



## **Student Title IX Grievance Procedure**

### **Prohibited Sex or Gender Based Discrimination, Harassment, and Sexual Misconduct Policy**

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#### ***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 harassment. This grievance process is designed to provide a fair, consistent, and reliable process for all parties.

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#### ***Scope***

This procedure applies to all members of the Lansing Community College Community including students, employees, volunteers, guests, vendors, contractors and visitors to campus.

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#### ***Prerequisites***

All members of the Lansing Community College Community, regardless of their sex, sexual orientation, gender, gender identity, 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 harassment. Sexual harassment includes quid pro quo harassment, unwelcome conduct, sexual assault, dating violence, domestic violence, and stalking, 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 harassment, Title IX also includes, but is not limited to, pregnancy/pregnancy-related issues and equality in athletics, academic programs, and activities.

Anyone who engages in sexual harassment violates College policy, federal and state 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 harassment and fair, consistent, reliable, and reasonably prompt resolution of sexual harassment complaints. Retaliation by any party involved in the grievance process is expressly prohibited, and could result in a Student Code of Conduct violation. Creating a safe environment is the responsibility of all members of the College community.

The College will not restrict rights protected under the U.S. Constitution, including the First Amendment, Fifth Amendment, and Fourteenth Amendment, when complying with Title IX.

Lansing Community College (LCC) strives to protect the learning and employment environment for all students. The health, safety and well-being of all students is a primary concern to the College. If a student, or someone they know, may be the victim of sexual harassment, including stalking, dating and domestic violence, or sexual assault, they 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 or
- (517) 483-4600 (non-emergency)
- MSU Sexual Assault Health Care Program – (517) 353-2700
- MSU Center for Survivors - (517) 372-6666
- Joyful Heart Hotline- (212)-475-2026
- Listening Ear Crisis Line (East Lansing, MI) – (517) 337-1717
- Women’s Resource Center of Greater Lansing – (517) 372-9163
- End Violent Encounters (EVE) – (517) 372-5572
- Capital Area Response Effort (CARE) – (517) 272-7436
- SAFE Center (domestic violence) – (St. Johns, MI) - (877) 952-7283
- National Domestic Violence Hotline – (800) 799-7233 or text START to 88788

During business hours Monday through Friday, parties are also strongly urged to contact one of the following Title IX Coordinators as soon as reasonably possible to report any sexual harassment that may have occurred, or during non-business hours by making an online report, or initiating contact by phone or email. Any member of the LCC community may file a complaint on behalf of a complainant regarding a responding student.

A complainant must be participating in or attempting to participate in the education program or activity of the College at the time a formal complaint is filed. A respondent is an individual who is being reported to be the perpetrator of conduct that could constitute sexual harassment and who is a person enrolled by the College or who has any other affiliation or connection with the College.

## **SECTION 1: Jurisdiction and Timing/ Retaliation and Related Misconduct/ Effect of Criminal Proceedings**

### **1.1 Jurisdiction**

Any member of the LCC community may file a complaint on behalf of a complainant regarding a responding student. A complainant must be participating in or attempting to participate in the education program or activity of the College at the time a formal complaint is filed. A respondent is an individual who is being reported to be the perpetrator of conduct that could constitute sexual harassment and who is a person enrolled by the College or who has any other affiliation or connection with the College.

The College, upon actual knowledge of sexual harassment when it occurs in the College’s education program or activity, against a person in the United States, will respond promptly to the alleged sexual harassment in a manner that is not deliberately indifferent, which means a response that is not clearly unreasonable in light of the known circumstances.

Education program or activity includes locations, events, or circumstances over which the College exercises substantial control over both the respondent and the context in which the sexual harassment occurred, and also includes any building owned or controlled by the College. Title IX applies to all education programs or activities of the College, whether such programs or activities occur on-campus or off-campus.

### **1.2 Timing of Complaints and Procedures**

As long as there is jurisdiction over the complaint pursuant to Section 1.1, above, there is no time limit to invoking this process in responding to complaints of alleged sexual harassment. Nevertheless, students are encouraged to report alleged sexual harassment immediately in order to maximize the College's ability to obtain evidence and conduct a prompt and equitable investigation.

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

The College will conclude the grievance process in a reasonably prompt time frame. The grievance process may be temporarily delayed for good cause and with written notice to the parties of the delay or extension and the reasons for the action. Good cause may include, but is not limited to, considerations such as the absence of a party, a party's advisor, or a witness; concurrent law enforcement activity; or the need for language assistance or accommodation of disabilities.

### **1.3 Retaliation**

No person will be penalized for good faith utilization of channels available for resolving concerns dealing with prohibited discrimination or harassment. Lansing Community College strictly prohibits any adverse action against any individual for making a good faith report, providing information, exercising one's rights or responsibilities under College 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 harassment. Any person who engages in any retaliatory actions against any such individual for having engaged in these legally protected activities will be subject to disciplinary action that may include, but is not limited to, expulsion from the College. In addition, any person who engages in such retaliatory actions may be subject to criminal prosecution and may become liable in civil litigation.

Making deliberately false accusations of discrimination or harassment violates College policy and may violate other standards of conduct. In such instances, the complainant will be subject to disciplinary action. However, failure to prove a claim of discrimination or harassment does not constitute proof of a false and/or malicious accusation.

No recipient or other person may intimidate, threaten, coerce, or discriminate against an individual for the purpose of interfering with any right or privilege secured by Title IX, or because an individual has made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding or hearing. Intimidation, threats, coercion, or discrimination (including charges against an individual for code of conduct violations that do not involve sex discrimination or sexual harassment, but arise out of the same facts or circumstances) for the purpose of interfering with any right or privilege under Title IX, constitutes retaliation.

Anyone who is aware of possible retaliation or has concerns regarding the response to a complaint of prohibited discrimination or harassment, including sexual harassment, should immediately report such concerns to the Title IX Coordinator, who will investigate the matter and pursue any appropriate corrective action.

#### **1.4 Other Related Misconduct**

In accordance with this process, the Panel in a formal process and Presiding Officer in an Informal Resolution is empowered to hear allegations of, and to impose sanctions for, sexual harassment and any other violation(s) of the College's Student Code of Conduct directly related to the alleged sexual harassment. Such related misconduct may include, without limitation, violations of the rules of privacy as articulated herein, violations of Supportive Measures, retaliation, and/or violations of other Student Code of Conduct provisions that occurred in the course of the alleged sexual harassment.

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 or violation of the College Drug and Alcohol Policy), provided that such student is acting in good faith as a complainant or witness to the events of the alleged sexual harassment.

Students who appear before the Panel or Presiding Officer, 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.

#### **1.5 Concurrent Criminal Charges**

Because sexual harassment may constitute both a violation of College policy and criminal activity in certain incidents, the College encourages students to report alleged sexual harassment 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 harassment, for purposes of this process or the Student Code of Conduct, has occurred. In other words, conduct may constitute sexual harassment 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 provide 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 harassment 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 implement supportive measures to protect the complainant and the College community, if necessary, as described in Section 2.4. Respondents who are concurrently facing criminal charges and who choose not to appear or answer questions to avoid self-incrimination that could be used against them in a criminal proceeding, will not be found responsible solely based on their refusal to provide self-incriminating statements.

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## ***Responsibilities***

### **To file a complaint against a student:**

[File report against student](#)

([https://lcc-advocate.symplicity.com/titleix\\_report/index.php/pid668727](https://lcc-advocate.symplicity.com/titleix_report/index.php/pid668727))

#### **STUDENT TITLE IX COORDINATOR:**

Christine Thompson  
Director of Student Compliance,  
Student Title IX Coordinator  
Office of Student Compliance  
Location: 411 N. Grand Avenue,  
Gannon Building 1204  
Lansing, MI 48933  
Phone: (517) 483-9632  
Email: [thompssc@lcc.edu](mailto:thompssc@lcc.edu)

#### **DEPUTY STUDENT TITLE IX COORDINATOR:**

Greg Lattig  
Athletic Director,  
Deputy Student Title IX Coordinator  
Athletic Department Office  
Location: 411 N. Grand Avenue,  
Gannon Building 4147  
Lansing, MI 48933  
Phone: (517) 483-1622  
Email: [lattigg@lcc.edu](mailto:lattigg@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:**

Lisa Thomas  
HR Manager, Employee Title IX Coordinator  
Human Resources Office  
Location: 610 N. Capitol Avenue  
Administration Building Suite 106  
Lansing, MI 48933  
Phone: (517) 483-1874  
Email: [thomal32@lcc.edu](mailto:thomal32@lcc.edu)

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## ***Procedure***

### **SECTION 2: Process – Initial Steps**

The College, upon actual knowledge of sexual harassment when it occurs in the College's education program or activity, against a person in the United States, will respond promptly to the alleged sexual harassment in a manner that is not deliberately indifferent, which means a response that is not clearly unreasonable in light of the known circumstances.

- Education program or activity includes locations, events, or circumstances over which the College exercises substantial control over both the respondent and the context in which the sexual harassment occurred, and also includes any building owned or controlled by the College. Title IX applies to all of the College's education programs or activities, whether such programs or activities occur on-campus or off-campus.

The College will treat complainants and respondents equitably, and will follow the grievance process before the imposition of any disciplinary sanctions or other actions that are not supportive measures, against a respondent. The College may remove a respondent from the College's education program or activity on an emergency basis based on criteria outlined in the emergency removal provision while the complaint is being addressed. The respondent is presumed not responsible for the alleged conduct until a determination regarding responsibility is made at the conclusion of the grievance process.

Where a grievance process involves more than one complainant or more than one respondent, references in this process to the singular "party," "complainant," or "respondent" include the plural, as applicable.

### **2.1 Complaint Received**

Upon receipt of a complaint/report regarding alleged sexual harassment, the Title IX Coordinator will promptly contact the complainant confidentially and in writing to request an intake meeting. The intake meeting will be scheduled through the Student Compliance Liaison, and confirmed to the complainant in writing. The complainant may bring an Advisor of their choice (as outlined in 3.6) to the meeting.

### **2.2 Emergency Removal**

The College may remove a respondent from the College's education program or activity on an emergency basis if it is determined that an immediate threat to the physical health or safety of the complainant, any student or other individual arising from the allegations of sexual harassment justifies removal prior to the conclusion of the grievance process (or even where no grievance process is pending). Under emergency removal, the College will complete an individualized safety and risk analysis prior to initiating the emergency removal, and will provide the respondent with written notice and an opportunity to challenge the decision immediately following the removal.

An emergency removal is not limited to instances where the complainant has reported an alleged sexual assault or rape, but could also be justified to address alleged severe, pervasive and objectively offensive verbal or online harassment. The identification of an immediate risk situation is not limited to the details of the alleged sexual harassment incident itself, but may also evaluate and respond to a respondent's related post-incident actions or behaviors if the respondent's actions pose an immediate and identified threat, but do not "arise from" allegations of "sexual harassment".

This provision may not be construed to modify any rights under the Individuals with Disabilities Education Act, Section 504 of the Rehabilitation Act of 1973, or the Americans with Disabilities Act.

The College will take the following steps when assessing an emergency removal:

Step 1 – Conduct a prompt individualized safety and risk analysis.

The College will promptly convene the Behavior Intervention Team (BIT) to complete an individualized safety and risk analysis on the respondent. The BIT Process will be followed in the completion of the assessment. The Title IX Coordinator is a member of the BIT and will serve as an AdHoc member during any safety and risk analysis to provide information regarding the allegation(s) and Title IX regulations to the team. The individualized safety and risk analysis cannot be based upon generalized, hypothetical or speculative beliefs or assumptions that a respondent could pose a risk to someone's physical health or safety.

## Step 2 - Make the required findings.

The individualized safety and risk analysis must confirm that there is an “immediate threat” justifying and compelling an emergency removal. The BIT will consider the significance and weight that should be applied to a complainant’s subjective fear of a threat versus an objective reasonable person standard. The analysis will assess the respondent’s propensity, opportunity, and ability to effectuate a stated or potential threat. The immediate threat must be to the “physical health or safety” of one or more individuals, who may be the respondent, the complainant, or any other individual (such as a third-party witness).

## Step 3 – Evaluate the applicability of disability laws to the removal decision.

A respondent may not be subject to an emergency removal without full and appropriate consideration of applicable disability laws. The Care Services Manager, Center for Student Access, serves on the BIT and will participate in the safety and risk analysis. The Care Services Manager will provide information on applicable disability law provisions, including the Individuals with Disabilities Education Act, Section 504 of the Rehabilitation Act, the Americans with Disabilities Act, and any relevant State laws. The requirements and interplay of disability laws and Title IX will be considered prior to the removal decision.

## Step 4 – Consider the appropriateness of supportive measures in lieu of an emergency removal.

Before imposing an emergency removal, the College will ensure that its action does not equate to or effectuate an improper bypassing of the prohibitions against imposition of sanctions or other actions that are not supportive measures without first following the grievance process. The emergency removal analysis requires careful and cautious balancing of concurrent factors – the College’s obligation to offer and provide prompt supportive measures to the complainant to ensure equal educational access; the adverse impacts of separating the respondent from educational opportunities and benefits; and the College’s obligation to protect the health and safety of the College community.

## Step 5 – Provide respondent with written notice and opportunity to challenge removal decision.

The respondent will receive written notice of the emergency removal detailing the identified threat of physical safety or harm that compelled the emergency removal decision. The notice will include an opportunity for the respondent to immediately challenge the removal decision. Challenges to the removal decision must be made in writing by submitting the Removal Decision Challenge form within two business days of the written notice of emergency removal. The Dean of Student Affairs (or their designee) will make a final determination on the challenge.

### **2.3 Complainant Intake Meeting**

The complainant will meet with the Title IX Coordinator to discuss the complaint, the grievance process, other remedies, and the process for filing a formal complaint. Supportive measures will also be discussed including the availability of supportive measures; the complainant’s wishes with respect to supportive measures; and the availability of supportive measures with or without the filing of a formal complaint.

The Title IX Coordinator will gather initial information about the alleged incident, make an initial assessment regarding the complaint, and seek to determine how the complainant wishes to proceed, including whether the complainant wishes to file a formal complaint. If the allegations do not meet the

definition of sexual harassment, or did not occur in the College's education program or activity against a person in the United States, the College will formally dismiss such allegations under Title IX and refer the complaint to the Student Code of Conduct process when applicable.

## **2.4 Supportive Measures**

Supportive measures are non-disciplinary, non-punitive, and are individualized services offered as appropriate and reasonably available without fee or charge to the complainant or the respondent. Supportive measures are offered before or after the filing of a formal complaint or where no formal complaint has been filed. Such measures are designed to restore or preserve equal access to the College education program or activity without unreasonably burdening the other party. This includes measures designed to protect the safety of all parties or the College educational environment, or to deter sexual harassment.

Supportive measures may include counseling, extensions of deadlines or other course-related adjustments, modifications of work or class schedules, campus escort services, mutual restrictions on contact between the parties, changes in work locations, leaves of absence, increased security and monitoring of certain areas of the campus, and other similar measures. The College will maintain as confidential any supportive measures provided to the complainant or respondent, to the extent that maintaining such confidentiality would not impair the ability of the College to provide the supportive measures.

The Title IX Coordinator is responsible for coordinating the effective implementation of supportive measures. If a no contact order between the parties is offered as a supportive measure, the parties will be notified in writing. Violations of supportive measures, such as non-compliance with a no contact order, may lead to a violation of the Student Code of Conduct.

## **2.5 Formal Complaint**

A formal complaint is a document filed by a complainant or signed by the Title IX Coordinator alleging sexual harassment against a respondent and requesting that the College investigate the allegation of sexual harassment. At the time of filing a formal complaint, a complainant must be participating in or attempting to participate in the education program or activity of the College where the formal complaint is filed.

The College may consolidate formal complaints as to allegations of sexual harassment against more than one respondent, or by more than one complainant against one or more respondents, or by one party against the other party, where the allegations of sexual harassment arise out of the same facts or circumstances.

A complainant's wishes with respect to whether the College investigates should be respected unless the Title IX Coordinator determines that signing a formal complaint to initiate an investigation over the wishes of the complainant is not clearly unreasonable in light of the known circumstances. The College will investigate sexual harassment allegations in any formal complaint, signed by a complainant, or by a Title IX Coordinator.

A formal complaint may be filed with the Title IX Coordinator in person, by mail, by electronic mail, or through the electronic form.



A complainant can request a formal investigation and hearing process, or an informal resolution process when filing a formal complaint. Without a formal complaint, neither process may commence. The formal complaint must contain the complainant's physical or digital signature or otherwise indicate that the complainant is the person filing the formal complaint, unless the formal complaint is signed by the Title IX Coordinator as outlined above.

## **2.6 Notice of Allegations**

Upon receipt of a formal complaint, the College will provide written notice to the parties (who are known). The notice will include the alleged sexual harassment, including sufficient details known at the time and with sufficient time to prepare a response before any initial meeting. Sufficient details include the identities of the parties (if known) involved in the alleged incident, the alleged conduct constituting sexual harassment, and the date and location (if known) of the alleged incident. If supportive measures have been implemented that will involve both parties, such as a no contact order, this will be included in the written notice.

The respondent is presumed not responsible for the alleged conduct until a determination regarding responsibility is made at the conclusion of the grievance process. The written notice will include this statement along with information that the parties may have an Advisor of their choice, who may be, but is not required to be, an attorney. An Advisor may accompany the complainant or respondent in meetings and interviews, but does not have an active speaking role. The written notice will include a link to the grievance process, and inform the parties that the Student Code of Conduct prohibits knowingly making false statements or knowingly submitting false information during the grievance process.

The written notice will include a request for the respondent to schedule an intake meeting with the Title IX Coordinator. The intake meeting will be scheduled through the Student Compliance Liaison, and confirmed to the respondent in writing. The respondent may bring an Advisor of their choice (as outlined above) to the meeting.

## **2.7 Respondent Intake Meeting**

The respondent will first meet with the Title IX Coordinator to discuss the complaint, the grievance process, and the formal complaint process. Supportive measures will also be discussed including the availability of supportive measures; the respondent's wishes with respect to supportive measures; and review of supportive measures relative to both parties (if applicable).

## **2.8 Dismissal of Formal Complaint**

### **Mandatory Dismissal**

The College must investigate the allegations in a formal complaint, as outlined in Section 3. If the conduct alleged in the formal complaint does not constitute sexual harassment as defined under Title IX, even if proved, did not occur in the College's education program or activity, or did not occur against a person in the United States; then the College will dismiss the formal complaint with regard to this process under Title IX, and refer it to the Student Code of Conduct process as applicable.

### **Discretionary Dismissal**

The College may dismiss a formal complaint or any allegations therein, if at any time during the investigation or hearing: A complainant notifies the Title IX Coordinator in writing that the complainant

would like to withdraw the formal complaint or any allegations therein; the respondent is no longer enrolled at the College; or specific circumstances prevent the College from gathering evidence sufficient to reach a determination as to the formal complaint or allegations therein.

The College will promptly send written notice of a dismissal and the reason(s) for the dismissal simultaneously to the parties.

### **SECTION 3: Investigation**

When a formal complaint has been filed, the Title IX Coordinator will forward the formal complaint to the Title IX Investigator who will initiate an investigation. The Title IX Investigator is designated to conduct investigations of alleged sexual harassment and receives training on issues of relevance to create an investigative report that fairly summarizes relevant evidence. The Student Title IX Coordinator and the Deputy Student Title IX Coordinator are also trained investigators and may be part of an investigative team when necessary.

The investigation will be conducted in a reasonably prompt time frame, and complainants and respondents will be treated in an equitable manner. If, in the course of an investigation, the College decides to investigate allegations about the complainant or respondent that are not included in the initial notice of allegations to the parties, the College will provide notice of the additional allegations to the parties whose identities are known.

#### **3.1 Meeting Notice**

The College will provide parties whose participation is invited or expected, with written notice of the date, time, location, participants, and purpose of all investigative interviews, other meetings, and hearings with sufficient time for the party to prepare to participate. All meetings and interviews will be scheduled through the Student Compliance Liaison.

#### **3.2 Advisors**

Both parties may have others present during any meeting, interview, and grievance proceeding, including the opportunity to be accompanied by an Advisor of their choice, who may be, but is not required to be, an attorney. The Advisor does not have an active speaking role in meetings, interviews, and grievance proceedings, but is permitted to ask the other party and any witnesses all relevant questions and follow-up questions, including those challenging credibility during cross-examination at a live hearing. In addition, the Advisor may inspect and review evidence provided to the parties.

#### **3.3 Witnesses**

The College will provide an equal opportunity for the parties to provide witnesses, including fact and expert witnesses that may offer relevant evidence, no matter which side or whose version of events that evidence or witness supports, and other inculpatory and exculpatory evidence. In addition, the College may identify additional witnesses during and throughout the investigation relevant to the incident.

#### **3.4 Evidence**

When investigating a formal complaint and throughout the grievance process, the College will ensure that the burden of proof and the burden of gathering evidence sufficient to reach a determination regarding responsibility will rest on the College and not on the parties.

### **3.5 Medical Records**

The College will not access, consider, disclose, or otherwise use a party's records that are made or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in their professional capacity, or assisting in that capacity, and which are made and maintained in connection with the provision of treatment to the party, unless the College obtains that party's voluntary, written consent.

### **3.6 Sexual History of the Complainant**

Evidence about a complainant's sexual predisposition will not be included in the investigative report and evidence about a complainant's prior sexual behavior will only be included if it meets two limited exceptions - (1) unless such questions and evidence about the complainant's prior sexual behavior are offered to prove that someone other than the respondent committed the conduct alleged by the complainant, or (2) if the questions and evidence concern specific incidents of the complainant's prior sexual behavior with respect to the respondent and are offered to prove consent).

### **3.7 Disclosure**

The College will not restrict the ability of either party to discuss the allegations under investigation or to gather and present relevant evidence.

### **3.8 Inspection and Review of Evidence**

Prior to completion of the investigative report, the College will send each party and their advisor, if any, the relevant evidence directly related to the allegations raised in a formal complaint, including the evidence upon which the College does not intend to rely in reaching a determination regarding responsibility, and inculpatory and exculpatory evidence whether obtained from the parties or other source, so that each party can meaningfully respond to the evidence prior to conclusion of the investigation. The evidence will be sent in electronic or hard copy format for inspection and review, compliant with any reasonable request for disability accommodations under applicable law. The parties have 10 calendar days to submit a written response, which the investigator will consider prior to completion of the investigative report.

The College may impose upon the parties and their advisors restrictions or require non-disclosure agreements not to disseminate any of the evidence subject to inspection and review or use such evidence for any purpose unrelated to the grievance process. This includes an agreement by the parties not to photograph or otherwise copy the evidence, including "sensitive" material such as nude images.

On or before the end of the ten calendar day window in which parties submit their written responses to the evidence, the College will provide each party with the other party's responses. The parties have two calendar days to respond to each other's responses in writing, which the investigator will consider prior to completion of the investigative report.

### **3.9 Investigative Report**

The Investigator will create an investigative report that fairly summarizes relevant evidence. The completed investigative report includes, among other things, summaries of interviews with the complainant and the responding student; and (where applicable) summaries of interviews of each witness, summaries of interviews with expert witnesses, photographs of the relevant site(s) and related logs, other photographic, electronic, and forensic evidence; and a detailed written summary of relevant evidence regarding the event(s) in question.

If the complaint involves multiple complainants, multiple respondents, or both, the College may issue a single investigative report.

Prior to issuing the investigative report to the parties and their advisors, if any, the investigative report will be provided to the Student Title IX Coordinator and College Legal Counsel for review. At least 10 calendar days prior to a hearing or determination regarding responsibility, the College will provide to both parties and their advisors, if any, the investigative report in electronic format or a hard copy compliant with any reasonable request for disability accommodations under applicable law, for their review and written response, which will be added to the final investigative report materials. The written responses must be submitted on or before the 10 calendar day review period.

#### **SECTION 4: Hearing**

The grievance process provides for a live hearing, which is not a public hearing, once the final investigative report has been completed and the review period has concluded. The final investigative report, including all evidence that was subject to the party's inspection and review, and the final investigative report written responses from the parties, will be available at the hearing to give each party equal opportunity to refer to such evidence prior to and during the hearing, including for purposes of cross-examination.

##### **4.1 Decision Makers**

The hearing members include a Hearing Chairperson, who presides over the hearing, maintains hearing decorum, and is the decision-maker regarding relevancy of questions from the Hearing Panel and during cross-examination; and the Hearing Panel, who is the decision-maker(s) regarding responsibility of the respondent and issuance of sanctions if the respondent is found responsible for a violation.

The Hearing Chairperson and Hearing Panel are part of a standing group of appointed individuals approved by the Dean of Student Affairs (or their designee) who are trained regarding Title IX, the grievance process, the Student Code of Conduct, and the hearing process among other topics. The Hearing Panel includes one LCC administrator and two LCC faculty for each hearing from the trained decision-maker group. Decision-makers, are not the same person(s) as the Title IX Coordinator or the Investigator(s).

The hearing members are to keep all information confidential and are trained and instructed to not publicly or privately disclose the names of the parties and advisors involved; and to not discuss the merits of the complaint with anyone not involved in the proceedings, including with the parties themselves or with the parties' advisors or anyone acting on their behalf.

##### **4.2 Hearing Notice**

Once a Hearing Chairperson and Hearing Panel member has been named to a Panel, they will receive a Notice of Hearing, which includes the hearing location, date, and time; the names of the parties and their advisors; and a request for notification of a conflict of interest or potential bias, if any. If it is deemed a conflict of interest or potential bias exists between a Hearing Chairperson or Panel member and the parties, they will be replaced by another Hearing Chairperson or Panel member.

Once the Hearing Chairperson and Hearing Panel members have been finalized, the parties and their advisors will receive a Notice of Hearing, which includes the hearing location, date, and time; the pre-hearing meeting location, date, and time; and the names of the Hearing Chairperson and Hearing Panel members.

If a party wishes to challenge the participation of a Hearing Panel member, they must notify the Chairperson prior to the pre-hearing meeting stating the specific reason(s) for the objection. If it is deemed by the Chairperson that the challenge has merit, the Panel member will be replaced by another member. The Chairperson 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 conflict of interest or bias may be present.

#### **4.3 Pre-Hearing Meeting**

A pre-hearing meeting will be scheduled individually with both parties and their advisors prior to the hearing date. At the meeting, the Hearing Chairperson will review hearing procedures; discuss safety measures and accommodations; review technology to be used during the hearing; discuss hearing logistics; discuss character witnesses, review the cross-examination process, including a discussion on relevant questions; and answer any questions regarding the hearing process. The parties and their advisors may bring preliminary cross-examination questions for review of relevancy to the pre-hearing meeting.

#### **4.4 Pre-Hearing Review Period**

The final investigative report will be shared with the decision-makers prior to the hearing. In addition to confidentiality outlined in 5.1, the decision-makers are instructed not to discuss the investigative report with the Hearing Chairperson or other members of the Panel prior to the Hearing.

The final investigative report, including all evidence that was subject to the party's inspection and review, and the final investigative report written responses from the parties, will be available at the hearing to give the decision-makers opportunity to refer to the information prior to and during the hearing, including for purposes of asking questions of the parties and witnesses.

Hearing members and the parties and their advisors will be allotted time immediately prior to the start of the hearing, during the Pre-Hearing session, for final review of the hearing materials.

#### **4.5 Advisors**

Both parties may have an advisor of their choice, who may be, but is not required to be, an attorney present at the hearing in addition to a support person. If a party does not have an advisor present at the hearing, the College will provide without fee or charge to that party, an advisor of the College's choice to conduct cross-examination on behalf of that party. The support person does not have a speaking role at the hearing. The advisor does not have an active speaking role in the hearing except during cross examination, at which time they are permitted to ask the other party and any witnesses all relevant questions and follow-up questions, including those challenging credibility. In addition, the advisor may inspect and review evidence provided to the parties.

In the event that a party fails to appear at the hearing, the Advisor for that party may attend the hearing if the absent party grants approval in writing to the Office of Student Compliance, including providing questions they want their Advisor to ask during cross examination. If the party has not

provided questions in writing to the Office of Student Compliance for cross-examination, the Advisor will be excused from the hearing.

#### **4.6 Witnesses**

Witnesses who have been identified during the investigation will be called to participate and provide information at the live hearing. The Hearing Panel and each party's advisor has the opportunity to ask the other party and any witnesses all relevant questions and follow-up questions, including those challenging credibility.

If a respondent is found responsible for a violation(s), the respondent may offer a character witness(es) to provide information to the Hearing Panel prior to the determination of sanctions. Identification of a character witness(es) must be made in advance of the hearing either at the pre-hearing meeting or a deadline set by the Chairperson. Respondents are responsible for the attendance of any character witnesses at the hearing.

#### **4.7 Cross Examination**

At the live hearing, each party's advisor has the opportunity to ask the other party and any witnesses all relevant questions and follow-up questions, including those challenging credibility. Cross-examination at the live hearing will be conducted directly, orally, and in real time by the party's advisor of choice. Only relevant cross-examination and other questions may be asked of a party or witness. Before a complainant, respondent, or witness answers a cross-examination or other question, the hearing chairperson will first determine whether the question is relevant, and explain any decision to exclude a question as not relevant.

#### **4.8 Questions Regarding Sexual History of Complainant**

Questions and evidence about the complainant's sexual predisposition or prior sexual behavior are not relevant, unless such questions and evidence about the complainant's prior sexual behavior are offered to prove that someone other than the respondent committed the conduct alleged by the complainant, or if the questions and evidence concern specific incidents of the complainant's prior sexual behavior with respect to the respondent and are offered to prove consent.

#### **4.9 Hearing Proceeding**

The live hearings are conducted in person through the use of technology allowing parties to be located in separate rooms with the technology enabling the Hearing Chairperson, Hearing Panel and parties to simultaneously see, hear and participate in the hearing proceedings as well as the participation of witnesses and other parties relevant to the hearing proceeding. An audio recording of the hearing will be maintained and made available to the parties for inspection and review upon request.

Both parties will have an opportunity to make opening statements to the Hearing Panel. Hearing Panel members are permitted to ask relevant questions and follow-up questions of the parties and any witnesses, including those regarding credibility. Only relevant questions may be asked of a party or witness. Before a complainant, respondent, or witness answers a question, the Hearing Chairperson will first determine whether the question is relevant, and explain any decision to exclude a question as not relevant.

Each party's advisor has the opportunity to ask the other party and any witnesses all relevant questions and follow-up questions, including those challenging credibility. Cross-examination at the live hearing will be conducted directly, orally, and in real time by the party's advisor of choice as indicated in Section 4.7 above.

After all parties and witnesses have been questioned, each party may make a closing statement and request a short recess to prepare it. If the Hearing Panel determines that unresolved issues exist, they have an opportunity to ask any final questions prior to the determination regarding responsibility.

#### **4.10 Standard of Proof**

The preponderance of the evidence (more likely than not) standard will be used in reaching a determination regarding responsibility by a majority decision of the Hearing Panel members.

#### **4.11 Determination Regarding Responsibility**

In making their determination, the Hearing Panel members will carefully review and consider all of the information presented and follow the procedures stated in this process. The decision-maker(s), will issue a written determination regarding responsibility simultaneously to the parties. The determination regarding responsibility becomes final either on the date that the College provides the parties with the written determination of the result of an appeal (if an appeal is filed) or if an appeal is not filed, the date on which an appeal would no longer be considered timely.

The written determination will include:

- Identification of the allegations potentially constituting sexual harassment.
- A description of the procedural steps taken from receipt of the formal complaint through the determination, including notifications to the parties, interviews with parties and witnesses, site visits (if applicable), methods used to gather other evidence, and the hearing.
- Findings of fact supporting the determination.
- Conclusions regarding the application of the Student Code of Conduct to the facts.
- A statement of, and rationale for, the result to each allegation, including a determination regarding responsibility, any disciplinary sanctions imposed on the respondent, and whether remedies designed to restore or preserve equal access to the College's education program or activity will be provided to the complainant.
- Procedures, including permissible bases, for the complainant and respondent to file an appeal.

The Title IX Coordinator is responsible for effective implementation of any remedies.

#### **4.12 Election of Informal Process**

At any time prior to reaching a determination regarding responsibility under the formal hearing process, the College may facilitate an Informal Resolution, including when a responding student wishes to accept responsibility for some or all of the alleged violations, and the complainant agrees. The College will obtain the parties' voluntary, written consent to the Informal Resolution prior to proceeding with the informal process.

## **SECTION 5: Informal Resolution**

A complainant who wishes to file a Formal Complaint with the Student Title IX Coordinator may request an Informal Resolution. Although less formal than a formal investigation and hearing process, Informal Resolution may be an appropriate resolution process and is not mediation. The College will not require the parties to participate in an Informal Resolution and will not offer an Informal Resolution unless a Formal Complaint is filed. The College will not require as a condition of enrollment or continuing enrollment, or employment or continuing employment, or enjoyment of any other right, a waiver of the right to an investigation and hearing of a Formal Complaint of sexual harassment. The College may also determine when an Informal Resolution may be appropriate.

The College will obtain the parties' voluntary, written consent to the Informal Resolution, and will provide the parties written notice disclosing the allegations and the requirements of the Informal Resolution process, including the circumstances under which it precludes the parties from resuming a Formal Complaint arising from the same allegations. Either party can withdraw from any Informal Resolution offered by the College at any time prior to agreeing to the resolution (which may include expulsion of the respondent) and commence or resume the Formal Grievance Process with respect to the Formal Complaint, and any consequences resulting from participating in the Informal Resolution, including the records that will be maintained or could be shared. The College may impose disciplinary sanctions against a respondent as part of an Informal Resolution, and both parties must agree to the resolution. If expulsion is the sanction proposed as part of an Informal Resolution, that result can only occur if both parties agree to the resolution. If a respondent, for example, does not believe that expulsion is appropriate then the respondent can withdraw from the Informal Resolution process and resume the formal grievance process.

### **5.1 Purpose of Informal Resolution**

Both parties must attend the Informal Resolution proceeding, and both parties must fully participate in a respectable manner and with a sense of decorum. Informal Resolution provides an opportunity for the complainant and the responding student, in the presence of, and facilitated by, a presiding officer, to communicate their feelings and perceptions regarding the incident, the impact of the incident, and their wishes and expectations going forward.

### **5.2 Advisors**

The complainant and the responding student each may bring an advisor to the Informal Resolution. Advisors do not have an active speaking role at the Informal Resolution.

### **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 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 harassment, the Presiding Officer will ask for input of the parties on the determination of sanction(s) and will take a break to determine proposed sanction(s). The Presiding Officer will then present the proposed sanction(s) to the parties. The parties must agree on the sanction(s). If the parties disagree, further deliberation will take place until the



parties are in agreement. Once agreement on sanctions has been reached, the Informal Resolution will be concluded, and the complaint will be resolved without any further rights of appeal by either party. In the event an agreement cannot be reached regarding sanction(s), either party can withdraw from the Informal Resolution and commence or resume instead the Formal Grievance Process with respect to the Formal Complaint.

### **5.5 Responding Student Contests Responsibility**

If the responding student contests the complaint of alleged sexual harassment, and the complainant agrees, the Informal Resolution will be concluded, and the complaint will be resolved without any further rights of appeal by either party. If the complainant disagrees, either party can withdraw from the Informal Resolution and commence or resume the Formal Grievance Process with respect to the Formal Complaint.

During the contesting of responsibility, either party or the Presiding Officer may introduce a discussion regarding educational topics related to the incident.

### **5.6 Supportive Measures**

Supportive Measures may be offered or continued, if already established, at the conclusion of the Informal Resolution, including the Presiding Officer imposing a no contact order agreed upon by the parties or 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.

### **5.7 Election of Formal Process**

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

### **5.8 Privacy of Informal Resolution**

In order to promote honest and 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: Sanctions**

The Hearing Panel or the Presiding Officer in an Informal Resolution is required to consider the sanctions listed below for any student found responsible for sexual harassment and misconduct that they find to be fair and proportionate to the violation. In determining an appropriate sanction, the Panel or the Presiding Officer 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 or the Presiding Officer 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 decision will be made by the Panel by majority vote in the formal process or with agreement by both parties in an Informal Resolution. Any sanction imposed will include a justification in the written determination of the Panel or the Informal Resolution.

The College will issue sanctions consistent with the impact of the offense on the College community. Progressive sanctioning principles will be followed in that the student's prior discipline history at the College will be taken into account. The following sanctions may be issued:

a. Written Warning – A written notice to the student that the student has violated College regulations.

b. Probation – A period of observation and review of conduct during which the student or student group or organization must demonstrate compliance with College standards. Probation is for a designated period of time and includes the probability of additional sanctions if the student or student group or organization is found to violate any College regulation(s) during the probationary period. Probation may be issued for any violation(s), but will be issued for all alcohol and drug violations and all violations resulting in sanctions of suspension or dismissal.

c. Restrictions - Denial of access to specific areas of the College or participation in certain groups or activities for a designated period of time and for clearly stated reasons.

d. Discretionary Sanctions – Educational assignments, essays, or other related discretionary assignments.

*Discretionary sanctions for sexual misconduct offenses specifically, may include meeting with an LCC Counselor to discuss sexual harassment and/or completion of education programs.*

e. No contact order – an order prohibiting contact between the responding student and the complainant, witnesses, and/or other individuals including any/all unwarranted communications between the parties including, but not limited to, communication via technology, third party communication, or face to face.

f. Suspension – Separation of the student from the College for a specified length of time (usually a year or less) after which the student is eligible to return. Conditions for readmission may be specified. Suspensions may be effective immediately or deferred (e.g., a suspension issued toward the end of a semester may be deferred to the day after the end of that semester).

*When students are issued a suspension, re-entry to the College is determined at the return from suspension meeting with the Office of Student Compliance. All sanctions must be completed prior to the return from suspension meeting.*

g. Dismissal – Separation of the student from the College for a year or more. The student may be eligible for return. Conditions for readmission may be specified. Dismissals will be effective immediately.

*When students are issued a dismissal, re-entry to the College is determined at the return from dismissal meeting with the Office of Student Compliance. All sanctions must be completed prior to the return from dismissal meeting.*

h. Expulsion – Termination of the student from the College permanently. Expulsions will be effective immediately.

i. Revocation of Admission and/or Degree – Admission to or a degree awarded from the College may be revoked for fraud, misrepresentation, or other violation of College standards in obtaining the degree, or for other serious violations committed by a student prior to graduation.

j. Withholding degree or certificate - The College may withhold awarding a degree otherwise earned until the completion of the process set forth in the Student Code of Conduct, including the completion of all sanctions imposed, if any.

More than one of the sanctions listed above may be imposed for any single violation.

The following sanctions may be imposed for student groups or organizations:

- a. Those sanctions listed above (a-j).
- b. Loss of selected rights and privileges for a specified period of time.
- c. Loss of Recognition- Registered Student Organizations may lose recognition and will be deprived of the use of College resources, the use of the College's name, and the right to participate in College or campus-sponsored activities. The loss of recognition may be for a specific period of time or for an indefinite period of time until stated all conditions are met.

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

Sanctions imposed by the Panel become effective immediately until the resolution of any timely appeal of the Panel's decision. The Provost (or their designee) may suspend the determination pending exhaustion of any appeals by the responding student pursuant to the Appeals Section, 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.

## **SECTION 7: Appeals**

Either party may appeal the College's Dismissal of a Formal Complaint or the Hearing Panel's decision by notifying the Office of Student Compliance (for College Dismissal of a Formal Complaint) or Hearing Chairperson of the Panel (for Hearing Panel decision) in writing within ten (10) working days of the date of the College's decision for Dismissal of a Formal Complaint or the Hearing Panel's decision. Such appeals shall be in writing by completing the appeal form, including any additional information, and submitting it to the Office of Student Compliance. Both parties will be notified in writing upon receipt of an appeal, and will be given five (5) working days to submit a written statement in support of, or challenging, the College Dismissal of a Formal Complaint or the Hearing Panel's decision.

The Provost (or their 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 information submitted in the appeal. In addition for appeals regarding College Dismissal of a Formal Complaint, the review shall be limited to the documents and supporting documents regarding the Formal Complaint resulting in Dismissal. For appeals regarding the Hearing Panel's decision, the

review shall be limited to the verbatim record of the Panel Hearing and supporting documents. Appeals for College Dismissal of a Formal Complaint or the Hearing Panel's decision are for one or more of the following reasons only:

- a. A procedural irregularity that affected the outcome of the matter;
- b. New evidence that was not reasonably available at the time the determination regarding dismissal of the formal complaint or determination regarding responsibility was made, that could affect the outcome of the matter;
- c. The Title IX Coordinator(s), Investigator(s), or Decision-maker(s) had a conflict of interest or bias for or against complainants or respondents generally or the individual complainant or respondent that affected the outcome of the matter;
- d. A sanction that is (substantially) disproportionate to the severity of the violation.

#### Appeal for Dismissal of a Formal Complaint

If an appeal is based on (a) or (b) (as listed above) and is approved by the Provost (or their designee), the matter shall be returned to the grievance process as determined by the Provost (or their designee).

If the appeal is based on (c) (as listed above), and is approved by the Provost (or their designee), the matter shall be returned to the grievance process with a new Title IX Coordinator or Investigator or Decision-maker as determined by the Provost (or their designee).

#### Appeal of the Hearing Panel's Decision

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

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

The decision of any 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 their designee), the matter shall be considered final upon all involved.

After an appeal of College Dismissal of a Formal Complaint or the Hearing Panel decision, both parties will be notified simultaneously in writing of the appeal outcome, including the rationale for the decision.

Supportive measures, such as mutual no-contact orders or academic course adjustments for either or both parties may continue in place throughout an appeal process.

## SECTION 8: 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: March 11, 2024

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## Reference

This grievance process covers complaints of alleged sexual 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:

[https://lcc.edu/about/board-of-trustees/documents/policies/4-human-resources/4-012\\_prohibited-sex-or-gender-based-discrimination-harassment-and-sexual-misconduct.pdf](https://lcc.edu/about/board-of-trustees/documents/policies/4-human-resources/4-012_prohibited-sex-or-gender-based-discrimination-harassment-and-sexual-misconduct.pdf)

*Please see the Policy for expanded definitions used throughout this process.*

Further information about Title IX and sex discrimination in education is available from the [U.S. Department of Education](#), Office for Civil Rights, 400 Maryland Avenue, SW, Washington, DC 20202-1100 (by Customer Service Hotline: 800-421-3481; TTY: 800-877-8339; email: [ocr@ed.gov](mailto:ocr@ed.gov) or at <http://www.ed.gov/ocr>).

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## SECTION 9: Definitions

**9.1 Actual Knowledge** means notice of sexual harassment or allegations of sexual harassment to a recipient's Title IX Coordinator or any official of the recipient who has the authority to institute corrective measures on behalf of the recipient, or to any employee of an elementary and secondary school.

**9.2 Alcohol** is defined as any beverage in liquid form which contains not less than one-half of one percent of alcohol by volume.

**9.3 Clery Act** refers to the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act.

**9.4 College** means Lansing Community College (LCC).

**9.5 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.

**9.6 Complainant** is any person who may be a victim of sexual harassment, and is participating in or attempting to participate in an education program or activity at the College.

**9.7 Consent** 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:

**9.7.1 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.

**9.7.2 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.

**9.7.3 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, hazing) or fraud (misrepresentation or material omission about oneself or the present situation in order to gain permission for sexual or intimate activity).

**9.7.4 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.

*See College Policy for expanded definition for Consent.*

**9.8 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.).

**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.

***For Title IX purposes, the following definition applies:***

**Dating Violence** is violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the complainant. The existence of such a relationship shall be determined based on the complainant or reporting party’s statement and with consideration of the length of the relationship, the type of relationship, and the frequency of interaction between

the persons involved in the relationship. For purposes of this definition:

- 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.

**Domestic Violence** is violence committed:

- By a current or former spouse or intimate partner of the complainant;
- By a person with whom the complainant shares a child in common;
- By a person who is cohabitating with, or has cohabitated with, the complainant as a spouse or intimate partner;
- By a person similarly situated to a spouse of the complainant under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred;
- By any other person against an adult or youth complainant who is protected from that person's act under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred.

To categorize an incident as Domestic Violence, the relationship between the respondent and the complainant must be more than just two people living together as roommates. The people cohabitating must be current or former spouses or have an intimate relationship.

***For the Clery Act and the Violence Against Women's Act purposes, the following definition applies:***

**Domestic Violence** is a felony or misdemeanor crime committed by a current or former spouse or intimate partner of the victim under the family or domestic violence laws of the jurisdiction receiving grant funding and, in the case of victim services, includes the use or attempted use of physical abuse or sexual abuse, or a pattern of any other coercive behavior committed, enabled, or solicited to gain or maintain power and control over a victim, including verbal, psychological, economic, or technological abuse that may or may not constitute criminal behavior by a person who:

- Is a current or former spouse or intimate partner of the victim, or a person similarly situated to a spouse of the victim;
- Is cohabitating, or has cohabitated, with the victim as a spouse or intimate partner;
- Shares a child in common with the victim; or
- Commits acts against a youth or adult victim who is protected from those acts under the family or domestic violence laws of the jurisdiction.

**Economic Abuse** in the context of domestic violence, dating violence, and abuse in later life, is behavior that is coercive, deceptive, or unreasonably controls or restrains a person's ability to acquire, use, or maintain economic resources to which they are entitled, including using coercion, fraud, or manipulation to:

- Restrict a person's access to money, assets, credit, or financial information;
- Unfairly use a person's personal economic resources, including money, assets, and credit, for one's own advantage; or

- Exert undue influence over a person's financial and economic behavior or decisions, including forcing default on joint or other financial obligations, exploiting powers of attorney, guardianship, or conservatorship, or failing or neglecting to act in the best interests of a person to whom one has a fiduciary duty.

**Technological Abuse** is an act or pattern of behavior that occurs within domestic violence, sexual assault, dating violence, or stalking and is intended to harm, threaten, intimidate, control, stalk, harass, impersonate, exploit, extort, or monitor, except as otherwise permitted by law, another person, that occurs using any form of technology, including but not limited to:

- Internet-enabled devices;
- online spaces and platforms;
- computers;
- mobile devices;
- cameras and imaging programs;
- apps;
- location tracking devices;
- or communication technologies;
- or any other emerging technologies

**9.9 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. The Dean's designee for appeals may be the Provost or another Administrator.

**9.10 Drugs (Substances)** are defined as a controlled substance in the Federal Controlled Substance Act; an illegal drug that is unlawful to use, possess, sell, or transfer under state or federal law (where federal and state laws conflict, federal law applies); inhalants that produce mind-altering effects when inhaled; and prescription drugs (including prescriptions not issued to the student) and over-the-counter medications which cause impairment to the point of incapacitation

**9.11 Exculpatory Evidence** means evidence that shows or suggests that a respondent is not responsible for the alleged violation; evidence that establishes non-responsibility of the respondent.

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

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

**9.14 Formal Complaint** means a document filed by a complainant or signed by the Title IX Coordinator alleging sexual harassment against a respondent and requesting that the College investigate the allegation of sexual harassment.

**9.15 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 harassment.

**9.16 Incapacitation.** 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 their 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:

**9.16.1** Lack of full control over physical movements (for example, difficulty walking or standing without stumbling or assistance);

**9.16.2** 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);

**9.16.3** 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 harassment.

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 carrying out sexual harassment.

**9.17 Inculpatory Evidence** means evidence that shows or suggests that a respondent is responsible for the alleged violation; evidence that establishes responsibility of the respondent.

**9.18 Investigator** refers to the Title IX Investigator who is trained and designated to conduct investigations of alleged sexual harassment. The Student Title IX Coordinator and the Deputy Student

Title IX Coordinator are also trained investigators and may be part of an investigative team at any time when necessary.

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

**9.20 Recipient** means a school that is a recipient of federal funding, including LCC.

**9.21 Reporter** means any person who submits a report alleging that a student violated Title IX.

**9.22 Respondent** means an individual who has been reported to be the perpetrator of conduct that could constitute sexual harassment. A respondent is a person enrolled by the College or who has any other affiliation or connection with the College.

**9.23 Sexual Assault** is any non-consensual sexual contact, including but not limited to non-consensual sexual penetration.

**9.23.1 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.

**9.23.2 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.

***For Title IX purposes, the following definition applies:***

**9.23.3** Sexual Assault is any attempted or actual sexual act directed against another person, without consent of that person, including instances where they are incapable of giving consent.

**9.23.4 a)** Rape is the penetration, no matter how slight, of the vagina or anus, with any body part or object, or oral penetration by a sex organ of another person, without the consent of that person, including instances where they are incapable of giving consent because of their age or because of their temporary or permanent mental or physical incapacity. This offense includes the rape of both males and females.

**9.23.5 b)** Fondling is the touching of the private body parts of another person for the purpose of sexual gratification, without the consent of that person, including instances where they are incapable of giving consent because of their age or because of their temporary or permanent mental incapacity.

**9.23.6 c)** Incest is sexual intercourse between persons who are related to each other within the degrees where in marriage is prohibited by law.

**9.23.7 d)** Statutory Rape is sexual intercourse with a person who is under the statutory age of consent.

**9.24 Sexual Exploitation** occurs when one person takes non-consensual or abusive sexual 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.

**9.25 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.

Quid Pro Quo Harassment is (1) unwelcome sexual advances, (2) requests for sexual favors, and (3) other verbal or physical conduct of a sexual nature by a person having power or authority over another when submission to such sexual conduct is made either explicitly or implicitly a term or condition of (a) employment or educational opportunities, or (b) receiving the benefits of any educational or employment program or activity, or (c) rating or evaluating an individual's education or employment progress, development, or performance.

***For Title IX purposes, sexual harassment is conduct on the basis of sex that satisfies one or more of the following:***

(1) An employee of the College conditioning the provision of an aid, benefit, or service of the College on an individual's participation in unwelcome sexual conduct; (2) Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to an education program or activity; or (3) "Sexual assault" as defined in 20 U.S.C. 1092(f)(6)(A)(v), "dating violence" as defined in 34 U.S.C. 12291(a)(10), "domestic violence" as defined in 34 U.S.C. 12291(a)(8), or "stalking" as defined in 34 U.S.C. 12291(a)(30).

**9.26 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).

***For Title IX purposes, the following definition applies:***

Engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for the person's safety or the safety of others or suffer substantial emotional distress. For the purposes of this definition:

- Course of conduct means two or more acts, including, but not limited to, acts in which the stalker directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with a person's property.
- Reasonable person means a reasonable person under similar circumstances and with similar identities to the complainant.
- Substantial emotional distress means significant mental suffering or anguish that may but does not necessarily require medical or other professional treatment or counseling.

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

**9.28 Title IX Coordinator** is an employee responsible for Effective Implementation of Remedies as addressed under § 106.45(b)(7)(iii)] of the Title IX Regulations. Is the College's designee to address sex discrimination, including sexual harassment, the dissemination of the College's non-discrimination policy and contact information.