to the responding student and the complainant. The decision letter will set forth, as required by Title IX and the Clery Act, the name of the responding student; the violation(s) of the Student Code of Conduct for which the responding student was found responsible, if any; any essential findings supporting the Panel's decision on the issue of responsibility including the rationale for the decision; and the sanction(s) imposed, if any, including the rationale for the sanction(s).

SECTION 5: INFORMAL RESOLUTION

A complainant who wishes to file a formal complaint with the Student Title IX Coordinator but who does not wish to pursue Formal Resolution, may request a less formal process, known as Informal Resolution.

Although less formal than Formal Resolution, Informal Resolution is an appropriate resolution process, and it is not mediation. The responding student is expected to attend the Informal Resolution proceeding, and both parties must participate respectfully.

5.1 PURPOSE OF INFORMAL RESOLUTION

Informal Resolution provides an opportunity for the complainant to confront the responding student, in the presence of, and facilitated by, a presiding officer, as described in Section 5.3, and to communicate their feelings and perceptions regarding the incident, the impact of the incident, and their wishes and expectations regarding protection in the future. The responding student will have an opportunity to respond.

5.2 ADVISORS

The complainant and the responding student each may bring an advisor to the Informal Resolution. Advisors may be requested and are subject to the same restrictions set forth for advisors in Formal Resolution, outlined in section 4.5.3.

5.3. PRESIDING OFFICER.

A Panel Chair or a designee of the Chair will facilitate the Informal Resolution, and may elect to be assisted by another member of the Panel or a designee of the Panel.
5.4 INFORMAL RESOLUTION WHERE RESPONDING STUDENT ACKNOWLEDGES RESPONSIBILITY

If, during the course of the Informal Resolution, the responding student elects to acknowledge their actions and take responsibility for the alleged sexual misconduct, the Informal Resolution will be concluded and the Presiding Officer will propose a sanction(s). If both the complainant and the responding student agree to such proposed sanction(s), the complaint will be resolved without any further rights of appeal by either party.

If either the complainant or the responding student objects to such proposed sanction(s), a hearing before the Panel will be convened for the exclusive purpose of determining a sanction(s), which determination is subject to appeal pursuant to Section 4.7.17. For purposes of this sanction hearing, all of the other provisions of this process relating to the imposition of a sanction(s) for sexual misconduct will apply (4.7.13-19).

5.5 INFORMAL RESOLUTION WHERE RESPONDING STUDENT CONTESTS RESPONSIBILITY

5.5.1 Dismiss with Assignments
If the responding student contests the complaint of alleged sexual misconduct, the Presiding Officer may dismiss the case and impose a learning assignment(s) for the responding student agreed upon by the parties; or (with or without such agreement) based on information derived from the Informal Resolution proceedings, taken together with any other relevant information known to the College at the time of the Informal Resolution.

5.5.2 Protective Order
If the responding student contests the complaint of alleged sexual misconduct, the Presiding Officer may impose a protective order agreed upon by the parties or (with or without such agreement) based on information derived from the Informal Resolution proceedings, taken together with any other relevant information known to the College at the time of the Informal Resolution.

5.6 ELECTION OF FORMAL RESOLUTION

The College or the complainant may, at any time prior to the conclusion of the Informal Resolution, elect to end such proceedings and initiate Formal Resolution instead. In such cases, statements or disclosures made by the parties in the course of the Informal Resolution may be considered in the subsequent Formal Resolution.

5.7 PRIVACY OF INFORMAL RESOLUTION

In order to promote honest, direct communication; information disclosed during Informal Resolution must remain private while the Informal Resolution is pending, except where disclosure may be required by law or authorized in connection with duties on behalf of the College.

SECTION 6: REVISIONS

This Process may be revised, in writing, by the College at any time in compliance with regulatory guidance, College policies, and processes. The College will maintain the most updated process on the LCC website.

Revised: April 16, 2020

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i Title IX requires that Lansing Community College have a statement of policy and procedure for handling complaints of Sexual Misconduct. 20 USC 1092(f)(7) and 1681(a). This process constitutes that statement.
ii 20 USC Section 1092(f); 34 CFR Part 668.46.
iii 34 CFR Part 106.8(a) requires the designation of at least one responsible employee who ensures the recipient’s compliance for the institution. The Student Title IX Coordinator and Deputy Student Title IX Coordinator are the individuals responsible for sexual misconduct issues in which a student is the responding party.
iv 20 USC Section 1232g; 34 CFR Part 99.