

Interim sexual harassment (Title IX) policy

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Purpose

The purpose of this policy is to comply with Lynn University's obligations pursuant to Title IX of the Education Amendments of 1972 and the U.S. Department of Education's implementing regulations for Title IX.

Policy

Lynn University is a community dependent upon trust and respect among its members. The University is committed to maintaining a learning, living and working environment where no one is unlawfully excluded from participation in, denied the benefits of, or subjected to discrimination or harassment in any University education program or activity on the basis of sex or gender.

Sexual harassment, as defined in this policy, is a form of sex discrimination that may deny or limit an individual's ability to participate in or benefit from a University education program or activity. Accordingly, sexual harassment within a University education program or activity against a person in the United States is prohibited and will not be tolerated by Lynn University. Retaliation or intimidation associated with reports of sexual harassment is strictly prohibited. Reports of retaliation or intimidation associated with reports of sexual harassment will be resolved through other administrative grievance resolution policies or procedures, including but not limited to the Student Code of Conduct, the Employee Non-Discrimination and Anti-Harassment Policy, Faculty Corrective Discipline and Dismissal for Cause Policy, the Staff Involuntary Termination, Disciplinary and Corrective Action Policy, or the Ethical Code of Conduct.

Upon obtaining actual knowledge of an incident of sexual harassment, the University will respond promptly in a manner that is not deliberately indifferent. In responding to a report of sexual harassment, the University will treat complainants and respondents equitably by offering supportive measures to the complainant and respondent (as appropriate), and by following the grievance process for formal complaints of sexual harassment set forth below before the imposition of any disciplinary sanctions or other actions against a respondent.

Individuals who violate this policy are subject to the imposition of disciplinary sanctions up to and including suspension, dismissal, or expulsion.

On May 19, 2020, the U.S. Department of Education issued a Final Rule under Title IX of the Education Amendments of 1972^[1] requiring Lynn University to narrow both the geographic scope of its authority to act under Title IX and the types of "sexual harassment" that it must subject to its Title IX investigation and adjudication

process. **Only** incidents falling within the Final Rule's definition of sexual harassment will be investigated and, if appropriate, brought to a live hearing through the Sexual Harassment (Title IX) Policy defined below.

Lynn University remains committed to addressing any violations of its policies, even those not meeting the narrow standards defined under the Title IX Final Rule.

To the extent that alleged misconduct falls outside the Sexual Harassment (Title IX) Policy, or misconduct falling outside the Sexual Harassment (Title IX) Policy is discovered in the course of investigating covered Title IX misconduct, the institution retains authority to investigate and adjudicate the allegations under the policies and procedures defined within the Student Code of Conduct and Conduct Review procedures when complaints are filed against students or through employee conduct policies including but not limited to the Employee Non-Discrimination and Anti-Harassment Policy when complaints are filed against employees. The University reserves the right to conduct parallel or combined resolutions of sexual and gender-based misconduct or other allegations, regardless of governing policy, in instances where the complaint identifies conduct arising from the Sexual Harassment (Title IX) Policy in addition to acts of sexual or gender-based misconduct arising from the same incident or set of circumstances. In these instances, the procedural and due process requirements of the independent policies will apply to covered misconduct defined under the specific policies.

The elements established in the Sexual Harassment (Title IX) Policy under the Final Rule have no effect and are not transferable to any other policy of the University for any violation of the Student Code of Conduct and Conduct Review Procedures, employment policies, or any civil rights violation except as narrowly defined in this policy. This policy does not set a precedent for other policies or processes of the University and may not be cited for or against any right or aspect of any other policy or process.

[1] ee, 85 Fed. Reg. 30026 (May 19, 2020). The full text of the Final Rule and its extensive Preamble are available here: <http://bit.ly/TitleIXReg>

Prohibited Conduct - Definitions

This policy prohibits Sexual Harassment as defined below, including attempts to commit (and aiding or inciting others) to commit Sexual Harassment.

Sexual harassment means conduct on the basis of sex that satisfies one of the following:

1. An employee of the University conditioning the provision or denial of an aid, benefit, or service of the University 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 the University's education program or activity; or
3. Sexual assault, dating violence, domestic violence or stalking as defined below.

Sexual assault means a forcible or nonforcible sex offense as defined below:

Sex offenses – forcible: Any sexual act directed against another person, forcibly and/or against that persons will; or not forcibly or against the persons will where the victim is incapable of giving consent.

1. *Forcible rape* - The carnal knowledge of a person, forcibly and/or against that persons will; or not forcibly or against that persons will where the victim is incapable of giving consent because of his/her temporary or permanent mental or physical incapacity (or because of his/her youth). There is "carnal knowledge" if there is the slightest penetration of the vagina or penis by the sexual organ of the other person.
2. *Forcible sodomy* - Oral or anal sexual intercourse with another person, forcibly and/or against that persons will; or not forcibly against that persons will where the victim is incapable of giving consent because of his/her youth or because of his/her temporary or permanent mental or physical incapacity.
3. *Sexual assault with an object* - The use of an object or instrument to unlawfully penetrate, however slightly, the genital or anal opening of the body of another person, forcibly and/or against that persons will; or not forcibly against the persons will where the victim is incapable of giving consent because of his/her youth or because of his/her temporary or permanent mental or physical in capacity. An "object" or "instrument" is anything used by the offender other than the offender's genitalia.
4. *Forcible fondling* - The touching of the private body parts of another person for the purpose of sexual gratification, forcibly and/or against that persons will; or not forcibly or against that persons will where the victim is incapable of giving consent because of his/her youth or because of his/her temporary mental incapacity.

Sex offenses - Non forcible unlawful, non-forcible sexual intercourse.

1. *Incest* - Non-forcible sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.
2. *Statutory rape* - Non-forcible sexual intercourse with a person who is under the statutory age of consent.

Domestic violence means felony or misdemeanor crimes committed by a current or former spouse of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of Florida, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction.

Dating violence means violence by a person who has been in a romantic or intimate relationship with the victim. Whether there was such relationship will be gauged by its length, type, and frequency of interaction.

The existence of such a relationship shall be determined based on the 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.

(ii) For the purposes of this definition—

(A) Dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse.

(B) Dating violence does not include acts covered under the definition of domestic violence.

Stalking means engaging in a course of conduct (e.g., repeatedly following, harassing, threatening or intimidating another by telephone, mail, electronic communication, social media, or any other action, device or method) directed at a specific person that would cause a reasonable person to (a) fear for his or her safety or the safety of others; or (b) suffer substantial emotional distress.

For purposes of the definition of stalking under this policy:

- A “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.
- A “reasonable person” means a reasonable person under similar circumstances and with similar identities to the victim.

- “Substantial emotional distress” means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling.

Retaliation means intimidation, threats, coercion, or discrimination against any individual for the purpose of interfering with any right or privilege secured by Title IX and its implementing regulations or because an individual is believed to have made a report or complaint, testified, assisted, or participated or refused to participate in any manner in the resolution, investigation, proceeding, or hearing under this policy.[2]

[2] Reports of retaliation or intimidation associated with reports of sexual harassment will be resolved through other administrative grievance resolution policies or procedures, including but not limited to the Student Code of Conduct, the Employee Non-Discrimination and Anti-Harassment Policy, Faculty Corrective Discipline and Dismissal for Cause Policy, the Staff Involuntary Termination, Disciplinary and Corrective Action Policy, or the Ethical Code of Conduct.

Other Definitions

Complainant means an individual who is alleged to be the victim of conduct that could constitute sexual harassment. At the time of filing a formal complaint, the complainant must be participating in or attempting to participate in the University’s education program or activity.

Consent - The person must act freely and voluntarily and have knowledge of the nature of the act or transaction involved. Consent consists of an affirmative, conscious decision by each participant to engage in mutually agreed-upon sexual activity. Consent is clear permission and can only be given by one of legal age. The following are essential elements of effective consent:

- Informed and reciprocal: All parties must demonstrate a clear and mutual understanding of the nature and scope of the act to which they are consenting, and a willingness to do the same thing, at the same time, in the same way.
- Freely and actively given: Consent cannot be obtained through the use of force, coercion, threats, intimidation or pressuring, or by taking advantage of the incapacitation of another individual.
- Mutually understandable: Communication regarding consent consists of mutually understandable words and/or actions that indicate an unambiguous willingness to engage in sexual activity. In the absence of clear communication or outward demonstration, there is no consent. Consent may not be inferred from silence, passivity, lack of resistance or lack of active response. Relying solely upon

nonverbal communication can lead to a false conclusion as to whether consent was sought or given.

- Not indefinite: Consent may be withdrawn by any party at any time. Recognizing the dynamic nature of sexual activity, individuals choosing to engage in sexual activity must evaluate consent in an ongoing manner and communicate clearly throughout the stages of sexual activity. Withdrawal of consent can be an expressed “NO” or can be based on the outward demonstration that conveys that an individual is hesitant, confused and uncertain or no longer a mutual participant. Once consent is withdrawn, the sexual activity must cease immediately, and all parties must obtain mutually expressed or clearly stated consent before continuing further sexual activity.
- Not unlimited: Consent to one form of sexual contact does not constitute consent to all forms of sexual contact, nor does consent to sexual activity with one person constitute consent to activity with any other person. Each participant in a sexual encounter must consent to each form of sexual contact with each participant.

Even in the context of a current or previous intimate relationship, each party must consent to each instance of sexual contact each time. The consent must be based on mutually understandable communication that clearly indicates a willingness to engage in sexual activity. The mere fact that there has been prior intimacy or sexual activity does not, by itself, imply consent to future acts. At all times, the burden of securing consent is on the person initiating sexual contact.

Alcohol and other drugs: In general, sexual contact while under the influence of alcohol or other drugs poses a risk to all parties. Alcohol and drugs impair a person’s decision-making capacity, awareness of the consequences, and ability to make informed judgments. It is especially important, therefore, that anyone engaging in sexual activity be aware of the other person’s level of intoxication. If there is any doubt as to the level or extent of the other individual’s intoxication or impairment, the prudent course of action is to forgo or cease any sexual contact or activity.

Being intoxicated or impaired by drugs or alcohol is never an excuse for sexual harassment, sexual violence, stalking, or intimate partner violence, and does not diminish one’s responsibility to obtain informed and freely given consent.

Incapacitation: Incapacitation is a state where an individual cannot make an informed and rational decision to engage in sexual activity because she/he lacks conscious knowledge of the nature of the act (e.g., to understand the who, what, when, where, why or how of the sexual interaction) and/or is physically helpless. An individual is incapacitated, and therefore unable to give consent, if she/he is asleep, unconscious or otherwise unaware that sexual activity is occurring.

Where alcohol or other drugs are involved, incapacitation is a state beyond drunkenness or intoxication. The impact of alcohol and other drugs varies from person to person; however, warning signs that a person may be approaching incapacitation may include slurred speech, vomiting, unsteady gait, odor of alcohol, combativeness or emotional volatility.

Evaluating incapacitation requires an assessment of how the consumption of alcohol and/or drugs affects an individual's:

- Decision-making ability;
- Awareness of consequences;
- Ability to make informed judgments;
- Capacity to appreciate the nature and the quality of the act; or
- Level of consciousness.

Evaluating incapacitation also requires an assessment of whether a respondent should have been aware of the complainant's incapacitation based on objectivity and reasonably apparent indications of impairment when viewed from the perspective of a sober, reasonable person in the respondent's position.

An individual who engages in sexual activity with someone the individual knows or reasonably should know is incapable of making a rational, reasonable decision about whether to engage in sexual activity is in violation of this policy.

Day: The term "day" as used throughout this policy is defined by a business day and does not include any officially recognized university or federal holidays.

Education programs and activities means all the operations of the University, including, but not limited to, in-person and online educational instruction, employment, research activities, extracurricular activities, athletics, residence life, dining services, performances, and community engagement and outreach programs. The term applies to all activity that occurs on campus or on other property owned or occupied by the University that are located in the United States. It also includes off-campus locations, events, or circumstances over which the University exercises substantial control over the respondent and the context in which the Sexual Harassment occurs, including Sexual Harassment occurring in any building owned or controlled by a student organization that is officially recognized by the University, that are located within the United States.

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

University 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 a Lynn University education program or activity. A formal complaint may be filed with the Title IX Coordinator in person, by mail, or by electronic mail, by using the contact information listed for the Title IX Coordinator in this policy and by any additional method designated by the University. 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). Where the Title IX Coordinator signs a formal complaint, the Title IX Coordinator is not a complainant or otherwise a party. A formal complaint must be filed in order to pursue an informal resolution process, an investigation, or a hearing process under this policy.

Respondent means an individual who has been reported to be the perpetrator of conduct that could constitute sexual harassment. Respondent can include any individuals over which the University exercises substantial control including but not limited to all persons taking courses at the University, students, individuals residing in residence halls or in University controlled facilities, participants in activities and programs of the University or those that exercise the privilege to access campus facilities, employees, volunteers, vendors, and independent contractors.

Procedures / Guidelines

I. Scope and jurisdiction

Lynn University's Sexual Harassment (Title IX) Policy governs incidents of sexual harassment occurring within a University education program or activity against a person in the United States.

If the University determines that a formal complaint of sexual harassment does not meet the definition of sexual harassment under this policy or did not occur in a University education program or activity against a person in the United States, the Title IX Coordinator will dismiss the formal complaint. The University, however, reserves the right to address the dismissed behavior through other administrative grievance resolution policies or procedures, including but not limited to the Student Code of Conduct, Employee Non-Discrimination and Anti-Harassment Policy, Faculty Corrective Discipline and Dismissal for Cause Policy, the Staff Involuntary Termination, Disciplinary and Corrective Action Policy, or the Ethical Code of Conduct.

II. Title IX – notice of non-discrimination on the basis of sex

In accordance with Title IX and 34 CFR Part 106, Lynn University does not discriminate on the basis of sex, sexual orientation, gender, or gender-identification, in the education programs or activities that it operates. This prohibition against discrimination extends to admission and employment at the University. Inquiries about the application of Title IX

and 34 CFR Part 106 to the University may be referred to the University's Title IX Coordinator.

III. Title IX Coordinator and Deputy Coordinators

Title IX Office

The Title IX Coordinator is responsible for monitoring the overall Title IX compliance for Lynn University.

Inquiries concerning the application of Title IX and all reports of violations of this policy may be made to the Title IX Coordinator or the Deputy Title IX Coordinator:

Lynn University Interim Title IX Coordinator

Dr. Jennifer Fulbright

Snyder Center for Health and Wellness

3601 North Military Trail

Boca Raton, Florida, 33431

Dr. Fulbright may be contacted in person, by phone at +1-561-237-7581, or by email at titleixcoordinator@lynn.edu.

Deputy Title IX Coordinators

The Deputy Title IX Coordinators work under the oversight of the Title IX Coordinator to assist with the handling of Title IX-related complaints. The Title IX Coordinator may designate one of the Deputy Title IX Coordinators as the Assigned Title IX Coordinator in connection with a given complaint.

Deputy Title IX Coordinator for Students

Meagan Elsberry

Assistant Dean of Students

E.M. Lynn Residence Center

3601 North Military Trail Boca Raton, FL 33431

+1-561-237-7233

melsberry@lynn.edu

Deputy Title IX Coordinator for Employees

Aaron Greenberg

Assistant Vice President, Employee Services

Green Center

3601 North Military Trail Boca Raton, FL 33431

+1-561-237-7915

agreenberg@lynn.edu

Deputy Title IX Coordinator for Athletics
Sarah Fraska
Deputy Director of Athletics and SWA
Sports and Cultural Center
3601 North Military Trail Boca Raton, FL 33431
+1-561-237-7058
sfraska@lynn.edu

IV. Reporting sexual harassment and retaliation incidents

Lynn University encourages all individuals to report alleged incidents of sexual harassment and retaliation to the Title IX Coordinator or Deputy Title IX Coordinators and to report any potential criminal conduct to law enforcement.

A. Reporting options within the university

Victims of conduct that may constitute sexual harassment or associated incidents of retaliation are encouraged to talk to somebody about what happened – so complainants may receive the support measures they need, and so the University may respond appropriately. Victims and witnesses do not need to determine whether the conduct constitutes sexual harassment before reporting the incident to the University.

The various confidential and non-confidential disclosure options available to members of the Lynn University community are set forth below:

1. Confidential communications to university confidential sources

Individuals have the option to report alleged sexual harassment to the confidential sources on campus listed below. Individuals may choose this option if they want to report the incident but do not want any further action to be taken. Confidential sources may provide individuals with both immediate and long-term help. They will listen and help access additional assistance and explain options for obtaining additional support from the University and others. The professionals in each confidential office will preserve an individual's privacy to the extent possible by the law and University policy. This means that personally identifiable information shared with these professionals is not part of students' or employees' University records and will not be reported to other University personnel (including the Title IX Coordinator), to the respondent, or to others unless the disclosing individual gives his or her consent to the disclosure or the law requires it (as may be the case with alleged sexual assault involving a minor or under conditions involving imminent harm to one or more members of the University community, for example). Therefore, disclosures to these employees will not constitute "actual knowledge" to the University. Individuals choosing this option may still decide to make a formal complaint and/or criminal report in the future.

a. Counseling (strict confidential sources)

Individuals can make a confidential report of sexual harassment by contacting a professional, licensed counselor at the Counseling Center at +1-561-237-7237 during normal business hours.

The licensed professionals at the Counseling Center may also be visited in person during normal business hours at their location in the E.M. Lynn Residence Center.

b. The Dean of Students Case Managers and Health Center professionals (university designated confidential staff)

Individuals may make anonymous or confidential report of sexual harassment by contacting a Dean of Student Case Manager at +1-561-237-7246 or +1-561-237-7005.

Individuals also have the option of making a confidential report by contacting a licensed clinician at the Health Center at 561-237-7231 during normal business hours.

The licensed professionals at the Health Center may also be visited in person during normal business hours at their location in the E.M. Lynn Residence Center.

The Dean of Students Case Managers and Health Center professionals may generally talk to a reporting individual without revealing any personally identifying information about an incident to the Title IX Coordinator. While maintaining an individual's confidentiality, these individuals will report the nature, date, time, and general location of an incident to the Title IX Coordinator. This limited report helps keep the Title IX Coordinator informed of the general extent and nature of sexual violence on and off campus so the coordinator can track patterns, evaluate the scope of the problem, and formulate appropriate campus-wide responses.

c. Palm Beach County Victim Services (strict confidential source)

Through a memorandum of understanding with the University, Palm Beach County Victim Services (PBCVS) makes available a 24-hour rape crisis hotline service to students and employees of the University and provides confidential crisis intervention, counseling, information and referral, and accompaniment to medical and legal services as requested by students and employees. Victim Advocates with PBCVS provide students and employees with information about how to file a complaint with the University and how to report a crime to campus or local law enforcement and offer to assist students and employees with filing a complaint or report. Additionally, Victim Advocates from PBCVS are available 24-hours a day to accompany students and employees as they make reports to Campus Safety or to local law enforcement. Students or employees making a report of sexual and gender-based misconduct will be made aware of their option to have a Victim's Advocate from PBCVS present and

University administrators will assist the student or employee in contacting PBCVS. To speak with a Victim's Advocate, please contact +1-(866)-891-7273(RAPE).

2. Non-confidential reporting to the university

Individuals who believe that they have been the subject of, have witnessed an incident of sexual harassment or retaliation or otherwise desire to report an incident of sexual harassment or retaliation are encouraged to report the conduct to the University so that it may respond promptly.

Notice of sexual harassment or allegations of sexual harassment, as well as retaliation incidents, may be reported to the following University officials:

a. Title IX Coordinator

Any person may report sex discrimination, including sexual harassment or retaliation (whether or not the person reporting is the complainant), in person, by mail, by telephone, or by electronic mail, using the contact information listed for the Title IX Coordinator (see Section III above), or by any other means that results in the Title IX Coordinator receiving the person's verbal or written report. Such a report may be made at any time (including during non-business hours).

b. Deputy Title IX Coordinators

Any person may report sex discrimination, including sexual harassment or retaliation (whether or not the person reporting is the complainant), in person, by mail, by telephone, or by electronic mail, using the contact information listed for one of the Deputy Title IX Coordinators (see Section III above), or by any other means that results in a Deputy Title IX Coordinator receiving the person's verbal or written report.

c. Online sexual harassment reporting form

Any person may report sex discrimination, including sexual harassment or retaliation (whether or not the person reporting is the complainant) at any time (including during non-business hours) by utilizing the sexual harassment reporting form, which may be accessed at: [Sexual Harassment Reporting Form](#). All reports submitted via the reporting form will be received by the University's Title IX Coordinator. A report submitted through the online reporting form does not constitute a formal complaint. Following receipt of the report, the Title IX Coordinator will arrange a time to meet with the complainant to implement appropriate supportive measures and to discuss all available resolution options. Following intake, the complainant may submit a formal complaint or transition the information submitted through the online form to a formal complaint by including a description of the complainant's requested path of resolution and providing a digital or physical signature (or otherwise indicate that the complainant is the person filing the formal complaint).

d. Mandated reporting responsibilities of employees

Any member of the University community has the option to report an incident of Sexual Misconduct to a non-confidential employee of the University. A Mandated Reporter is a University employee who either has the authority to redress sexual harassment, has the duty to report incidents of sexual harassment, or is an individual who a student could reasonably believe has this authority or duty.

The following officials at Lynn University are considered to be officials who have authority to institute corrective measures on behalf of Lynn University: Vice President of Student Affairs, Dean of Students, Chief Student Conduct Officer, Chief of Campus Security, the Title IX Coordinator, and the Deputy Title IX Coordinators. Any and all reports of sexual harassment made to these officials will trigger a reasonably prompt response from the Title IX Coordinator that is reasonable in light of the known circumstances.

All non-confidential faculty and staff are considered mandated reporters of sexual harassment per the purposes of this policy and are required to share the details of the sexual harassment reported to the Title IX Coordinator for the purpose of providing supportive measures and sharing options for appropriate resolution. When a member of the University community tells a faculty or staff member about an incident of sexual harassment as defined by this policy, the individual has the right to expect the University to take immediate and appropriate steps to investigate what happened and to resolve the matter promptly and equitably.

The University will exercise sensitivity with respect to the privacy concerns of the reporting person. However, the privacy interests of the reporting source must be balanced with the University's legal obligations; its need to protect the University community; and to ensure that appropriate disciplinary processes are implemented.

A non-confidential employee must report to the Title IX Coordinator or as soon as reasonably possible all relevant details about the complaint that the University will need to determine what happened including the names of the victim and alleged perpetrator(s), any witnesses, and any other relevant facts, including the date, time and specific location of the alleged incident. Any non-confidential employee who knew about a violation of this policy and took no action to stop it or failed to report the prohibited act may be subject to disciplinary action.

To the extent possible, information reported to a non-confidential employee will be shared only with people responsible for handling the University's response to the report. The non-confidential employee will not share information with law enforcement without the complainant's consent or unless he or she has also reported the incident to law enforcement or otherwise required by law.

Before a victim reveals any information to a non-confidential employee, the employee should make reasonable efforts in light of the circumstances to ensure that the victim understands the employee's reporting obligations – and, if the victim wants to maintain confidentiality, direct the victim to confidential resources.

If the victim wants to tell the non-confidential employee what happened but also maintain confidentiality, the employee should tell the victim that the University will consider the request, but cannot guarantee that the University will be able to honor it. In reporting the details of the incident to the Title IX Coordinator, the employee will also inform the coordinator of the victim's request for confidentiality.

Non-confidential employees will not pressure a victim to request confidentiality, but will honor and support the victim's wishes, including for the University to fully investigate an incident. By the same token, responsible employees will not pressure a victim to make a full Complaint if the victim is not ready to.

B. Reporting options outside the university

1. Confidential communications to community resources

Off-campus counselors, advocates, and health care providers will generally maintain confidentiality and not share information with the University unless the complainant requests the disclosure and signs a consent or waiver form.

Note: While off-campus community counselors and advocates may maintain a complainant's confidentiality vis-à-vis the University, they may have reporting or other obligations under state law.

2. Law enforcement

Any member of the University community who has experienced an incident of sexual assault, domestic violence, dating violence, or stalking is also encouraged to report the conduct to a law enforcement agency that has jurisdiction over the location where the incident occurred. If requested, the University will assist the complainant in doing so.

The pendency of a criminal investigation does not relieve the University of its responsibilities under Title IX. Therefore, to the extent doing so does not interfere with any criminal investigation, the University will proceed with its own investigation and resolution of the complaint if a formal complaint is made. ***Note: If the University learns of an incident of sexual assault, domestic violence, or stalking, the University may notify appropriate law enforcement authorities if required or warranted by the nature of the information of which it becomes aware. This may be the case even if the incident cannot be addressed under a formal Title IX complaint as defined by this policy.***

3. External agencies

In addition to the University's internal remedies, members of the campus community should also be aware that the Office for Civil Rights ("OCR") investigates complaints of prohibited sex discrimination. This agency may be contacted as follows:

United States Department of Education
Office for Civil Rights Atlanta Office
61 Forsyth St. S.W., Suite 19T10
Atlanta, GA 30303-8927
Telephone: +1-404-974-9406
FAX: +1-404-974-9471
TDD: +1-800-877-8339
Email: OCR.Atlanta@ed.gov

The OCR National Headquarters is located at:

United States Department of Education
Office for Civil Rights U.S. Department of Education
Office for Civil Rights Lyndon Baines Johnson Department of Education Bldg.
400 Maryland Avenue
SW Washington, DC 20202-1100
Telephone: +1-800-421-3481
FAX: +1-202-453-6012 T
DD: +1-800-877-8339
Email: OCR@ed.gov

Complaints with the Office for Civil Rights must be filed within 180 days of the last act that the complainant believes was discriminatory. There is no time limit for making a report to the University.

Employees, Employment Applicants, and other Third Parties: In addition, employees, applicants for employment and other third parties may also file a formal complaint of sex discrimination with the following agency:

U. S. Equal Employment Opportunity Commission
Miami Tower 100 SE 2nd Street, Suite 1500
Miami FL 33131
+1-800-669-4000

C. Mandatory reporting of suspected child abuse

Under the State of Florida's Protection of Vulnerable Persons Act, every individual in the state is required to immediately report known or suspected child abuse and child sexual abuse to the Florida Department of Children and Family Services' Abuse Hotline, with

the definition of "child" including any person under the age of eighteen. This includes reporting suspected abuse committed by adults who are not the child's legal guardian and by juvenile sexual offenders.

Failure to report a known instance of child abuse of any kind is a third-degree felony, punishable by up to five years in prison and up to a \$5,000 fine. In addition, the failure of a University administrator to report suspected abuse potentially exposes the University to a \$1 million fine. "Administrator" is defined as the President, Vice Presidents, Deans, Director of Campus Safety and Security, the Athletic Director, and the Title IX coordinator.

To report possible child abuse using the Abuse Hotline please go to: reportabuse.dcf.state.fl.us, call toll-free +1-800-962-2873 (TDD +1-800-453-5145), or report by fax to +1-800-914-0004.

Reports may be made (24 hours a day, 365 days a year) by phone using a toll-free telephone number, by fax, or by web-based report. For more information and tips on successful reporting please go to: myflfamilies.com. Anyone reporting in good faith is immune from any civil or criminal liability.

Lynn University campus grounds and infrastructure are designed to provide an environment conducive to the University's mission as an institution of higher education and this includes the safety of minors. The University has adopted the [Protection of Minors \(Under the Age of 18\) in University Programs and Activities](#) policy which details mandatory reporting obligations of all employees and permit only the exceptions and exemptions contained therein. All University employees and program volunteers are mandated reporters of known or suspected child abuse and neglect under Florida State Law and must report to the Florida Department of Children and Families (DCF) in addition to making a report to the University. Employees may use the [Child Abuse Reporting Form](#), provided by the University, to make a report to the University while also generating a copy of the report for provision to DCF by the reporting party.

D. Confidentiality

It is the policy of the University to keep confidential the identity of any individual who has made a report or formal complaint of sex discrimination, including any individual who has made a report or filed a formal complaint of sexual harassment, any complainant, any individual who has been reported to be the perpetrator of sex discrimination, any respondent, and any witness, except as may be permitted by the FERPA statute, 20 U.S.C. 1232g, or FERPA regulations, 34 CFR part 99, or as required by law, or to carry out the purposes of 34 CFR part 106, including the conduct of any investigation or hearing arising under this policy.

Note that there are limits to confidentiality. As previously explained, confidential resources are required to report child abuse and may have reporting or other obligations under state law. Mental health professionals may also be required to disclose information where there is an imminent threat of harm to self or others. Finally, pursuant to the Clery Act, anonymous statistical information for certain offenses that have been reported as occurring at campus locations must be shared with Campus Security. The information does not include the names or any other identifying information about the persons involved in such incidents.

E. Amnesty policy

Consistent with the University's amnesty policy published within the [Student Code of Conduct and Community Standards Section H.4](#), students acting in good faith that disclose any incident of sexual harassment, including but not limited to sexual assault, domestic violence, dating violence, or stalking, to University officials or law enforcement may not be subject to the University's Student Code of Conduct for violation of the alcohol and/or drug use policies occurring at or near the time of the commission of the sexual harassment, sexual assault, domestic violence, dating violence, or stalking. Additionally, the student who is the subject of the report may not receive a code of conduct sanction, for this action.

The health and safety of every student at Lynn is of the utmost importance. The University recognizes that students who have been drinking and/or using drugs (whether use is voluntary or involuntary) at the time that violence occurs, including but not limited to sexual assault, domestic violence, dating violence, or stalking, may be hesitant to report incidents due to fear of potential consequences for their own conduct. The University strongly encourages students to report sexual assault, domestic violence, dating violence, or stalking to University officials.

F. False information and malicious accusations

Any individual who knowingly files a false report or formal complaint under this policy, who knowingly provides false information to University officials, or who intentionally misleads University officials who are involved in the investigation or resolution of a report of sexual harassment or retaliation may be subject to disciplinary action up to and including termination or dismissal.

V. Initiating a formal complaint with the university

The filing of a formal complaint triggers the University's resolution procedures under this policy.

At the time of filing a formal complaint, the complainant must be participating in or attempting to participate in the education program or activity of the University for this

policy to apply. A formal complaint may be filed with the Title IX Coordinator or Deputy Title IX Coordinators in person, by mail, or by electronic mail, by using the contact information listed for the Title IX Coordinator or Deputy Title IX Coordinators in this policy.

Where the Title IX Coordinator or Assigned Deputy Title IX Coordinators signs a formal complaint, the Title IX Coordinator or Assigned Deputy Title IX Coordinator is not a complainant or otherwise a party under this policy. In deciding whether to sign a formal complaint, the Title IX Coordinator or Assigned Deputy Title IX Coordinator will consider the facts of the specific case and will consider a variety of factors. Specifically, the Title IX Coordinator or Assigned Deputy Title IX Coordinator will consider factors including but not limited to a pattern of alleged conduct against the respondent, the involvement of violence or weapons, the seriousness of the alleged harassment, the age of the individual harassed, whether there have been other complaints or reports of harassment against the alleged harasser and similar factors in a complainant's allegations.

The presence of one or more of the above factors could lead the Title IX Coordinator to file a formal complaint, resulting in an investigation and the implementation of the University's grievance procedures. If none of these factors is present, the University will likely respect the complainant's request for confidentiality. If the Title IX Coordinator determines that a formal complaint cannot be filed, the coordinator will seek to assist the complainant via the implementation of supportive measures.

Note: If the Title IX Coordinator does commence a formal complaint and a complainant is known, the Coordinator will provide the complainant all notices and opportunities to respond to evidence, even if the complainant is not actively involved.

A. Period of limitations

There is no period of time after an incident of sexual harassment has occurred in which to file a formal complaint with the University. The University, however, strongly encourages early filing of a formal complaint in order to preserve evidence for a potential legal or University grievance proceeding. Delays in filing, while permitted, may limit the University's ability to investigate and respond effectively.

B. Dismissal of a formal complaint

The Title IX Coordinator or Assigned Deputy Title IX Coordinator will review the allegations in the formal complaint. If the conduct alleged does not constitute sexual harassment as defined in this policy even if proved, did not occur in the University's education program or activity, or did not occur against a person in the United States, then the Title IX Coordinator or Assigned Deputy Title IX Coordinator will dismiss the formal complaint with regard to that conduct for purposes of sexual harassment under

this policy. *Such a dismissal, however, does not preclude action under the Student Code of Conduct, the Employee Non-Discrimination and Anti-Harassment Policy, the Faculty Handbook, or other employment policies, as may be applicable.*

The Title IX Coordinator or Assigned Deputy Title IX Coordinator may also decide to dismiss the formal complaint or any allegations therein, if at any time during the investigation or hearing:

1. A complainant notifies the Title IX Coordinator or Assigned Deputy Title IX Coordinator in writing that the complainant would like to withdraw the formal complaint or any allegations therein;
2. The respondent is no longer enrolled or employed by the University; or
3. Specific circumstances prevent the University from gathering evidence sufficient to reach a determination as to the formal complaint or allegations therein.

Upon a dismissal, the Title IX Coordinator or Assigned Deputy Title IX Coordinator will promptly send written notice of the dismissal and reason(s) therefor simultaneously to the parties, as well as notice of the right to appeal the dismissal (see Section XI). Information regarding a referral under any other institutional policy will be included as applicable.

C. Consolidation of formal complaints

The Title IX Coordinator or Assigned Deputy Title IX Coordinator 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. Where a grievance process involves more than one complainant or more than one respondent, references in this policy to the singular “party”, “complainant,” or “respondent” include the plural, as applicable.

VI. University’s response to a report of sexual harassment

A. Title IX Coordinator meetings

When a report of sexual harassment, including reports that do not constitute a “Formal Complaint” per the definition included in this policy, is made to the University, the University will respond promptly in a manner that is not deliberately indifferent. The University will treat both complainants and respondents equitably by offering supportive measures to the complainant (if known) and respondent, and by following the formal investigation and grievance process before the imposition of any disciplinary sanctions or other actions that are not supportive measures against a respondent.

1. Meeting with the complainant

Upon receiving a report of an incident of sexual harassment, the Title IX Coordinator or Assigned Deputy Title IX Coordinator will promptly contact the complainant (if known) to:

1. Discuss the availability of supportive measures;
2. Consider the complainant's wishes with respect to supportive measures;
3. Inform the complainant of the availability of supportive measures with or without the filing of a formal complaint and, if applicable, the filing of a crime to local law enforcement;
4. Explain the process for filing a formal complaint;
5. Discuss protection from, and reporting of, incidents of retaliation.

In addition, when a student or employee reports an incident of dating violence, domestic violence, sexual assault or stalking, whether the offense occurred on or off campus, the Title IX Coordinator or Assigned Deputy Title IX Coordinator will also:

1. Provide the complainant a copy of the University's rights and resources guide, including a review of their rights and options;
2. Provide written notification of the counseling, health, mental health, victim advocacy, legal assistance, visa and immigration assistance, student financial aid and other services available for complainant both within the University and in the community;
3. Discuss the importance of preserving relevant evidence or documentation in the case (e.g., texts, emails, notes, photographs (etc.)).

The Title IX Coordinator or Assigned Deputy Title IX Coordinator will consider the complainant's wishes with regard to supportive measures. If supportive measures are not provided to a complainant, the Title IX Coordinator or Assigned Deputy Title IX Coordinator will document why supportive measures were not provided and why not providing such measures is not deliberately indifferent.

2. Meeting with the respondent

After meeting with the complainant, the Title IX Coordinator or Assigned Deputy Title IX Coordinator will also promptly contact the respondent if a formal complaint has been received that triggers formal notice requirements, who will also be offered supportive measures.

B. Supportive measures

Supportive measures are non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the complainant or the respondent 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 University's programs or activities without unreasonably burdening the other party, including measures designed to protect the safety of all parties or the University's educational or workplace environment, or deter sexual harassment. The Title IX Coordinator or designee is responsible for coordinating the effective implementation of supportive measures.

Supportive measures at Lynn University may include, but are not limited to, the following as appropriate or available:

1. Counseling;
2. Extensions of deadlines or other course or work-related adjustments;
3. Modifications of work or class schedules;
4. Campus escort services;
5. Mutual restrictions on contact between the parties;
6. Changes in work or housing locations;
7. Excused absences or leaves of absence;
8. Transportation accommodations, such as shuttle service, cab voucher, or parking arrangements to ensure safety and access to other services;
9. Increased security and monitoring of certain areas of the campus; and
10. Other similar measures.

For international students, supportive measure may also include assistance with immigration and visa issues.

The University will maintain as confidential any supportive measures provided to the complainant or respondent, to the extent that maintaining such confidentiality will not impair the ability of the University to provide the supportive measures.

B. Notice of allegation(s) to the parties

Upon receipt of a formal complaint, the Title IX Coordinator or Assigned Deputy Title IX Coordinator will provide the following written notice to the parties who are known:

1. Notice of the applicable University grievance process, including information regarding the University's informal resolution process (see the informal resolution section below).
2. Notice of the allegations potentially constituting sexual harassment, including sufficient details known at the time and with sufficient time to prepare a response before any initial interview. Sufficient details include:
 - a. The identities of the parties involved in the incident, if known;
 - b. The conduct allegedly constituting sexual harassment; and
 - c. The date and location of the alleged incident, if known.
3. A statement that the respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility is made at the conclusion of the applicable grievance process.
4. A statement informing the parties that they may have an advisor of their choice, who may be, but is not required to be, an attorney, during the grievance process, and may inspect and review evidence during the University's investigation process.
5. A statement informing the parties that knowingly making false statements or knowingly submitting false information during the grievance process is prohibited and subject to disciplinary action in accordance with the Student Code of Conduct, the Faculty Handbook, or the Staff Involuntary Termination or Disciplinary and Corrective Action policies, as applicable.

If, in the course of an investigation, the University becomes aware of information that constitutes a potential violation of this policy or decides to investigate allegations about the complainant or respondent that are not included in the notice provided above, the Title IX Coordinator or Assigned Deputy Title IX Coordinator will provide notice of the additional allegations to the parties whose identities are known.

VII. Emergency removal

The Title IX Coordinator or designee, in consultation with other administrators as appropriate and consistent with the pursuit of independent and unbiased resolution procedures absent actual or perceived conflict, may remove a respondent student from the University's education program or activity on an emergency basis, provided that the Title IX Coordinator, or designee,:

1. Undertakes an individualized safety and risk analysis;

2. Determines that an immediate threat to the physical health or safety of any student or other individual arising from the allegations of sexual harassment justifies removal; and
3. Provides the respondent with notice and an opportunity to challenge the decision immediately following the removal.

An emergency removal does not replace the regular hearing process, which shall proceed on the normal schedule, up to and through a hearing, if required.

The respondent will be given notice of the action and the option to request to meet with the Title IX Coordinator, or designee, prior to such action/removal being imposed, or as soon thereafter as reasonably possible, to show cause why the action/removal should not be implemented or should be modified.

This meeting is not a hearing on the merits of the allegation(s), but rather is an administrative process intended to determine solely whether the emergency removal is appropriate. When this meeting is not requested in a timely manner, objections to the emergency removal will be deemed waived. There is no appeal process for emergency removal decisions.

F. Administrative leave

The University may place a non-student employee respondent on administrative leave during the pendency of a formal grievance process.

VIII. Informal resolution

Upon receipt of a formal complaint, the Title IX Coordinator or Assigned Deputy Title IX Coordinator may seek to resolve certain cases through an informal process involving both the complainant and respondent. The Title IX Coordinator or Assigned Deputy Title IX Coordinator, however, will not offer an informal resolution process to resolve allegations that an employee sexually harassed a student.

Before starting the informal resolution process, the Title IX Coordinator or Assigned Deputy Title IX Coordinator will notify the parties in writing that participation is strictly voluntary and is not offered as a condition of enrollment/continuing enrollment, employment/continuing employment, or a waiver of the right to a formal investigation. Moreover, the written notification will state that the parties have the right to withdraw from the informal resolution process at any time and resume the grievance process with respect to the formal complaint. The notice will also state that the parties have the right to be accompanied by an advisor and that any information provided by the parties in the course of the informal resolution process may be considered in a subsequent investigation and hearing process.

In making a determination as to whether the informal resolution is appropriate, the Title IX Coordinator will consider factors, including, but not limited to, the following: (i) the outcome of an individualized safety and risk analysis of the Respondent relating to sexual misconduct, physical violence, failure to comply with a no contact directive (NCD) or a civil no contact order (CNCO), and/or other relevant conduct, (ii) the nature of the alleged conduct, whether allegations involve multiple victims and/or a pattern of conduct, or other evidence-informed factors indicative of increased risk to campus safety, and (iii) whether the circumstances warrant the Title IX Coordinator filing a complaint.

If, after receiving written notification of the above rights, the parties both voluntarily consent in writing to pursue informal resolution, the Title IX Coordinator or Assigned Deputy Title IX Coordinator will assign a trained administrator or third-party, either internal or external to the University, to facilitate the informal resolution process.

If both parties are satisfied with a proposed resolution after participating in the informal resolution process and the Title IX Coordinator or designee believes the resolution satisfies the University's obligation to provide a safe and non-discriminatory environment, the resolution will be implemented, the investigation and grievance process will be concluded, the matter will be closed, and both parties will be provided with written notice of the resolution.

If, however, informal resolution efforts are unsuccessful, the investigation and/or hearing process will continue.

A party may withdraw their consent to participate in informal resolution at any time before a resolution has been finalized.

IX. Investigation of a formal complaint

For all formal complaints that proceed to investigation, the Title IX Coordinator or Assigned Deputy Title IX Coordinator will designate a specially trained impartial investigator (or team of investigators), either internal or external to the University, to interview and gather relevant evidence from the complainant, respondent, and any witnesses.

When investigating a formal complaint and throughout the grievance process, the Title IX Coordinator or designee will:

1. Ensure that the burden of proof and the burden of gathering evidence sufficient to reach a determination regarding responsibility rest on the University and not on the parties;
2. Ensure that the University cannot 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 the professional's or paraprofessional's capacity, or assisting in that capacity, and which are made and maintained in connection with the provision of treatment to the party, unless the University obtains that party's voluntary, written consent to do so for the grievance process;

3. Provide an equal opportunity for the parties to present witnesses, including fact and expert witnesses, and other inculpatory and exculpatory evidence;
4. Not restrict the ability of either party to discuss the allegations under investigation or to gather and present relevant evidence;
5. Provide the parties with the same opportunities to have others present during any grievance proceeding, including the opportunity to be accompanied to any related meeting or proceeding by the advisor of their choice, who may be, but is not required to be, an attorney, and not limit the choice or presence of an advisor for either the complainant or respondent in any meeting or grievance proceeding (see the right to advisor section below for more information); however, the University may establish restrictions regarding the extent to which the advisor may participate in the proceedings, as long as the restrictions apply equally to both parties;
6. Provide, to a party whose participation is invited or expected, written notice of the date, time, location, participants, and purpose of all hearings, investigative interviews, or other meetings, with sufficient time for the party to prepare to participate; and
7. Provide parties an equal opportunity to inspect and review any evidence obtained as part of the investigation that is directly related to the allegations raised in the formal complaint, including the evidence upon which the University does not intend to rely in reaching a determination regarding responsibility and inculpatory or exculpatory evidence whether obtained from a party or other source, so that each party can meaningfully respond to the evidence prior to conclusion of the investigation.

A. The investigation

The University's investigation may include, but is not limited to:

1. Conducting interviews of the complainant(s), the respondent(s), and any witnesses (witnesses must have observed the acts in question or have information relevant to the incident and cannot be participating solely to speak about an individual's character, unless objectively evaluated as relevant evidence);

- a. The investigator will provide to a party whose participation is invited or expected, written notice of the date, time, location, participants, and purpose of all investigative interviews or other meetings, with sufficient time for the party to prepare to participate;
2. Reviewing law enforcement or campus safety investigation documents, if applicable;
3. Reviewing student and personnel files; and
4. Gathering, examining, and preserving other relevant documents and physical, written (including medical records), and electronic evidence (including social media, security camera footage, etc.).

Both parties may have an advisor accompany and advise them, but not actively participate, throughout the investigation process.

Prior to completion of the investigative report, each party and the party's advisor, if any, will be provided, in an electronic format or a hard copy any evidence obtained as part of the investigation that is directly related to the allegations raised in a formal complaint (including the evidence upon which the University does not intend to rely in reaching a determination regarding responsibility and inculpatory or exculpatory evidence whether obtained from a party or other source) so that each party can meaningfully respond to the evidence prior to conclusion of the investigation.

The parties will have at least ten (10) days to submit a written response, which the investigator will consider prior to completion of the investigative report. The University will make all such evidence subject to the parties' inspection and review available at any hearing to give each party equal opportunity to refer to such evidence during the hearing, including for purposes of cross-examination.

B. Final report and appointment of hearing officer

At the conclusion of the investigation and after the expiration of the initial ten (10) day written response period, the Investigator will create an investigative report that fairly summarizes relevant evidence. The investigative report is not intended to catalog all evidence obtained by the investigator, but only to provide a fair summary of that evidence. Only relevant evidence (including both inculpatory and exculpatory – i.e. tending to prove and disprove the allegations - relevant evidence) will be referenced in the Investigative Report. The Title IX Coordinator or designee will distribute the Report to the parties at least ten (10) business days prior the hearing, in electronic format or hard copy, for each party's review and written response.

With the distribution of the report, the Title IX Coordinator will provide a communication that includes:

1. identifying the name and contact information of the Hearing Officer(s);
2. notice of the right to file a protest of the appointment of the Hearing Officer(s) by identifying a possible conflict of interest to the Title IX Coordinator in writing;
3. the date of the pre-hearing meeting and any related information to be submitted prior to the pre-hearing meeting and the method of submission, including but not limited to:
 - A list of any witnesses that the party contends should be requested to attend the hearing pursuant to an attendance notice issued by the hearing officer;
 - Any accommodations, including physical separation from other involved party, that the party seeks with respect to the pre-hearing conference and/or hearing;
 - The name and contact information of the advisor who will accompany the party at the pre-hearing conference and hearing;
 - If the party does not have an advisor who will accompany the party at the hearing, a request that the University provide an advisor for purposes of conducting questioning at the hearing

Upon review of the final report, the respondent will have the option to acknowledge full, partial, or no responsibility for the alleged violations in writing prior to the hearing. At any time prior to the date of the hearing, the respondent may elect to acknowledge their actions and take responsibility for the alleged sexual harassment. In such a situation, the assigned Hearing Officer or appropriate administrator may propose sanction(s) for the respondent, in consultation with appropriate institutional administrators, and, if the complainant and the respondent agree to such proposed sanction(s), then the complaint may be resolved without a hearing and without any further rights of appeal by any party. If either the complainant or the respondent objects to such proposed sanction(s), then the Hearing Officer or appropriate administrator will convene a hearing for the exclusive purpose of determining a sanction.

C. Timing of the investigation

The goal of the University is to complete the investigation within approximately sixty (60) business days from receipt of the formal complaint.

X. Hearing process

A. Notice of hearing

No less than ten (10) days prior to the hearing and after receipt of the final report, the assigned Hearing Officer(s) who will send a written notice of the hearing to the parties. The written notice will include the following information:

1. The date, time, location and factual allegations concerning the alleged policy violation;

2. The specific policy and code of conduct allegedly violated;
3. Possible sanctions;
4. The time, date, and location of the hearing and the contact information of the Hearing Officer(s) assigned to hear the matter;
5. Information about requesting reasonable accommodations for the hearing;
6. A copy of the University's hearing rules and procedures;
7. Notice of the requirement that an advisor must conduct cross examinations directly, orally, and in real time at the hearing and that if a party does not have an advisor, the University will provide one free of charge.
8. The list of potential witnesses, and any witnesses whose participation has been waived by both parties; and
9. Notice of the right to request that the parties be separated with the utility of technology to enable the parties to see and hear one another as needed from different locations.

B. Hearing rules:

The hearing is conducted in a fair and equitable manner for the purpose of determining whether it is more likely than not that the respondent committed an act of sexual harassment in violation of this policy (i.e. "the preponderance of the evidence" standard).

The following rules apply to all hearings:

1. Parties will be treated fairly and equitably throughout the live hearing process;
2. Hearings are private and closed to everyone except the involved persons; in instances where an individual is participating virtually, all efforts should be made for that individual to be in a private space. If hearing participants need assistance securing a private space, they may contact the Title IX Coordinator;
3. The live hearing may be conducted in person or virtually at the discretion of the Hearing Officer(s);
4. At the request of either party, the parties will be separated with the utility of technology to enable the parties to see and/or hear one another as needed from different locations. The use of such technology must enable the Hearing Officer(s) and parties to see and/or hear the witnesses testify;
5. As a general rule, no new evidence or witnesses may be submitted during the live hearing. If a party identifies new evidence or witnesses that were not

reasonably available prior to the live hearing and could affect the outcome of the matter, the party may request that such evidence or witnesses be considered at the live hearing. The Hearing Officer will consider this request and make a determination regarding (1) whether such evidence or witness testimony was actually unavailable by reasonable effort prior to the hearing, and (2) whether such evidence or witness testimony could affect the outcome of the matter. The party offering the newly discovered evidence or witness has the burden of demonstrating the relevancy of the previously unavailable evidence or witnesses determined to be relevant by the Hearing Officer, will be subject to live and equitable cross-examination.

6. The respondent is presumed not responsible until determined responsible for the alleged violation(s) at the end of the hearing process based upon a preponderance of the evidence standard; To that end, it is also assumed that the formal complaint has been submitted in good faith until proven otherwise based upon a preponderance of the evidence standard.
7. While hearing procedures may differ depending upon the needs of the particular case, generally parties to the complaint will be provided the opportunity to offer an opening and closing statement, in addition to answering any questions presented by the Hearing Officer (s) and parties' advisors.
8. During the hearing, the parties' respective advisor will be required to conduct cross-examination directly, orally, and in real time:
 - a. Cross-examination may not be conducted directly by a party;
 - b. If a party does not have an advisor, the University will provide a trained advisor to the party free of charge;
9. During the hearing, the Hearing Officer(s) will determine the relevancy of any questions asked on cross-examination and may exclude any irrelevant questioning.
 - a. The Hearing Officer(s) must provide an explanation to the parties for excluding a question on the basis of relevancy.
 - b. Questions about the predisposition or prior sexual behavior of the complainant are deemed not relevant, unless such questions and evidence about the complainant's prior sexual behavior are offered to prove someone other than the respondent committed the alleged conduct, 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 consistent with the definition of consent in the section above, other definitions;

- c. If a party or witness does not submit to cross-examination at the live hearing, the Hearing Officer will weigh any relevant statements of the party or witness appropriately in reaching a determination of responsibility;
 - d. The Hearing Officer(s) will not require, allow, rely upon, or otherwise use questions or evidence that constitute, or seek disclosure of, information protected under a legally recognized privilege, unless the person holding such privilege has waived the privilege.
10. An audio, audiovisual recording, or transcript of the hearing will be created by the University. However, recording or transcript failures that occur notwithstanding good faith attempts will not delay or affect the validity of the proceedings. No individual other than the Hearing Officer may record any meetings or other portion(s) of the process. All recordings shall remain the property of the University;
11. Cell phones and recording devices may not be used in the hearing room(s) (unless approved by the Hearing Officer(s) in advance) and must be turned off before the hearing convenes;
12. Formal rules of evidence shall not be applicable; nor shall deviations from prescribed procedures necessarily invalidate a decision or proceeding, unless significant prejudice to a party may result;
13. Witnesses must have either observed the conduct in question, have information relevant to the incident, or serve in the capacity of an expert witness delivering testimony relevant to the complaint.
14. The Hearing Officer(s) may call any relevant witness to participate in a proceeding. Admission of any person to the hearing will be at the discretion of the Hearing Officer(s);
15. Pertinent records, video-surveillance images, relevant exhibits, and written statements may be accepted as information for consideration by the Hearing Officer(s). The applicability and weight of such evidence is determined at the sole discretion of the Hearing Officer(s);
16. The Hearing Officer(s) will objectively review all relevant evidence—including both inculpatory and exculpatory evidence—and ensure that credibility determinations may not be based on a person's status as a complainant, respondent, or witness;

17. The Hearing Officer(s) may temporarily delay the hearing or extend time frames for good cause with written notice to the complainant and the respondent of the delay or extension and the reasons for the action. Good cause may include, but are not limited to, considerations such as:
 - a. The absence of a party, a party's advisor, or a witness;
 - b. Concurrent law enforcement activity; or
 - c. The need for language assistance or accommodation of disabilities.
18. Any relevant omission of fact, untruthfulness, falsification, or misrepresentation presented to the Hearing Officer may be considered a separate violation of the Student Code of Conduct or applicable employee conduct policies;
19. Any interference with the orderly process of the conduct proceedings may be considered a separate violation of the Student Code of Conduct or applicable employee conduct policies. Moreover, the Hearing Officer(s) may exclude that person, including the party's advisor, and proceed with the proceeding in the individual's absence; and
20. Any attempt to discourage another's participation or truthful account of events in the conduct proceedings may be considered a separate violation of the Student Code of Conduct or applicable employee conduct policies.

C. Written determination and notification

Following the hearing, the Hearing Officer(s) will review all information presented through the investigation and live hearing processes and then issue a written determination regarding responsibility, which includes:

1. The allegations of sexual harassment;
2. A description of the procedural steps taken;
3. Findings of fact;
4. Conclusions regarding applying the policy to the facts;
5. A statement with rationale detailing the result of each allegation;
6. A listing of any imposed sanctions and any remedies provided; and
7. An explanation of the University's appeals process.

The written determination made by the Hearing Officer(s) will be delivered simultaneously to both parties approximately ten (10) business days after the hearing, unless the Hearing Officer(s) determines additional time is needed to make a decision.

The determination of responsibility for a violation of this policy will be made if in the judgment of the Hearing Officer(s) that the conduct was more likely than not to have occurred (i.e. “the preponderance of the evidence”).

D. Sanctions and remedial actions

1. Range of Student Sanctions

In light of the facts and circumstances of each case, the following sanctions, or combination of sanctions (with or without appropriate modifications) may be applied by the Hearing Officer(s), after consultation with and approval by appropriate administrators, to any student found responsible for violating this policy:

1. Written warning: A written notice to the involved students expressing disapproval of acts committed.
2. Disciplinary probation: The disciplinary probation notice informs the student that for a specified period of time, additional violations shall lead to removal from University housing, suspension or expulsion from the University. Disciplinary probation may also prohibit students from benefiting from certain privileges on campus, such as on-campus employment, study abroad programs, University sponsored travel, and serving in a leadership role on campus. In addition, disciplinary probation may also be assigned with specific restrictions, as outlined below.
3. Restrictions: During a specified period of time, a student may be restricted from a particular aspect of student life within the University community including, but not limited to the following:
 - a. Serving in a leadership role within any University-recognized student club or organization;
 - b. Participating in student activities, student clubs and organizations, intramurals, intercollegiate athletics, or club sports;
 - c. The ability to host guests in the University residence halls;
 - d. Participating in a University-sponsored trip or learning abroad program;
 - e. Access to a specific area of the campus and property owned or controlled by the University;
 - f. Participating in any event, program, or extracurricular activity sponsored by the University;
 - g. Driving and/or parking privileges on property owned or controlled by the University;

- h. On-campus employment;
 - i. Registration for future semesters; and/or
 - j. Computer privileges at the University.
- 4. Educational assignment: A student may be assigned additional sanctions, educational in nature, to aid in his/her development and better understanding of his/her choices. The student will be given a definite time frame for each assignment and is expected to complete assignments within that time frame in order to avoid further conduct action.
- 5. Removal from University housing: Removal from University housing involves exclusion or removal of a student, either temporary or permanent, from the residence halls for a definite period of time. Students assigned this sanction may not enter the residence halls during the definite period of time of the removal except for official University business during regular business hours. There may be specific conditions for readmission to University housing.
 - a. Once notice of the removal from University housing is given, the student will be given a specific time frame in which to remove all belongings from the living space and vacate the residence halls. The student may be monitored or escorted during the removal process.
- 6. Suspension: A suspended student is excluded or removed from the University for a definite period of time, after which the student may be eligible to return. Students suspended from the University may not return to the campus or attend any University-sponsored events for the duration of the suspension. There will be specific conditions for return to the University.
 - a. Once notice of suspension is given, the student will be given a specific time frame in which to remove all belongings from University housing and vacate the campus. The student may be monitored or escorted during the suspension process.
 - b. A student suspended from Lynn University is not eligible for a refund of any kind, regardless of the date of the violation.
- 7. Expulsion: Expulsion involves permanent separation of the student from the University. An expelled student may not enter the campus or attend any University-sponsored events and is not eligible for return to the University.
 - a. Once notice of expulsion is given, the student will be given a specific time frame in which to remove all belongings from University housing and

vacate the campus. The student may be monitored or escorted during the expulsion process.

- b. A student expelled from Lynn University is not eligible for a refund of any kind, regardless of the date of the violation.
8. Other Sanctions can include any, or a combination, of the following options, including but not limited to:
- a. Restitution: monetary reimbursement to the University, an individual or organization for any property damages or losses resulting from the acts committed;
 - b. Community Service: A student may be required to complete work assignments or other service to the University community;
 - c. No Contact Directives: restrictions on one's ability to contact or communicate with another individual;
 - d. Residence Hall Relocation: a change in a resident student's current on-campus residence to another location within the University housing system as assigned by the Office of Residence Life;
 - e. Internal Referral: referral to a specific department or University official for the purposes of evaluation and education;
 - f. Fines: Monetary reimbursement to the University must be paid by the date specified. All financial obligations must be satisfied prior to or at the time of course registration for the next semester;
 - g. Withholding of Transcripts or Degree: The University may withhold copies of a student's transcripts or a degree conferral that was otherwise earned either permanently or until the completion of the conduct review process, including the completion of imposed sanctions; and/or
 - h. Revocation of Admission and/or Degree: Admission to the University or a degree conferred from the University may be revoked for fraud, misrepresentation, or other violation of University policy in obtaining the degree from or gaining admission to the University, or for other serious violations committed by a student prior to graduation.

Any student that fails to comply with their assigned sanctions may be subject to automatic suspension from the University. In such circumstances the suspension will be automatically applied to the existing case, and there will be no opportunity to dispute or appeal the suspension. All of the other sanctions will remain in effect, unless they are

adjusted by the Hearing Officer(s), and the student is still required to comply with those sanctions.

2. Range of employee sanctions

In light of the facts and circumstances of each case, the following sanctions, or combination of sanctions (with or without appropriate modifications) may be applied by the Hearing Officer(s), in consultation with appropriate administrators, to any employee found responsible for violating this policy:

1. Oral warnings;
2. Documented warnings;
3. Probationary periods;
4. Suspension with or without pay;
5. Termination.

3. Remedial Actions

In addition to the imposition of disciplinary sanctions, the Title IX Coordinator or designee may take remedial action(s) to protect the complainant and/or the University community. Remedial actions are considered separate from, and in addition to, any disciplinary sanction or supportive measure that may have been provided following earlier.

Remedial actions for the complainant, as determined by the Title IX Coordinator or designee, in consultation with appropriate administrators, may include, but are not limited to:

1. Providing an effective escort to ensure that the complainant can move safely between classes and activities;
2. Ensuring the complainant and respondent do not share classes/office space or extracurricular activities;
3. Moving the respondent or complainant (if the complainant requests to be moved) to a different residence hall;
4. Providing comprehensive, holistic victim services including medical, counseling and academic support services, such as tutoring;
5. Arranging for the complainant to have extra time to complete or re-take a class or withdraw from a class without an academic or financial penalty; and

6. Maintaining mutual no contact directives restricting contact between named parties.

Remedial actions for the broader University population, as determined by the Title IX Coordinator or designees, may include, but are not limited to:

1. Designating an individual from the Counseling Center or the Office of Student Wellness, who is specifically trained in providing trauma-informed comprehensive services to victims of sexual harassment to be on call to assist students whenever needed;
2. Training or retraining employees on the University's responsibilities to address allegations of sexual harassment and how to conduct Title IX investigations;
3. Developing materials on sexual harassment;
4. Conducting bystander intervention and sexual harassment prevention programs;
5. Issuing policy statements or taking other steps that clearly communicate that the University does not tolerate sexual harassment and will respond to any incidents and to any person who reports such incidents;
6. Conducting a campus climate check to assess the effectiveness of efforts to ensure that the University is free from sexual harassment, and using that information to inform future proactive steps that the school will take;
7. Targeted training for a group of students or employees; and
8. Developing a protocol for working with local law enforcement.

XI. Appeals

Both parties may file a written appeal from the hearing officer's determination and from the University's dismissal of a formal complaint or any allegations therein, on any of the following bases:

1. There was an alleged procedural irregularity that affected the outcome;
2. There is new evidence that was not reasonably available at the time the determination or dismissal was made, that could have affected the outcome (a summary of this new evidence and potential impact must be included);
3. The Title IX Coordinator, investigator, or Hearing Officer(s) had a conflict of interest or bias that affected the outcome; or
4. The sanction(s) imposed is/are excessive or inconsistent with the nature of the offense.

Appeals are decided by an impartial Appeals Officer appointed by the Title IX Coordinator from a pool of trained individuals either internal or external to the University. If both the complainant and respondent appeal, the appeals will be considered concurrently. The Title IX Coordinator may dismiss the appeal for failing to state one of the grounds for appeal listed above.

The written appeal must be submitted to the Title IX Coordinator within three (3) business days of the parties' receipt of the Hearing Officer's written determination or the Title IX Coordinator's notice of dismissal, as applicable. Failure to submit a written appeal within this three (3) business day period forfeits the right to appeal under this policy, regardless of the outcome of the other party's appeal (if submitted). If either the complainant or respondent submits an appeal, and the Title IX Coordinator confirms that the appeal is timely and invokes at least one permitted ground for appeal, the Title IX Coordinator will provide written notice to the other party that an appeal has been filed and that the other party may submit a written opposition to the appeal within three (3) business days. The Title IX Coordinator will also appoint an appellate officer to consider and resolve the appeal.

The Appeals Officer may solicit written clarification on any issue raised on appeal from the Hearing Officer assigned to the case, the Title IX Coordinator, the investigator, the complainant, or the respondent. Appeals are decided based on the objective evaluation of the record of the original proceeding and any relevant evidence submitted by the parties.

The Appeals Officer shall not substitute their judgment for the decision of the original Hearing Officer(s) or attempt to rehear the case.

Following the Appeals Officer's review of all information, the Appeals Officer will:

1. Affirm the finding and sanction originally determined; or
2. Affirm the finding and modify the sanction; or
3. Remand the finding and/or sanction for further investigation or reconsideration at the hearing level.

The imposition of sanctions may be deferred during the appellate process and the status of the student may not change until the Appeals Officer issues a final decision. Supportive measures may also be taken or continued while the case is going through the appeals process to protect the parties.

The Appeals Officer will notify the parties simultaneously of the final decision on appeal in writing. The Appeals Officer's written decision will describe the result of the appeal and the rationale for the result. Appeals decisions will be rendered approximately ten (10) business days after review of the appeal, unless the Appeals Officer determines

additional time is needed to make a decision. All appeals decisions are final and not subject to further review. Once the appeals process is completed, it shall be the responsibility of the Title IX Coordinator to oversee the implementation of any imposed sanctions, as applicable.

XII. Title IX training

Specialized training for staff members involved in the Title IX resolution process, including but not limited to the Title IX Coordinator, Deputy Title IX Coordinators, Investigators, Hearing Officers, Appeals Officers, and other involved administrators, is designed to meet Title IX requirements.

In addition, Lynn University has developed primary prevention and awareness programs for all incoming students to prevent sexual harassment. This includes, but is not limited to information on (a) Title IX and a review of the University's prohibition against sexual harassment, Dating Violence, Sexual Assault, Domestic Violence and Stalking, (b) how to file a formal Title IX complaint with the University, (c) resources available to complainants and respondents, such as counseling, health services and supportive measures, and (d) options for reporting an incident of sexual harassment to campus or local law enforcement. In addition, all incoming students are educated regarding the legal definitions for Dating Violence, Sexual Assault, Domestic Violence, Stalking and Consent in the State of Florida.

Specific training materials, as required by law, are published on the University's website at lynn.edu/titleix.

XIII. Record keeping

The University will retain those records specified in 34 C.F.R. § 106.45(b)(10) for a period of seven (7) years after which point in time they may be destroyed, or continue to be retained, in the University's sole discretion. The records specified in 34 C.F.R. § 106.45(b)(10) will be made available for inspection, and/or published, to the extent required by 34 C.F.R. § 106.45(b)(10) and consistent with any other applicable federal or state law, including FERPA.

XIV. Other provisions

A. Conflicts of interest

The University requires any individual participating in the investigation, hearing process, or appeal determinations to disclose to the Title IX Coordinator any potential or actual conflict of interest.

A complainant or respondent who believes that any person involved in the investigation, hearing, or appeal process has a conflict of interest must submit this request in writing

to the Title IX Coordinator within three (3) days after notification of that person's involvement in the process. Any request must include a description of the conflict.

If the Title IX Coordinator determines that a conflict of interest may exist, the University will take steps to address the conflict in order to ensure an impartial process.

The failure of a party to timely raise a concern of a conflict of interest or bias may result in a waiver of the issue for purposes of any appeal specified above.

B. Confidentiality and disclosure

In order to comply with FERPA, Title IX, and other applicable laws, 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 complaint, the investigative report, the notice of hearing, and the pre-hearing submissions referenced above); documents, testimony, or other information introduced at the hearing; and the Outcome notification may not be disclosed, except as may be required or authorized by law. If it is determined, however, that the respondent committed sexual assault, University policy does not prohibit the further disclosure of the outcome letter by either the complainant or the respondent.

C. Time frame for resolutions

The investigation and resolution of all formal complaints of sexual harassment will be completed promptly. Extenuating circumstances, including, but not limited to, the complexity and severity of a complaint may arise that require the complaint process to extend the investigation and hearing process. A complainant and respondent can expect to receive periodic updates from the Title IX Coordinator, Investigator, or other administrator assigned to case resolution as to the status of the investigation.

This timeframe may be extended by the Title IX Coordinator for good cause based on factors such as, but not limited to, criminal investigations, schedule and availability of witnesses, holidays or semester breaks, and complexity of the complaint. Moreover, any party may request an extension of any deadline by providing the Title IX Coordinator with a written request for an extension that includes the basis for the request. If an investigation cannot be completed within sixty days, the assigned administrator will notify the parties of that fact and provide a timeframe for completing the investigation.

D. Right to an advisor

From the point a formal complaint is made, and until an investigation, adjudication, and appeal are complete, the complainant and respondent will have the right to be accompanied by an advisor of their choice to all meetings, interviews, and hearings that

are part of the investigation, adjudication, and appeal process. The advisor may be, but is not required to be, an attorney.

Except for the questioning of other parties during the hearing specified above, the advisor will play a passive role and is not permitted to communicate on behalf of a party, insist that communication flow through the advisor, or communicate with the University about the matter without the advised party being included in the communication. In the event a party's advisor of choice engages in material violation of this policy, the University may preclude the advisor from further participation, in which case the party may select a new advisor of their choice.

In the event a party is not able to secure an advisor to attend the hearing specified above, and requests the University to provide an advisor, the University will provide the party an advisor, without fee or charge, who will conduct questioning on behalf of the party at the hearing. The University will have sole discretion to select the advisor it provides. The advisor the University provides may be, but is not required to be, an attorney.

The University is not required to provide a party with an advisor in any circumstance except where the party does not have an advisor present at the hearing specified above and requests that the University provide an advisor.

A party may elect to change advisors during the process and is not obligated to use the same advisor throughout. The parties are expected to inform the Investigator(s) of the identity of their advisor at least ten (10) business days before the date of their first meeting with Investigators (or as soon as possible if a more expeditious meeting is necessary or desired).

The parties are expected to provide timely notice to the Title IX Coordinator if they change advisors at any time. It is assumed that if a party changes advisors, consent to share information with the previous advisor is terminated, and a release for the new advisor must be secured. Parties are expected to inform the Title IX Coordinator and or Hearing Officer of the identity of their hearing advisor at least ten (10) business days before the hearing.

E. Individuals with disabilities

The University will make arrangements to ensure that individuals with disabilities are provided appropriate accommodations as needed to participate in the steps and procedures outlined in this policy.

Requests for accommodations by students must be made to Lynn University's ADA Specialist. All other members of the campus community should contact the Employee Services. The ADA Specialist or Employee Services as applicable will review the

supporting disability-related documentation, make a decision about the request, notify the individual about approved accommodations and make arrangements for the accommodations. Accommodations may include, but are not limited to, providing interpreters for the deaf, providing recordings of materials for the blind, and assuring a barrier-free location for any proceedings.