



Unlawful Discrimination, Harassment, and Title IX Policy and Procedures

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I. NON-DISCRIMINATION POLICY STATEMENT AND PURPOSE

Los Angeles Pacific University (“LAPU”) is committed to creating and maintaining an inclusive environment where all individuals can achieve their academic and professional aspirations free from Sex-Based Misconduct and other forms of unlawful discrimination, harassment, or related retaliation. LAPU does not discriminate in the operation of or access to the University’s programs on the basis of the following protected classes: race (including natural hairstyle or hair texture related thereto); color, national origin (including possessing a driver’s license issued under Vehicle Code § 12801.9); ethnicity or ancestry; age (40 and over); sex; gender; current, potential, or past pregnancy or related conditions; parental, family, or marital status; physical or mental disability, or perceived physical or mental potential disability; medical condition (including cancer-related physical or mental health impairment or history of same); citizenship; military and veteran status; genetic characteristics; political affiliation; or any other classifications protected by applicable federal, state, or local laws and ordinances (“Protected Class” or “Protected Classes”). These protected classes include any combination of the above-stated characteristics, or a perception that a person has any of the above-stated characteristics or a combination of them.

LAPU is a Christ-centered learning community. The University has developed a Statement of Faith which represents its theological position. As a Christian University, LAPU administers this policy in alignment with the University’s Statement of Faith and applicable exemptions for religious institutions afforded by state and federal law. Nothing in this policy is intended to limit or otherwise conflict with the University’s exercise of rights as a religious institution and/or under applicable religious exemptions.

This Non-Discrimination Policy (“Policy”) prohibits the following conduct (“Prohibited Conduct”):

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1. [Harassment](#) or [Discrimination](#), including [Sex-Based Misconduct](#), against students, employees, applicants for admission, or applicants for employment based on membership in a Protected Class;
 2. [Harassment](#) or [Discrimination](#), including [Sex-Based Misconduct](#), based on the perception that a person is a member of a Protected Class or is associated with a person who has, or is perceived to have, membership in a Protected Class;
 3. Violations of other University policies and procedures regarding students with disabilities, pregnant students, students with pregnancy-related conditions, or students who are parenting, including policies and procedures providing reasonable accommodations/modifications;
 4. Failure to provide reasonable accommodations to employees with a disability to allow employees to perform the essential job functions unless it would cause an undue hardship, in accordance with law;
 5. Failure to provide reasonable accommodations and/or other measures, as appropriate, to employees who are pregnant or have pregnancy-related conditions unless it would cause an undue hardship, in accordance with law;
 6. Any and all Retaliation against any person for submitting a report of violation of this Policy or for cooperating in the administration of this Policy, including participation in an investigation or adjudication process;
 7. Knowingly submitting a complaint under this Policy based on false allegations;
 8. Knowingly providing false information in connection with an investigation or adjudication of a complaint processed under this Policy;
 9. Any Responsible Employee who fails to report allegations of Prohibited Conduct, including, but not limited to, [Sex-Based Misconduct](#);

10. Any person in a position of power or influence who intentionally deters or hinders another person from reporting allegations of Prohibited Conduct which, if true, would violate this Policy; and

11. Any other violation of this Policy.

The intent of this Policy is to provide for the University to act consistently with its legal obligations under Title IX of the Education Amendments of 1972 ("Title IX"), Title VI and Title VII of the Civil Rights Act of 1964, the Age Discrimination in Employment Act, Uniformed Services Employment and Reemployment Rights Act of 1994 ("USERRA"), the Equal Pay Act of 1963, the Age Discrimination Act of 1975, Title I and Title IV of the Americans with Disabilities Act ("ADA") of 1990 and, as amended by ADA Amendments Act of 2008, the Immigration Reform and Control Act of 1986 ("IRCA"), the Rehabilitation Act of 1973, the Pregnant Worker Fairness Act, and other applicable federal and state anti-discrimination laws. LAPU recognizes that the law in these areas may change. To the extent this policy conflicts with applicable federal or state law, LAPU will act in compliance with the law. This Policy may be amended at any time at LAPU's sole discretion to ensure compliance with applicable state or federal law, and such amendments may be applied to matters for which the grievance process has already been initiated.

The purpose of this policy is to:

1. Define [Prohibited Conduct](#);
2. Ensure members of the University community respond appropriately when incidents of Prohibited Conduct occur;
3. Provide methods of reporting Prohibited Conduct to appropriate University administrators;
4. Establish fair and equitable procedures for filing and handling complaints of

Prohibited Conduct; and

5. Ensure that when Prohibited Conduct does occur, the University takes appropriate action to stop, prevent, and remedy the Prohibited Conduct;
6. Set forth grievance procedures for the handling of complaints of Sex Discrimination, including as required by federal regulations set forth in 34 Code of Federal Regulations Sections 106.8(b)-(c), 106.45.

This policy shall be reviewed periodically to determine if modifications are appropriate.

II. APPLICATION AND SCOPE; EMPLOYEE REPORTING OBLIGATIONS; CONFIDENTIAL DESIGNATIONS

A. Application and Scope

This policy applies to all members of the University community, including LAPU employees, students, applicants for admission or employment, third-party contractors and vendors, independent contractors, volunteers, and any third party who enters LAPU facilities. This Policy's prohibition on Sex-Based Misconduct also applies to other individuals who are participating or attempting to participate in the recipient's education program or activity, including former employees and former students who may report Sex -Based Misconduct. Every member of the community is responsible for complying with this Policy.

This Policy applies to Prohibited Conduct alleged to have occurred: (a) on LAPU property; (b) in connection with LAPU activities, programs, or events (including both online and in person educational activities); or (c) where the University determines it has a substantial interest, in the University's sole discretion.

LAPU recognizes and promotes its commitment to academic freedom and freedom of speech, as described in applicable LAPU policies. However, freedom of speech and academic freedom are not limitless and do not protect speech or expressive conduct that violates federal or state anti-discrimination laws, such as Prohibited Conduct under this Policy.

LAPU also recognizes that some students are employed by the University (“Student—Employee”). Under this Policy, Student-Employees may be treated either as students, employees, or both, based on the circumstances of each situation, in compliance with the provisions set forth below.

Additionally, while this Policy comprehensively prohibits illegal harassment and discrimination, some procedures will only apply to Title IX Sexual Harassment (defined below) because different legal requirements apply in such matters. Applicable distinctions in the processing of such complaints are addressed below.

Further, there may be some instances where allegations of misconduct or admissions of misconduct which violate a different University policy – for example, the student code of conduct – arise in the course and scope of a matter being processed under this Policy. In such situations, the University may, in its sole discretion, either: (a) consolidate investigation and/or adjudication of such matters with investigation and/or adjudication procedures under this Policy; and/or (b) refer such matters for processing under other University policies during or following the resolution of the matter under this Policy.

B. Responsible Employees – Mandatory Reporting of Prohibited Conduct to the Title IX Coordinator

All employees of LAPU are mandated to report allegations of Prohibited Conduct,

including Title IX Sexual Harassment, to the Title IX Coordinator unless specifically exempted from reporting obligations as a Confidential Employee/Resource, as defined below (“Responsible Employees”).¹

Responsible Employees include employees who are also students when the Student-Employee receives such information in their capacity as an employee.

All Responsible Employees of the University who receive information that a possible violation of this Policy has occurred shall promptly report that information to the Title IX Coordinator. It is not sufficient for a Responsible Employee to report Prohibited Conduct to their supervisor; rather, a direct report by the Responsible Employee to the Title IX Coordinator is required to comply with this Policy. The online reporting form can be accessed at www.apusafereporting.com.

C. Confidential Employees and Confidential Resources

¹ LAPU includes all employees other than Confidential Resources as mandated to report Prohibited Conduct, including Sex-Based Misconduct. For purposes of ensuring compliance with Education Code section 66281.8(a)(2)(B), this shall explicitly include individuals with any of the following positions or substantially similar positions or job duties, regardless of the specific title the University may attach to the position, to the extent they exist or may exist in the future at LAPU: (a) Title IX Coordinator or other coordinator designated to comply with and carry out the institution’s responsibilities related to complaints of Sex Discrimination; (b) Residential Advisors, while performing the duties of employment by the institution; (c) Housing Directors, coordinators, or deans; (d) Student Life Directors, coordinators, or deans; (e) Athletic Directors, coordinators, or deans; (f) Coaches of any student athletic or academic team or activity; (g) Faculty and associate faculty, teachers, instructors, or lecturers; (h) Graduate student instructors, while performing the duties of employment by the institution; (i) Laboratory Directors, coordinators, or principal investigators; (j) Internship or externship Directors or coordinators; (k) Study abroad program directors or coordinators.

Responsible Employees **do not include** any of the following who are Confidential Employees/Resources:

1. A Confidential Employee is an employee of the University who is a therapist, physician, psychotherapist, sexual assault counselor, or domestic violence counselor, as defined in the California Evidence Code, only when the employee is acting in the course and scope of their licensure.²
2. A Confidential Employee is also an employee of the University who is acting in a professional capacity for which confidentiality is mandated by federal or California state law.
3. A Confidential Resource is an employee or a non-employee who provides mental health counseling, acts in a professional capacity, or otherwise works pursuant to a professional license requiring confidentiality while working on campus within the scope of such role.
4. A Confidential Resource is also a person designated by the University as the campus Chaplain or Pastor when acting in the course and scope of their appointment.

Confidential Employees and Confidential Resources are exempt from reporting Prohibited Conduct when working in the course and scope of their licensure and/or position. However, Confidential Employees and Confidential Resources still have requirements to provide information to anyone who informs the Confidential Employee/Resource of conduct that reasonably may constitute Sexual Harassment under Title IX or its

² Being a licensed physician or other healthcare professional does not automatically exclude an employee from reporting allegations of Prohibited Conduct under this Policy unless they learn of the information in the course of providing medical treatment. Physicians, pharmacists, mental health care providers, and other healthcare professionals employed or otherwise retained by LAPU as faculty and not employed to provide healthcare services to employees or students are not Confidential Employees/Resources.

implementing regulations. Specifically, Confidential Employees/Resources must inform any such person of their ability to report to a Responsible Employee and how to do so.

When Confidential Employees/Resources are not working in the course and scope of their licensure, and they learn about allegations of Prohibited Conduct, they are Responsible Employees and, as such, are required to report the alleged Prohibited Conduct.

This exemption for Confidential Employees/Resources from reporting Prohibited Conduct under this Policy does **not** extend to other areas of mandated reporting obligations under federal, state, or local laws, such as Tarasoff Warnings (i.e., Duty to Protect rule), the California Child Abuse and Neglect Reporting Act (CANRA), or Clery Act reporting requirements as a Campus Security Authority.

D. Approvals; Effective Date; Record Keeping

This Policy has been approved by the Office of the President. It supersedes all other University policies regarding Prohibited Conduct. The Title IX, Diversity and Equity Coordinator is responsible for the administration of this Policy.

In cases of Title IX Sexual Harassment, the University shall maintain the following records for a period of at least seven (7) years: records of each sexual harassment investigation including any determination regarding responsibility and any audio or audiovisual recording or transcript required under 34 CFR section 106.45b(6)(1); any appeal and the result therefrom; any informal resolution and the result therefrom; all materials used to train Title IX Coordinators, investigators, decision-makers, and any person who facilitates an informal resolution process, which shall be made available upon request for inspection by members of the public.

All other records shall be maintained in accordance with California state or federal law and the University's record-keeping policy(ies) and procedure(s), if applicable. For example, records relating to employee complaints other than complaints of Title IX Sexual Harassment shall be kept for the duration prescribed by the Fair Employment and Housing Act (at the time of publishing, four years).

III. ESTABLISHMENT OF THE OFFICE OF THE TITLE IX COORDINATOR

The President of the University shall designate and authorize an administrator to serve as LAPU's Title IX, Equity, and Diversity Coordinator ("Title IX Coordinator") who has the training, experience, and resources necessary to perform the following duties:

- A. Coordinate the University's compliance with Title IX of the Education Amendments of 1972 and other California state and federal laws applicable to Sex-Based Misconduct, including with respect to issuance of notification of this Policy to members of the campus community, the conduct of investigations, preparation of required reports, and effective implementation of supportive measures and Corrective Measures.
- B. Developing and maintaining the University's Title IX webpages which provide information regarding Title IX compliance, including methods for reporting Sex-Based Misconduct, applicable grievance processes, and options regarding supportive measures whether or not a Formal Complaint of Title IX Sexual Harassment is filed.
- C. Ensure that the University is providing mandatory Sex-Based Misconduct prevention education and training programs to all members of the University, including as follows:

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1. In accordance with applicable state and federal law, provide training to all students, faculty, other academic appointees, administrators, and non-academic staff regarding how Sex- Based Misconduct can be reported.
 2. Provide annual training for University employees who are responsible for reporting Sex- Based Misconduct, including Title IX Sexual Harassment.
 3. Provide annual training for University employees who are Confidential Resources, facilitators of informal resolution processes, investigators, Hearing Advisors, hearing officers and other decision-makers, appeal adjudicators, University officials with authority to institute corrective measures and others involved with a grievance process for complaints of Sex-Based misconduct regarding their roles and responsibilities with respect to Title IX compliance. This includes, but is not necessarily limited to, training regarding the following matters, as appropriate to the employee's role: technology to be used at a live hearing, issues of relevance of questions and evidence, and the rules applicable to questions and evidence regarding sexual predisposition or prior sexual behavior. Additionally, this annual training will also include topics related to dating violence, domestic violence, sexual assault, and stalking. Such training will also cover how to conduct an investigation and hearing process where there are allegations of dating violence, domestic violence, sexual assault and stalking, that protects the safety of both the Complainant and Respondent and promotes accountability for all Parties. Any materials used to train Title IX Coordinators, investigators, decision-makers, appeal adjudicator, and any person who facilitates an informal resolution process for a Formal Title IX Complaint of Sexual Harassment, must not rely on sex stereotypes and must promote impartial investigations and adjudications of Formal Title IX Sexual Harassment

Complaints of sexual harassment. Additionally, training with a trauma-informed perspective is required for any LAPU employee responsible for any part of an investigation, informal resolution, or grievance process for complaints of Sex-Based Misconduct.

4. Offer primary prevention programs and awareness campaigns to the University community to promote ongoing awareness of Sex-Based Misconduct, including preventing dating violence, domestic violence, sexual assault, and stalking. These campaigns may include, but are not limited to: education about the definition of consent, consensual relationships, options for bystander intervention, trauma-informed approaches, and risk reduction awareness information. These programs are to promote behaviors that foster healthy and respectful relationships while also encouraging a safe environment for bystanders to intervene in a potential case of dating violence, domestic violence, sexual assault, or stalking.
- D. Provide educational materials to promote compliance with the Policy and familiarity with reporting procedures, and post on the LAPU website the names and contact information of the Title IX Coordinator and other information regarding preventing and reporting Sex-Based Misconduct, including Title IX Sexual Harassment, and compliance with this policy.
- E. Provide prompt and equitable response to reports of Sex-Based Misconduct, including authorizing and ensuring effective implementation of Supportive Measures and Title IX Supportive Measures for complainants and respondents, determining whether to file a Formal Title IX Sexual Harassment Complaint on behalf of the University, overseeing implementation of the University's Sex-Based Misconduct grievance processes, and effectively implementing Corrective Measures in cases of Sex-Based Misconduct.

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- F. Maintain records of reports of Sex-Based Misconduct, including Title IX Sexual Harassment including: investigation records, any determination regarding responsibility, any audio or audiovisual recording or transcript related to the grievance process, any supportive measures implemented, any preventative or corrective measures imposed on the respondent, any remedies provided to the complainant, any appeal and result of such appeal, any informal resolution process and result from such process, all training materials used to train Title IX Coordinator, investigators, decision-makers, and any person who facilitates an informal resolution process, for seven (7) years and in accordance with University records management policies.
- G. Identify and address any patterns or systemic problems that arise during the review of reports of Title IX Sexual Harassment.
- H. Ensure procedures are in place to provide support for both complainants and respondents during the University's process for responding to allegations of Sex-Based Misconduct, including Title IX Sexual Harassment.
- I. Decide whether a hearing is necessary to determine whether any sexual harassment more likely than not occurred. In making this decision, the Title IX Coordinator may consider whether the parties elected to participate in the investigation and whether each party had the opportunity to suggest questions to be asked of the other party or witnesses, or both, during the investigation, consistent with all applicable law.

IV. APPLICABLE DEFINITIONS

The definitions applicable to this Policy are set forth below. Under federal regulation the definitions applicable in cases of Title IX Sexual Harassment are different from the definitions applicable to other types of Prohibited Conduct as a matter of law.

Accordingly, set forth below are three sections of definitions:

- A. Definitions Applicable in all Matters of Prohibited Conduct Covered by this Policy;
- B. Definitions Applicable in Matters of Prohibited Conduct Other than Title IX Sexual Harassment;
- C. Definitions Applicable Only in Cases of Title IX Sexual Harassment.

These sections are set forth below.

A. Definitions Applicable in all Matters of Prohibited Conduct Covered by this Policy

- 1. Preponderance of Evidence: A standard of proof that requires that a fact be found when its occurrence, based on evidence, is more likely than not to be true. This shall be the standard of proof applicable to all fact-finding under this Policy.
- 2. Relevancy of Evidence: Throughout this Policy, references are made to relevant evidence, both in the investigation phase or adjudication phase of a matter. Relevant evidence means evidence which has any tendency in reason to prove or disprove a disputed fact, including both inculpatory and exculpatory evidence, which may aid a decision-maker in determining whether Prohibited Conduct occurred under the Preponderance of the Evidence Standard, except evidence which is otherwise excluded under this Policy. Relevant evidence includes evidence regarding the Credibility of a party or witness.
- 3. Party: A Complainant or Respondent.
- 4. Sex-Based Misconduct: Sex-Based Misconduct includes:
 - a. All forms of discrimination and harassment on the basis of sex; gender;

current, potential, or past pregnancy or related conditions; and parental, family, or marital status.

- b. Sexual Harassment prohibited by California law, including the California Fair Employment & Housing Act (“FEHA”) and 2 CCR sections 11019 and 11034, which includes unwelcome sexual advances, requests for sexual favors, and other visual, verbal, or physical conduct in the following instances:³
 - i. Quid Pro Quo: an applicant for employment or an employee’s submission to sexual advances or other conduct based on sex is an explicit or implicit condition of a job or other term of employment, such as promotion; and
 - ii. Unwelcome comments or conduct based on sex that are both subjectively and objectively offensive and which unreasonably interfere with an employee’s work performance or create an intimidating, hostile, or offensive work environment. Such comments or conduct must be either severe or pervasive such that it alters the conditions of employment and creates an abusive working environment.
- c. Sexual Harassment as defined by the California Education Code, which includes, but is not necessarily limited to:
 - i. Unwelcome sexual advances, requests for sexual favors, and other verbal, visual, and physical conduct of a sexual nature or based on sex made by someone from or in the work or educational setting under any of the following conditions: (1) Submission to the conduct is explicitly or implicitly made a term or

³ Such conduct need not be motivated by sexual desire.

condition of an individual's employment, academic status, or progress; (2) Submission to, or rejection of, the conduct by the individual is used as the basis of employment or academic decisions affecting the individual; (3) The conduct has the purpose or effect of having a negative impact on the individual's work or academic performance, or of creating an intimidating, hostile, or offensive work or educational environment; and (4) Submission, or rejection of, the conduct by the individual is used as the basis for any decision affecting the individual regarding benefits and services, honors, programs, or activities available at or through the educational institution.

- ii. Sexual Violence, which means physical, sexual acts (whether completed or attempted) perpetrated against a person without the person's affirmative consent, including Rape⁴ and Sexual Battery;⁵
- iii. Sexual Exploitation (whether completed or attempted).⁶

⁴ Rape, defined as penetration, no matter how slight, of the vagina or anus with any part of an object, or oral copulation of a sex organ by another person, without consent of the victim.

⁵ Sexual Battery means the intentional touching of another person's intimate parts without consent, intentionally causing a person to touch the intimate parts of another without consent, or using a person's own intimate part to intentionally touch another person's body without consent.

⁶ Sexual Exploitation means a person taking sexual advantage of another person for the benefit of anyone other than that person without that person's consent, including but not limited to, any of the following acts: (a) The prostituting of another person; (b) The trafficking of another person, defined as the inducement of a person to perform a commercial sex act, or labor or services, through force, fraud or coercion; (c) The recording of images, including video or photograph, or audio of another person's sexual activity or intimate parts, without that person's consent; (d) The distribution of images, including video or photograph, or audio of another person's sexual activity or intimate parts, if the individual distributing the images or audio knows or should have known that the person depicted in the images or audio did not consent to the disclosure; (e) The viewing of another person's sexual activity or intimate parts, in a place

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- d. Sexual Harassment prohibited under Title VII of the Civil Rights Act of 1964 and 29 CFR Section 1604.11, which includes unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when:
- i. Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment;
 - ii. Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; or
 - iii. Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive work environment.
- e. Title IX Sexual Harassment, as defined herein, and other conduct which violates Title IX of the Education Amendments of 1972.
5. Consent to Sexual Activity: Consent is affirmative, conscious, voluntary, and revocable. Consent to sexual activity requires, of all persons involved, an affirmative, conscious, and voluntary agreement to engage in sexual activity. It is the responsibility of each person involved to ensure they have the affirmative consent of the other or others to engage in the sexual activity. Lack of protest, lack of resistance, or silence does not alone constitute consent. Affirmative consent must be ongoing and can be revoked at any time during sexual activity, even after penetration occurs. If confusion or ambiguity arises as to the willingness of the other individual to proceed, then consent should be re-obtained. The existence of a dating relationship or past sexual relations between the persons involved should never by itself be assumed to be an

where that other person would have a reasonable expectation of privacy, without that person's consent, for the purpose of arousing or gratifying sexual desire.

indicator of consent (nor will subsequent sexual relations or a dating relationship alone suffice as evidence of consent to prior conduct). The following provisions apply to the definition of consent:

1. Incapacitation: Incapacitation is a state beyond drunkenness or intoxication. A person is not necessarily incapacitated merely as a result of drinking, using drugs, or taking medication.
2. The Respondent's belief that the Complainant consented will not provide a valid defense unless the belief is reasonable. In making this determination, the factfinder will consider all the facts and circumstances the Respondent knew or reasonably should have known at the time. In particular, the Respondent's belief is not a valid defense where:
 - i. The Respondent's belief arose from the Respondent's own intoxication or recklessness;
 - ii. The Respondent did not take reasonable steps, in the circumstances known to the Respondent at the time, to ascertain whether the alleged victim affirmatively consented; or
 - iii. The Respondent knew or reasonably should have known that the Complainant was unable to consent because the Complainant was incapacitated, in that the Complainant was: asleep or unconscious; unable to understand the fact, nature, or extent of the sexual activity due to the influence of drugs, alcohol, or medication; unable to communicate due to a mental or physical condition. Anyone engaging in sexual activity should be aware of the other person's level of

intoxication.

6. Credibility: The credibility of complainants, alleged victims, respondents and witnesses must be evaluated when there are conflicting versions of relevant events related to a matter under investigation required by this Policy. Credibility means whether or not a particular version of events should be believed. In assessing credibility of any person, factors to consider include, but are not necessarily limited to: inherent plausibility of the person's statement; their demeanor and attitude toward the matter; whether they have motivation to inaccurately state facts; whether or not other persons or evidence corroborate their version of events (such as an eyewitness or someone who discussed the events with the person around the time the events took place); the character of the testimony; the extent of the person's capacity to perceive, remember or communicate regarding the matter; consistent or inconsistent statements made by the same person; admissions of untruthfulness. No one (1) factor is necessarily determinative of credibility. The mere fact that there was no eyewitness to an alleged event does not mean a person is not credible, and similarly, whether a respondent had previously engaged in similar misconduct does not mean the respondent is not credible as to the current matter being investigated. Credibility determinations shall not be based on a person's status as a Complainant, Respondent, or witness.
7. Corrective Measures: Disciplinary Sanctions, Remedies, or other measures, services, accommodations, or corrective actions put in place as a result of the final resolution of a complaint of conduct prohibited by this Policy. Possible Corrective Measures imposed under this Policy include:
- a. Participation in a voluntary, facilitated restorative process;

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- b. A written or verbal apology;
 - c. A written or verbal warning, letter of reprimand, performance improvement plan, or other document outlining expectations for future behavior and related consequences;
 - d. Training or other educational requirements, such as an assigned reading, a research or reflective paper, attendance at an educational seminar or program, or similar activity;
 - e. Mandatory or voluntary counseling;
 - f. Mentorship, accountability meetings, or coaching assignments;
 - g. Community service or other volunteer activities;
 - h. Modifications to job position or work assignments (such as a transfer or modification of job duties), or delivery of curriculum or course requirements, such as independent study, adjusted deadlines, or remote learning;
 - i. Disciplinary probation, which may include monitoring of progress, review of behavior, limitations on campus privileges, or other restrictions on participation in University events, extra-curricular, or co-curricular activities over a set period of time;
 - j. Prohibition from utilizing certain campus facilities;
 - k. No-contact directives;
 - l. Drug testing and/or drug and alcohol counseling programs;
 - m. Temporary or permanent exclusion from attending University events or activities, including extra-curricular or co-curricular activities;
 - n. Suspension from employment or participation in an academic program,

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- extra-curricular, or co-curricular activities;
 - o. Dismissal from the University's academic programs
 - p. Termination of employment;
 - q. Other actions that seek to make a victim whole or which seek to prevent a recurrence of Prohibited Conduct, such as a written or verbal apology or participation in a post-grievance process mediation.

B. Definitions Applicable in Matters of Prohibited Conduct Other than Title IX Sexual Harassment:

1. Discrimination: Discrimination means excluding from participation, denying the benefits of, or otherwise subjecting an individual or group of individuals to different treatment based on a Protected Class. For example, unlawful discrimination may consist of a decision, policy, or practice.
2. Harassment: Harassment is unwelcome verbal, visual, or physical conduct based on a Protected Class which creates an intimidating, offensive, or hostile work or educational environment that interferes with a person's work or educational performance or creates an environment such that a reasonable person would find the conduct intimidating, hostile or offensive. Harassment can be verbal (including slurs, jokes, insults, epithets, gestures, or teasing), visual (including offensive posters, symbols, cartoons, drawings, computer displays, or emails), or physical conduct (including physically threatening another, blocking someone's way, etc.) that denigrates or shows hostility or aversion towards an individual based on a Protected Class.
3. Complaint: A report of Prohibited Conduct prohibited by this Policy. A "formal" or written report or complaint is not required.
4. Complainant: A Complainant is any person who reports alleged Prohibited

Conduct or an alleged victim of Prohibited Conduct, regardless of whether the alleged victim makes the report.

5. Respondent: A Respondent is a person alleged to have engaged in Prohibited Conduct.
6. Sex: Under this Policy, except as otherwise provided, the term “Sex” includes sex; gender; current, potential, or past pregnancy or related conditions; parental, family, or marital status. Additionally, the following sub-definitions are as follows:
 - a. Pregnancy or related conditions: pregnancy, childbirth, loss of pregnancy, lactation, breastfeeding; medical conditions related to pregnancy, childbirth, loss of pregnancy, lactation, or breastfeeding; or recovery from pregnancy, childbirth, loss of pregnancy, or related medical conditions. This includes but is not necessarily limited to, pregnancy-related fatigue, dehydration, nausea, increased body temperature, anemia, gestational diabetes, preeclampsia, infertility, recovery from miscarriage, ectopic pregnancy, pre-natal or post-partum depression, or swelling/leaking of the breast tissue or mastitis.
 - b. Parental status: refers to a person who, with respect to another person who is either under the age of 18 or over the age of 18 but incapable of self-care due to a physical or mental disability, is: a biological parent, an adoptive parent, a foster parent, a stepparent, a legal custodian or guardian, in loco parentis with respect to such a person, or actively seeking legal custody, guardianship, visitation, or adoption of such a person.
7. Retaliation: Retaliation is an adverse action against a person based on: their report of alleged Prohibited Conduct, including Title IX Sexual Harassment, to

a University employee or the Title IX Coordinator; making a complaint of Prohibited Conduct, including Title IX Sexual Harassment; their participation, or refusal to participate,¹⁷ in an informal resolution or grievance process under this Policy or otherwise testifying, assisting with an informal resolution or grievance process under this Policy; their cooperation with a University investigation; their receipt or implementation of Supportive Measures or Corrective Measures under this Policy; or for the purpose of interfering with any right or privilege secured by Title IX and its implementing regulations. An adverse action is conduct that would discourage or prevent a reasonable person from reporting Prohibited Conduct or participating in a process provided for in this Policy. Adverse action includes, but is not necessarily limited to: intimidation, threats, coercion, or discrimination against any person by the University, a student, or an employee or other person authorized by the University to provide aid, benefit, or service under the University's education program or activity. Retaliation includes peer retaliation (i.e., a student retaliating against another student). Retaliation does not include good faith actions lawfully pursued in response to a report of Prohibited Conduct.

C. Definitions Applicable Only in Cases of Title IX Sexual Harassment:

1. Formal Title IX Sexual Harassment Complaint: A document filed by a Title IX Sexual Harassment Complainant or signed by the Title IX Coordinator alleging Title IX Sexual Harassment against a Title IX Sexual Harassment Respondent and requesting that the University investigate the allegation. A parent or guardian of a Title IX Sexual Harassment Complainant who is an unemancipated minor may also file a Formal Title IX Sexual Harassment Complaint on behalf of their child or ward. References to "Formal Title IX Sexual Harassment Complaint" throughout this Policy refer to Formal Title IX Sexual Harassment Complaint.

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2. Title IX Sexual Harassment Complainant: An individual who is alleged to be the victim of conduct that could constitute Title IX Sexual Harassment irrespective of whether a Formal Title IX Sexual Harassment Complaint has been filed.
 3. Title IX Sexual Harassment Respondent: An Individual who has been reported to be the perpetrator of conduct that could constitute Title IX Sexual Harassment. Any individual may be a respondent, whether such individual is a student, faculty member, administrator, or other employee of the University or other person with or without any affiliation to the University.
 4. Officials with Authority – Actual Knowledge: For purposes of determining actual knowledge of Title IX Sexual Harassment the following positions have authority at LAPU to institute Corrective Measures for Title IX Sexual Harassment: (i) the President; (ii) the Title IX Coordinator; (iii) the Chief Academic Officer; (iv) the Chief Student Engagement Officer; and (v) all employees who serve as either hearing officers, hearing panel members, decision- makers, or appeal adjudicators in cases of Title IX Sexual Harassment when serving in that role. In all cases, Corrective Measures must be imposed in compliance with the Grievance Process for Complaints of Title IX Sexual Harassment.
 5. Title IX Sexual Harassment Informal Resolution: An informal resolution of Title IX Sexual Harassment which may encompass a broad range of conflict resolution strategies, including mediation or restorative justice.
 6. Title IX Sexual Harassment: Sexual harassment for purposes of Title IX means conduct on the basis of sex that satisfies one or more of the following: (i) an employee of the University conditioning the provision of an aid, benefit, or service of the University on an individual's participation in unwelcome sexual conduct; (ii) 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 (iii) Sexual Assault, Dating Violence, Domestic Violence, or Stalking. The following definitions further define Title IX Sexual Harassment:

- a. Sexual Assault: The term Sexual Assault means an offense classified as a forcible or nonforcible sex offense under the uniform crime reporting system of the Federal Bureau of Investigation, including, but not necessarily limited to, fondling, rape, and statutory rape.
- b. Dating Violence: The term Dating Violence means violence committed by a person (A) who is or has been in a social relationship of a romantic or intimate nature with the victim; and (B) where the existence of such a relationship shall be determined based on a consideration of the following factors: (i) The length of the relationship; (ii) The type of relationship; (iii) The frequency of interaction between the persons involved in the relationship.
- c. Domestic Violence: The term Domestic Violence includes felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, 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.
- d. Stalking: Stalking means engaging in a course of conduct 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.

V. REPORTING TO POLICE FOR CRIMINAL CONDUCT; EFFECT OF CRIMINAL CHARGES OR CRIMINAL INVESTIGATION

In an emergency situation, LAPU community members should call 9-1-1. LAPU encourages all members of its community who believe they are the victim of criminal behavior (including, but not limited to, criminal sexual violence) to report the conduct to the police even if significant time has passed since the incident. All members of the LAPU community may seek assistance in reporting a crime of sexual violence to law enforcement by contacting the Title IX Coordinator.

Complainants under this policy also may choose not to notify law enforcement. Regardless of whether a Complainant chooses to make a report to law enforcement, the Complainant may still file a complaint with the University and may still receive Supportive Measures, as set forth in this Policy. Additionally, regardless of whether the alleged misconduct rises to the level of a criminal offense, LAPU encourages all community members to report alleged discrimination, harassment, retaliation, or sexual violence to LAPU.

In some cases, University personnel, including the Title IX Coordinator, may be required by law to make a report of criminal conduct to law enforcement. Pursuant to California law (AB 1433 – Reporting of Sexual and Hate Violence, 2014), while the reporting disclosure of an act of violence may be mandated, a victim's identity may not be disclosed to local law enforcement unless the victim consents to being identified after being informed of the victim's right to have identifying information withheld. If a victim does not consent to disclosing the victim's identity, the alleged perpetrator's identity may not be disclosed either.

The procedures outlined in this Policy are separate from any criminal process or

investigation. Because the requirements and standards for finding a violation of criminal law are different from the standard under this Policy, criminal investigations, reports, or verdicts may be different from the outcomes under this Policy. The University may share information and coordinate investigation efforts with law enforcement when necessary or appropriate. A delay resulting from such coordination is good cause for extending the timelines to complete the University's grievance process. Any such delay will be communicated and documented to the Parties.

State, federal, and local government agencies are responsible for criminal prosecution. The University has no authority or responsibility for the criminal prosecution of any matter, even if the University helps someone file a report of criminal conduct or receives a report of a complaint under this policy that may rise to the level of criminal conduct.

VI. REPORTING PROHIBITED CONDUCT TO THE UNIVERSITY; AMNESTY FOR STUDENT COMPLAINANTS AND WITNESSES

LAPU is committed to enforcing this Policy. The effectiveness of the University's efforts depends in part on employees and students telling the University about inappropriate conduct. Employees and students should not assume that LAPU has knowledge of any form of illegal discrimination, harassment, or retaliation, including Sex Discrimination. If employees or students do not report harassing or discriminatory conduct, LAPU may not become aware of a possible violation of this Policy and may not be able to take appropriate action. Any Responsible Employee who believes that this Policy has been violated is mandated to report those concerns to the Title IX Coordinator directly.

Any person can report Prohibited Conduct at any time (including during non-business hours), either verbally or in writing, in person, by mail, by telephone, email, or by any other means as follows:

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1. Report to the Title IX Coordinator. As of the effective date of this policy, the University's Title IX Coordinator is Ms. Lindsey Gonzales, Associate Vice President of Human Resources and Organizational Development and Title IX Coordinator, and may be contacted by phone at 626-268-0291, via email at lgonzales@lapu.edu, or in person at 300 N. Lone Hill Ave., #200 San Dimas, CA 91773. The LAPU website will be kept updated with any changes to the Title IX Coordinator's name and contact information.
 2. Report to Another Responsible Employee. They can report verbally, via phone or email to any Responsible Employee, such as the Office of the President. Any person or office that receives a report (except for Confidential Employees/Resources) must forward it to the Title IX Coordinator. If the person to whom a report normally would be made is the person accused of Prohibited Conduct, reports may be made to another Responsible Employee or the Title IX Coordinator. If the person accused of Prohibited Conduct is the Title IX Coordinator, the report may be made to the President.
 3. Online Through the University Website. A report can be made by submitting the online form, either with a name or anonymously. The online form is located at www.apusafereporting.com. Forms submitted online will be delivered to the Title IX Coordinator.

While there is no time limit for submitting reports of Prohibited Conduct, such reports should be brought forward as soon as possible. Prompt reporting will better enable LAPU to respond, investigate, provide an appropriate remedy, and impose Corrective Measures, if appropriate. All incidents should be reported even if significant time has elapsed.

LAPU prefers the Complaint be made in writing and specifically identify the person(s) involved, names of witnesses, and what occurred. However, if a Complaint is not filed in

writing but LAPU receives notice of any allegation(s) of Prohibited Conduct, LAPU shall take steps to address the allegation(s) in a manner appropriate to the circumstances.

The University will keep reports of Prohibited Conduct as confidential as possible but may be required to disclose information to comply with law or the University's policies and procedures, including (but not limited to) for the purposes of investigating and/or resolving the complaint.

The University encourages reporting of Prohibited Conduct. It is in the best interest of the LAPU community that individuals come forward to make reports of Prohibited Conduct, regardless of whether they have engaged in conduct in violation of University policy, such as using drugs or alcohol at or near the time of the incident. To encourage reporting in these types of situations, the University will not subject a Complainant or witness of Prohibited Conduct who is a student or a student-employee to Corrective Measures for a violation of the University's code of conduct or other University policy (i.e., the University will grant the student or student-employee amnesty) unless the University determines that the violation was egregious. Egregious violations include acts that: (1) place the health or safety of themselves or others at risk; or (2) involves plagiarism, cheating or academic dishonesty. Student-employees may still be subject to Corrective Measures as employees of LAPU for acts which put LAPU at significant risk of litigation or damage to reputation. The University reserves the right to require individuals who are granted amnesty under this Section to participate in assessments, training, counseling, or educational programs, including (but not limited to) on topics such as health and safety, professionalism, or harassment/discrimination prevention.

The University will not pursue action against a person for a code of conduct violation that does not involve sex discrimination or sexual harassment but arises out of the same facts or circumstances as a report or complaint of sex discrimination, or a report or

Formal Title IX Sexual Harassment Complaint for the purpose of interfering with any right or privilege secured by Title IX or its implementing regulations.

VII. TITLE IX COORDINATOR RESPONSE TO COMPLAINTS OF PROHIBITED SEX-BASED CONDUCT (COMPLIANCE WITH CALIFORNIA EDUCATION CODE SECTION 66281.8)

The Title IX Coordinator will process complaints of sexual harassment, sexual violence, or other Sex-Based Misconduct in accordance with this Section. This section only applies to the Title IX Coordinator's processing of complaints; it does not apply to Responsible Employees making a mandatory report of alleged misconduct under this Policy. **Nothing in this section shall relieve a Responsible Employee from reporting obligations described in other sections of this policy.**

Any disciplinary measures imposed by the University for violations of the University's policies at or near the time of the incident being investigated shall be consistent with paragraph (10) of subdivision (b) of California Education Code section 67386.

The University will take reasonable steps to respond to each incident of sexual harassment involving individuals subject to the University's policies that occur in connection with any educational activity or other program of the University, as well as incidents that occurred on or off campus, if, based on the allegations, there is any reason to believe that the incident could contribute to a hostile educational environment or otherwise interfere with a student's access to education.

Regardless of how the information was received, if the University knows, or reasonably should know, about the possible sexual harassment involving individuals subject to the

University's policies at the time, the University shall promptly investigate under the procedures set forth under Grievance Process 1, to determine whether the alleged conduct more likely than not occurred, or otherwise respond if the University determines that an investigation is not required. If the University determines that the alleged conduct more likely than not occurred, it shall immediately take reasonable steps to end the harassment, address the hostile environment, if one has been created, prevent its recurrence, and address its effects. The University is presumed to know of sexual harassment if a Responsible Employee knew, or, in the exercise of reasonable care, should have known, about the sexual harassment.⁷

A. Responding to Prior Incidents of Sexual Harassment

The University shall consider and respond to requests for accommodations relating to prior incidents of sexual harassment that could contribute to a hostile educational environment or otherwise interfere with a student's access to education where both individuals are, at the time of the request, subject to the institution's policies.

In some cases, students may disclose incidents of sexual harassment or other Sex-Based Misconduct in the course of their academic program. Responsible Employees, and Confidential Resources acting outside the scope of their licensure (for example, physicians who are performing faculty member duties), are still required to report these disclosures to the University's Title IX Coordinator. In such cases, investigation or adjudication of the alleged misconduct may not be required or possible; however, the University may provide the student with supportive measures and resources appropriate

⁷ The University may rebut this presumption of knowledge if it shows all of the following: (1) The University provides training and requires all nonconfidential responsible employees to report sexual harassment; (2) Each nonconfidential responsible employee with actual or constructive knowledge of the conduct in question was provided training and direction to report sexual harassment; (3) Each nonconfidential responsible employee with actual or constructive knowledge of the conduct in question failed to report it.

to the situation and consistent with the University's obligation to prevent a hostile educational environment or interference with the student's access to education.

B. Responding To Students' Requests for Confidentiality

If a student who is not an employee of the University is a Complainant and requests confidentiality, which could preclude a meaningful investigation or potential discipline of the potential Respondent, or that no investigation or disciplinary action be pursued to address alleged sexual harassment, the University shall take the request seriously, while at the same time considering its responsibility to provide a safe and nondiscriminatory environment for all students, including for the Complainant, and considering other requirements of law and University policy. In determining whether to disclose a Complainant's identity or proceed to an investigation over the objection of the Complainant, the University may consider whether any of the following apply:

1. There are multiple or prior reports of sexual misconduct against the Respondent;
2. The Respondent reportedly used a weapon, physical restraints, or engaged in battery;
3. The Respondent is a faculty or staff member, or other person, with oversight of students;
4. There is a power imbalance between the Complainant and Respondent;
5. The Complainant believes that the Complainant will be less safe if Complainant's name is disclosed or an investigation is conducted;
6. The University is able to conduct a thorough investigation and obtain relevant evidence in the absence of the Complainant's cooperation;
7. Other basis for taking action to preserve campus safety or the safety of the Complainant or others.

If the University determines that it can honor the student's request for confidentiality, it shall still take reasonable steps to respond to the complaint, consistent with the request, to limit the effects of the alleged sexual harassment and prevent its recurrence without initiating formal action against the alleged perpetrator or revealing the identity of the Complainant. These steps may include increased monitoring, supervision, or security at locations or activities where the alleged misconduct occurred; providing additional training and education materials for students and employees; or conducting climate surveys regarding sexual violence. The University shall also take immediate steps to provide for the safety of the Complainant while keeping the Complainant's identity confidential as appropriate. These steps may include changing living arrangements or course schedules, assignments, or tests. The Complainant shall be notified that the steps the University will take to respond to the complaint will be limited by the request for confidentiality.

If the University determines that it must disclose the Complainant's identity to the Respondent or proceed with an investigation, it shall inform the Complainant prior to making this disclosure or initiating the investigation. The institution shall also take immediate steps to provide for the safety of the Complainant where appropriate. In the event the Complainant requests that the University inform the Respondent that the student asked the University not to investigate or seek discipline, the University shall honor this request.

Notwithstanding the above, all Responsible Employees are required to report allegations of sexual harassment as set forth in [Section II](#). The determinations set forth in this [Section VII](#) regarding whether to initiate an investigation or not shall be the responsibility of the Title IX Coordinator (or designee), and not left to the discretion of any other Responsible Employee.

VIII. UNIVERSITY GRIEVANCE PROCESSES; INITIAL REVIEW OF REPORT OF PROHIBITED CONDUCT; CONSOLIDATION

The University has two (2) separate grievance processes for handling reports of Prohibited Conduct under this Policy:

- A. [Grievance Process One \(1\)](#): This grievance procedure, set forth in Section X of this Policy, is utilized for all Complaints of Prohibited Conduct except for those involving Formal Title IX Sexual Harassment Complaints, which are not otherwise processed via Informal Resolution procedures.
- B. [Grievance Process Two \(2\)](#): This grievance procedure, set forth in Section XI of this Policy, is utilized for all Formal Title IX Sexual Harassment Complaints.

Upon receipt of a report of Prohibited Conduct, the Title IX Coordinator shall conduct an initial review of the report and determine whether the alleged conduct, if true, violates this Policy. If so, the Title IX Coordinator shall then determine whether the alleged conduct, if true, would constitute Title IX Sexual Harassment under this Policy and, if so, process the matter under either the University's informal resolution procedures (if applicable) or Grievance Process 2, as set forth above.

The Title IX Coordinator may, but is not required to, consolidate reports of Prohibited Conduct for processing under this Policy. In instances where a report of Prohibited Conduct involves Title IX Sexual Harassment and alleged misconduct other than Title IX Sexual Harassment (for example, race-based misconduct, disability-based misconduct, or retaliation), the Title IX Coordinator may either: (a) choose to process allegations separately under the appropriate grievance procedure for each type of allegation; or (b) choose to consolidate the matter and process the it under Grievance Process 2. The

decision whether to process allegations of Prohibited Conduct separately or consolidate them is at the sole discretion of the University.

During the course of processing a report of Sex-Based Misconduct, it is possible that the alleged conduct may become a Formal Title IX Sexual Harassment Complaint after initiation of Grievance Process 1. In that case, the Title IX Coordinator shall move the matter into Grievance Process 2. It is also possible that a Formal Title IX Sexual Harassment Complaint may be dismissed during Grievance Process 2, including, but not limited to situations where it is determined that the alleged conduct no longer meets the definition of Title IX Sexual Harassment. In that case, the Title IX Coordinator shall move the matter into Grievance Process 1, as appropriate.

Under any of the above grievance procedures, the investigation and adjudication of alleged Prohibited Conduct is not an adversarial process or a formal legal process between the Complainant, the Respondent, and the witnesses, but rather an internal administrative process for the University to comply with their obligations under existing law. The Complainant does not have the burden to prove, nor does the Respondent have the burden to disprove, the underlying allegation or allegations of misconduct.

Additionally, the University may require the Parties, Support Persons, Advisors, witnesses, third-party professionals, or others involved in the grievance process to execute non-disclosure agreements, FERPA waivers, or similar documents under either Grievance Process 1, Grievance Process 2, or Informal Resolution procedures.

In all cases, the availability of Informal Resolution procedures is governed by Section IX of this Policy, below.

IX. INFORMAL RESOLUTION OF COMPLAINTS INVOLVING STUDENT RESPONDENTS

Prior to the initiation of the appropriate grievance process or at any time prior to conclusion of a grievance process, a report of Prohibited Conduct (including Title IX Sexual Harassment) may be resolved by an informal resolution process under the following circumstances:

1. Title IX Coordinator chooses to offer an informal resolution process;
2. In matters of Title IX Sexual Harassment, a Formal Title IX Sexual Harassment Complaint has been filed, or a Formal Title IX Sexual Harassment Complaint has been filed and then dismissed;
3. The Respondent is a student, who is not also an employee, and the student is willing to accept the Corrective Measures resulting from the informal process;
4. All parties have received a written notice ("Notice of Informal Resolution Procedures") which includes the following: (a) the allegations; (b) the requirements of the informal process; (c) an explanation that during the informal process either party has a right to withdraw and resume the applicable grievance process; and (d)) an explanation that any consequences resulting from participating in the informal process including what records will be maintained or shared from the informal process for use in a grievance process under this Policy.
5. The parties wish to resolve the matter without completion of an investigation or adjudication, and/or where the Respondent desires to admit responsibility for the alleged Prohibited Conduct;

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6. The Complainant and Respondent both voluntarily provide written consent⁸ to participate in the informal process (“Participation Agreement”); and
 7. An informal resolution process is not otherwise prohibited by federal, California, or local law.

Generally speaking, an informal resolution process shall take place within thirty (30) business days following the Complainant and Respondent’s execution of a Participation Agreement. This timeline may be extended for good cause. Even if an informal resolution process is utilized to resolve an allegation of Sex Discrimination, the Title IX Coordinator must still take prompt and effective steps to ensure that Sex Discrimination does not continue or recur within the University’s education program or activity.

The Title IX Coordinator has authority to: (1) require the University to be included as a party to an informal process; and/or (2) terminate the informal process at any time prior to its completion and re-initiate the applicable grievance process if facts or circumstances emerge that indicate the matter is not appropriate for an informal process. The Title IX Coordinator’s decision whether to offer an informal resolution process and whether to terminate such process prior to completion is final and not subject to appeal.

Informal resolution processes should generally be completed within thirty (30) business days from the initiation of the process. The documented agreement resulting from the informal resolution process is final and not subject to appeal. Following completion of an informal resolution process, the Title IX Coordinator shall ensure the parties adhere to the outcome.

⁸ The University shall not require waiver of the right to an investigation and adjudication of the complaint as a condition of enrollment or continuing enrollment, or employment or continuing employment, or exercising any other right in order to for a party to participate in informal resolution.

Information shared with a facilitator or mediator during the informal resolution process will not be used in a separate student conduct process or a grievance process under this Policy if the informal process is not completed. The facilitator or mediator shall not become a witness to any subsequent student conduct process or grievance process under this Policy. However, facts disclosed to a facilitator may otherwise be uncovered in the normal course of investigation if a student conduct process or grievance process is started or re-initiated. Information shared between a Complainant and Respondent during an informal resolution process may be used in the applicable grievance process if the informal resolution process is started but not completed, in accordance with law and University policy.

Options that the Title IX Coordinator may offer for informal resolution of Prohibited Conduct include: (1) a facilitated restorative justice process ("RJ Process"); and (2) a facilitated mediation ("Mediation"), as described below.

A. Restorative Justice Process

A facilitated restorative justice process is philosophy of justice as well as a set of practices and seeks to: (a) eliminate Prohibited Conduct; (b) prevent recurrence of Prohibited Conduct; and (c) address harm caused by Prohibited Conduct through active accountability in a manner that meets the needs of both Complainant and the campus community. A RJ Process is facilitated by someone trained in trauma-informed restorative justice practices who is impartial and free from conflicts of interest, or bias for or against the Complainant or Respondent or Complainants or Respondents generally ("Facilitator").

Disputes of fact are permitted in an RJ Process; however, in all cases the student

Respondent must be willing to admit and take responsibility for the Prohibited Conduct as generally described in the report of Prohibited Conduct.

At the end of an RJ Process, an agreement is required to document the outcome that must be in writing signed by the parties. The Facilitator shall deliver the agreement to the Title IX Coordinator.

Aside from the requirements described above, the restorative justice facilitator has discretion in how best to conduct the process, including, but not limited to, whether face-to-face interaction between the parties occurs.

B. Mediation

Mediation is a process that seeks to help the parties resolve a dispute. Mediation is facilitated by an impartial facilitator who is free from conflicts of interest, or bias for or against the Complainant or Respondent or Complainants or Respondents generally ("Mediator"). The Mediator must be familiar with negotiation and dispute resolution protocols and may be, but is not required to be, an attorney. The Mediator does not have the authority to unilaterally impose Corrective Measures – the parties must agree to Corrective Measures to resolve the matter.

Disputes of fact are permitted in a mediation process; however, in all cases the student Respondent must be willing to negotiate regarding the appropriate imposition of Corrective Measures to resolve the allegations of Prohibited Conduct.

At the end of a Mediation, the negotiated agreement must be in writing signed by the parties, and the Mediator shall forward a copy of the agreement to the Title IX Coordinator.

Aside from the requirements described above, the Mediator has discretion in how best to conduct the process, including, but not limited to, whether face-to-face interaction between the parties occurs.

X. GRIEVANCE PROCESS 1 FOR COMPLAINTS OF UNLAWFUL HARASSMENT, DISCRIMINATION, AND SEX-BASED MISCONDUCT OTHER THAN FORMAL TITLE IX SEXUAL HARASSMENT COMPLAINTS

As set forth above, this grievance process is utilized for all reports of [Prohibited Conduct](#) except for: (a) those involving Formal Title IX Sexual Harassment Complaints or (b) those resolved via Informal Resolution.

A. Initial Review of the Complaint; Supportive Measures

The Title IX Coordinator shall conduct an initial review of the Complaint to determine whether an investigation is required and whether Supportive Measures are appropriate.

An investigation is required when there is a dispute of fact which impacts the determination of whether Prohibited Conduct has occurred or if the Title IX Coordinator determines it is otherwise in the best interest of the campus community to do so.

Supportive Measures are services, accommodations, or other measures put in place temporarily following a complaint of conduct prohibited by this Policy to assist or protect either the Complainant, the Respondent, or the University community. Supportive Measures may remain in place until the matter is resolved, changed, or ended depending on how the parties' needs evolve while the matter is being processed. Supportive measures may also become a permanent Preventative and Corrective

Measure following resolution of the matter. Supportive Measures may include, but are not limited to: counseling, extensions of deadlines or other course related adjustments, modifications of work or class schedules, campus escort services, mutual restrictions on contact between the parties, changes in work, leaves of absence, increased security and monitoring of certain areas of the campus, and other similar measures, or other measures determined to be reasonable by the Title IX Coordinator.

B. Assignment of Neutral Investigator; Notice of Complaint Procedures

If an investigation is required, then the Title IX Coordinator shall either directly investigate the matter or may assign a qualified neutral investigator to investigate the alleged misconduct ("Investigator"). In some cases, an investigative team may be utilized. The Title IX Coordinator shall have broad discretion in selection of an investigator, provided that the assigned Investigator: (a) has the skills and resources necessary to conduct a complete investigation; (b) is free of conflicts of interests; and (c) is free from bias in favor of or against either the Complainant or Respondent or Complainants or Respondents generally. The Investigator may be a qualified University employee or an external investigator. External investigators must be either licensed attorneys or licensed private investigators. Before the investigation begins, the Title IX Coordinator will provide the Complainant and the Respondent with a Grievance Process 1 Notice of Complaint & Investigation Procedures ("G1 Notice of Complaint Procedures") that, generally, includes the following information:

1. A copy of or access to the Grievance Process 1 procedures and this Policy;
2. The general nature of the alleged violations;
3. The purpose of the investigation, including a statement that the investigation is when all known and/or available evidence or information must be introduced;
4. A statement that knowingly making false statements or knowingly submitting

false information to the University as part of the grievance process is a violation of this Policy and the codes of conduct applicable to employees and students, and may subject the person doing so to corrective measures, up to and including expulsion from the University's academic program and/or termination from employment;

5. The identity and contact information of the Investigator;
6. A statement that the findings of fact will be based on a Preponderance of Evidence standard;
7. A statement warning against interference with the integrity of the investigation, consistent with law and this Policy;
8. Any Supportive Measures;
9. The option for a Support Person;
10. A statement that Retaliation is prohibited; and
11. A statement that any new allegations that arise during the course of the investigation that could subject either party to new or additional Corrective Measures shall be subject to the same notice requirements.

C. Support Person

The Complainant and/or Respondent may choose anyone (including legal counsel, a colleague, friend, family member, or other representative) to voluntarily serve as their support person during the grievance process, so long as the person selected is not a witness to the allegations being processed ("Support Person"). The Complainant and Respondent may be accompanied by their Support Person to any meeting or proceeding under this Policy; however, the Support Person may not speak on their behalf, advise them on how to answer a question of the Investigator, or otherwise

engage with the Investigator or others participating in any part of the process under this Policy. The Complainant and Respondent must notify the Title IX Coordinator at least three (3) business days in advance if they wish to bring a Support Person and must disclose their name and contact information to the Title IX Coordinator. The Support Person and the person they are supporting may be required to sign documents agreeing to confidentiality and non-disclosure of information obtained in the Grievance Process, FERPA waivers, or other paperwork the Title IX Coordinator deems appropriate.

D. Investigation Timeline and Process; Standard of Proof

Generally, the investigation shall generally be completed within ninety (90) business days from the issuance of the G1 Notice of Complaint. This deadline and all deadlines under Grievance Process 1 may be extended by the University for good cause, including but not limited to the need to ensure a thorough and accurate investigation process. The University shall not unreasonably deny a student party's request for an extension of a deadline related to a complaint due to periods of examination or school closures. The Complainant and Respondent will be notified in writing of any such extensions, the general reason(s) for the extension, and the projected new timeline. During the investigation, the Investigator will meet separately with the Complainant, Respondent, and witnesses who may have Relevant information, and will gather other available and Relevant evidence and information. The Investigator will make findings of fact based on a Preponderance of the Evidence. The interviews may be electronically recorded at the discretion of the Investigator. The Investigator's recording will be the sole electronic recording permitted; the parties and witnesses are not permitted to make their own recording of their interview. No recording devices, including cell phones, will be permitted during the interview other than the Investigator's recording device. All employees and students are required to participate in the investigation process as requested by the Investigator or Title IX Coordinator, subject to discipline under the

relevant University codes of conduct or professionalism policies. To the extent a Respondent does not participate in the investigation, non-participation may not be used as a basis for appeal and the Investigator will make findings of fact without the input of the Respondent. The Investigator may bring support staff to investigative interviews or other proceedings to assist in the process. No other persons are permitted at an investigatory interview or other proceeding unless granted permission by the Title IX Coordinator.

E. Consent Required for Privileged Information

The Investigator cannot access, consider, disclose, or otherwise use a Party's records which are protected by a legally recognized privilege, including, but not limited to, the following: the attorney-client privilege, and questions and evidence 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 Investigator obtains that Party's voluntary, written consent to do so.

F. Investigation Documentation

The Investigator shall prepare a written summary for the Title IX Coordinator that includes a statement of the allegations and issues, the perspectives of the parties (e.g., admissions or denials), a summary of the evidence, findings of fact and information supporting such findings, and credibility determinations for the Complainant, Respondent, and all Relevant witnesses without basing such determination on the person's status as a Complainant, Respondent, or witness. At the request of the Title IX Coordinator, the Investigator may also make a recommendation regarding whether any University policy violations occurred.

G. Investigation File

The investigation file, including the final written summary, interview recordings, and any documentary evidence relied upon by the Investigator, shall be maintained by the Title IX Coordinator and shall not be made available to the Complainant, Respondent, or any witness unless otherwise required by law. The Title IX Coordinator may share the investigation file with others as needed to carry out their obligations under this Policy.

H. Adjudication and Corrective Measures

If no investigation is required, or following the completion of an investigation, the Title IX Coordinator may utilize the following options for adjudication and, if appropriate, determination regarding [Corrective Measures](#) by a decision-maker which shall generally take place within 15 business days following the completion of the investigation:

1. If the Title IX Coordinator did not investigate the matter directly, then the Title IX Coordinator may review the written summary and make a determination regarding whether a violation of this Policy has occurred and, if so, the Corrective Measures to be implemented;
2. Refer the matter to an external adjudicator who will review the written summary and make a determination regarding whether a violation of this Policy has occurred and, if so, the external adjudicator shall recommend Corrective Measures for approval by the Title IX Coordinator or other appropriate University administrator;
3. For matters involving employee Respondents, the Title IX Coordinator may forward the written summary to an administrator within the Office of Human Resources or another supervisory level administrator for a determination regarding whether a violation of this Policy has occurred and, if so, the Corrective Measures to be implemented;
4. For matters involving student Respondents, the Title IX Coordinator may forward

written summary to an administrator within the appropriate student affairs office for a determination regarding whether a violation of this Policy has occurred and, if so, the Corrective Measures to be implemented; or

5. May refer the matter for further adjudication or resolution under other applicable University policies.

In all cases, the person(s) assigned to serve as a decision-maker for the matter shall: (a) be free from conflicts of interest; (b) be free from bias either for or against the Complainant or Respondent or complainants or respondents generally; (c) be trained in this Policy, including (but not limited to) with regard to the the definitions of harassment, discrimination, retaliation, and preponderance of the evidence standard.

Following adjudication, the Title IX Coordinator shall provide the Parties with a Notice of Decision setting forth the University's decision regarding whether a violation of this Policy occurred and, if so, the Corrective Measures.

I. Right to Request a Student Hearing Where the Corrective Measures Include Student Suspension or Dismissal from An Academic or Extracurricular Program

Following receipt of a Notice of Decision, a student Respondent may request a hearing in writing submitted to the Title IX Coordinator within five (5) business days only in situations where the Corrective Measures to be imposed include suspension or expulsion from the University's academic program or University-controlled extracurricular programs. The University may utilize the student conduct hearing procedures set forth under the University's policies, except that, at a minimum, they shall include the following: (a) an external hearing officer may be, but is not required to be, utilized as part of the student hearing process; (b) at hearing the Respondent may indirectly question the Complainant and/or witnesses before a neutral decision-maker

who has the authority to independently make findings of fact and credibility assessments; (c) the hearing shall be informal, and rules of evidence shall not apply; and (d) the parties may not introduce evidence, including witness testimony, at the hearing that the party did not identify during the investigation and that was available at the time of the investigation unless the hearing officer, acting within their discretionary authority, has decided that there is good cause to accept such new evidence offered at the hearing. Following the hearing, the Title IX Coordinator will communicate the outcome to the Parties with a Notice of Student Hearing Decision, which shall include the decision regarding whether a violation of this Policy occurred and, if so, appropriate Corrective Measures.

J. Appeal Rights

Either the Complainant or the Respondent may appeal the Notice of Decision or Notice of Student Hearing Decision in writing submitted to the Title IX Coordinator within five (5) business days from the date of the notice based on one or more of the following criteria: (1) procedural irregularity that would change the outcome; (2) new evidence that would change the outcome that was not reasonably available when the determination of the outcome of the matter was made; or (3) the Title IX Coordinator, Investigator, decision-maker and/or hearing officer had a conflict of interest or bias for or against complainants or respondents generally or the individual complainant or respondent that would change the outcome. For purposes of appeal of the Notice of Decision, the outcome includes a determination whether a Policy violation occurred and the decision regarding Corrective Measures. Upon receipt of an appeal, the Title IX Coordinator will review the appeal to determine if it meets the required criteria and, if so, forward the appeal to an Appeal Adjudicator who shall not be the original decision-maker, the Investigator or the Title IX Coordinator. The Appeal Adjudicator may affirm the finding, affirm but modify the Corrective Measures, or remand the matter back for further

investigation and/or other proceedings. The Title IX Coordinator shall ensure the Parties are provided with the Appeal Adjudicator's decision as well as the rationale for such decision in writing. All Appeal Adjudicator decisions are final.

K. Notices

All notices and communications to LPU faculty, staff, administration, and students will be delivered via the University's email system. All such parties have a responsibility to promptly read all University emails. For individuals outside of the LPU community (including former employees and former/withdrawn students), notices and communications will be sent to the most recent email and/or physical home address on file with the Title IX Coordinator.

XI. GRIEVANCE PROCESS 2 FOR COMPLAINTS OF TITLE IX SEXUAL HARASSMENT

As set forth above, Grievance Process 2 is utilized only for Formal Title IX Sexual Harassment Complaints, except for those resolved via Informal Resolution.

A. Requirements for Formal Title IX Sexual Harassment Complaint

In order for a complaint to be subject to the Grievance Process for Complaints of Title IX Sexual Harassment, a Formal Title IX Sexual Harassment Complaint must be filed either by an alleged victim, the parent or guardian of a minor alleged to be a victim, or the Title IX Coordinator. A Formal Title IX Sexual Harassment Complaint is considered "filed" when either of the following occurs:

1. An alleged victim files a report alleging another person has subjected them to Title IX Sexual Harassment and the report contains a physical or digital signature, or otherwise indicates that the Complainant is the person filing the Formal Title IX

Sexual Harassment Complaint. If the identity of the Respondent is not known to the Complainant, the Complainant does not need to include the Respondent's identity in the Complaint, as this may be determined during the investigation process; or

2. The Title IX Coordinator files and signs a Formal Title IX Sexual Harassment Complaint.

Additionally, at the time of filing a Formal Title IX Sexual Harassment Complaint, the following three requirements must be met:

1. The alleged victim must be participating in or attempting to participate in the education program or activity of the University;
2. The alleged misconduct must have occurred against a person in the United States either (a) on LPU property; (b) in connection with LPU activities, programs, or events where the University exercises substantial control over the respondent and the context in which the incident occurred; (c) buildings owned or controlled by officially recognized University student organizations, regardless whether the building is located on- or off-campus and irrespective of whether the University exercised substantial control over the respondent and the context of the harassment; (d) cyber harassment conducted over computer and internet networks, digital platforms, and computer hardware or software owned or operated by, or used in the operation of, the University; or (e) off-campus conduct that has effects in the education program; and
3. The conduct alleged in the Formal Title IX Sexual Harassment Complaint must, if proven by a preponderance of the evidence, constitute Title IX Sexual Harassment.

Participation or Attempted Participation in an Educational Program or Activity: An alleged victim must be participating in or attempting to participate in the education program or activity of the University. This includes, but is not limited to:

1. Applicants for or students enrolled in University academic programs;
2. Applicants for employment or those employed by the University;
3. Alumni of the University if they graduated from a program of the University and intend to either (a) apply to a different program offered by the University, or (b) remain involved with University's alumni programs and activities; or
4. A student who is on a leave of absence if they are still enrolled as a student of the University or if they intend to re-apply to the University after the leave of absence is concluded; or
5. A student who has left the University because of Title IX Sexual Harassment, but who wants to re-enroll if the University responds appropriately to the Title IX Sexual Harassment.

Substantial Control: When determining whether the University exercises substantial control over the respondent and the context in which the incident occurred, factors to be considered include, but are not limited to, whether the University funded, promoted, or sponsored the event.

Off-Campus Conduct: Off-Campus Conduct affects an education program when the alleged victim has to interact with the respondent in a University's education program or activity, or when the effects of the underlying Title IX Sexual Harassment creates a hostile environment in the alleged victim's workplace or educational environment

C. Title IX Coordinator's Decision to File a Formal Title IX Sexual Harassment Complaint

The Title IX Coordinator should file a Formal Title IX Sexual Harassment Complaint if doing so is necessary to avoid being deliberately indifferent to known Title IX Sexual Harassment, with or without the participation of the alleged victim. In determining whether to file a Formal Title IX Sexual Harassment Complaint, the Title IX Coordinator may consider a variety of factors including, but not limited to, a pattern of alleged misconduct by a particular respondent, and/or whether the allegations involve violence, weapons, whether filing a Formal Title IX Sexual Harassment Complaint is the best mechanism to protect the campus community, or similar factors.

To the extent possible, the Title IX Coordinator will respect the alleged victim's autonomy and wishes with respect to the filing of a Formal Title IX Sexual Harassment Complaint and grievance process. As such, the Title IX Coordinator's decision to file a Formal Title IX Sexual Harassment Complaint may occur only after the Title IX Coordinator has promptly contacted the alleged victim of Title IX Sexual Harassment to discuss availability of supportive measures, explain the process for filing a Formal Title IX Sexual Harassment Complaint, and consider the alleged victim's wishes with respect to supportive measures and the Formal Title IX Sexual Harassment Complaint process.

Where the Title IX Coordinator files a Formal Title IX Sexual Harassment Complaint, the Title IX Coordinator is not considered a Complainant or otherwise a Party to the grievance process.

B. Dismissal of Formal Title IX Sexual Harassment Complaint; Appeal of Dismissal

The University is required to dismiss a Formal Title IX Sexual Harassment Complaint if:

1. the conduct alleged, if true, does not constitute Title IX Sexual Harassment;

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2. the conduct alleged did not occur in the University's education program or activity;
or
 3. did not occur against a person in the United States.

The University may, but is not required to, dismiss a Formal Title IX Sexual Harassment Complaint at any time during the grievance process if:

1. An alleged victim notifies the Title IX Coordinator in writing that the alleged victim would like to withdraw the Formal Title IX Sexual Harassment Complaint or 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 Title IX Sexual Harassment Complaint or allegations therein. Circumstances preventing the University from gathering sufficient evidence to reach a determination include, but are not limited to, the following: the report of Sex-Based Misconduct does not identify an alleged victim; the report of Sex-Based Misconduct includes precisely the same allegations that the University has already processed through this Policy; the length of time between an alleged incident of Sex-Based Misconduct and the filing of a Formal Title IX Sexual Harassment Complaint prevents the University from collecting enough evidence to reach a conclusion; or when the alleged victim has stopped participating in the investigation but has not sent a written withdrawal request and the only inculpatory evidence available is the alleged victim's statement in the Formal Title IX Sexual Harassment Complaint or as told to the Title IX Coordinator or a University investigator.

In all cases of dismissal of a Formal Title IX Sexual Harassment Complaint, regardless of

whether the dismissal was mandatory or permissive, such dismissal does not preclude the University, in its sole discretion, from processing a report of Sex-Based Misconduct under the University's Grievance Process 1, or another appropriate University policy or procedure.

If the University dismisses a Formal Title IX Sexual Harassment Complaint, the Title IX Coordinator will promptly send written notice of the dismissal and reasons for such dismissal simultaneously to the Parties ("Notice of Dismissal of Formal Title IX Sexual Harassment Complaint"). Such notice shall include an option to appeal the determination regarding dismissal. Either party may appeal the dismissal of a Formal Title IX Sexual Harassment Complaint on any of the following bases: (1) a procedural irregularity that affected the outcome of the matter; (2) new evidence not reasonably available at the time the determination of dismissal was made that could affect the outcome of the matter; or (3) the Title IX Coordinator had a conflict of interest or bias against a party generally or individually that affected the outcome of the matter.

Any appeal of a dismissal of a Formal Title IX Sexual Harassment Complaint must be made in writing to the Title IX Coordinator within five (5) business days of the date of the Notice of Dismissal of Formal Title IX Sexual Harassment Complaint and must set forth all grounds for the bases of such appeal. If an appeal does not set forth sufficient grounds for appeal, the appeal will be dismissed. If an appeal does set forth sufficient grounds for appeal the appeal will be reviewed by an appeal adjudicator for final decision regarding dismissal within five (5) business days of the date the appeal is received by the appeal adjudicator, unless more time is needed by the appeal adjudicator for good cause (e.g., appeal adjudicator requires additional information to decide the appeal, appeal adjudicator is not available due to personal health issues, or appeal adjudicator is not available due to family emergency, etc.). The appeal adjudicator shall not be the same person who investigated the allegations or decided to dismiss the Complaint, nor shall it be Title IX

Coordinator.

C. Option to Consolidate Formal Title IX Sexual Harassment Complaints

The Title IX Coordinator may consolidate multiple Formal Title IX Sexual Harassment Complaints against more than one Title IX Sexual Harassment Respondent, or by more than one Title IX Sexual Harassment Complainant against one or more Title IX Sexual Harassment Respondents, or by one party against the other party, where the allegations of sexual harassment arise out of the same facts or circumstances. The requirement for the same facts or circumstances means that the multiple Title IX Sexual Harassment Complainants' allegations are so intertwined that their allegations directly relate to all parties.

D. Temporary Emergency Removal Procedures for Student Respondents; Appeal of Temporary Emergency Removal

The University may remove a student Respondent from one or more parts, or all parts, of the University's education program or activity on an emergency basis after undertaking an individualized safety and risk analysis to determine whether an immediate threat exists to the physical health or safety of any student or other individual arising from an allegation of Title IX Sexual Harassment. If such an immediate threat to physical health or safety exists, the University may then effect such emergency removal of a student Respondent from the University's educational program or activity as follows:

- a. Notice. Prior to the emergency removal, the University must provide the student Respondent with notice of the decision to remove them from the educational program or activity on an emergency basis ("Notice of Emergency Removal").
- b. Immediate Right to Appeal Emergency Removal. The University shall provide the student Respondent an opportunity to challenge the decision immediately following

the removal. To appeal a decision for emergency removal, the student Respondent must submit their appeal (“Emergency Removal Appeal”) to the Title IX Coordinator in writing within seventy-two (72) hours of receiving the Notice of Emergency Removal. The Emergency Removal Appeal must describe the reasons why emergency removal is not appropriate. If the student Respondent chooses to submit an Emergency Removal Appeal, it shall be reviewed by the appeal adjudicator who will issue a final decision on emergency removal, generally within seventy-two (72) hours of the Title IX Coordinator’s receipt of the Emergency Removal Appeal. Such review shall be conducted by a decision-maker other than the person who originally determined to initiate the emergency removal procedures. The student Respondent is subject to the requirements of the emergency removal while the appeal is pending.

- c. Continuance of Academic Coursework. In some cases, the Title IX Coordinator may offer a student Respondent who has temporarily been removed from one or more parts of the University’s educational program or activity alternative options to continue academic coursework during the removal period, as appropriate and without fundamentally altering the academic requirements of the student Respondent’s academic program.
- d. Impact of Temporary Emergency Removal on Grievance Process. The temporary emergency removal of a student respondent itself shall not be “relevant evidence” for consideration in reaching a determination whether the student Respondent has violated this Policy. However, documents and information giving rise to a Temporary Emergency Removal may be relevant evidence in a subsequent Grievance Procedure.

E. Formal Title IX Sexual Harassment Complaint Investigation Procedures

Formal Title IX Sexual Harassment Complaints shall be investigated as follows:

1. Initial Review of the Complaint. The Title IX Coordinator shall conduct an initial review of the Complaint to determine whether an investigation is required. An investigation is required when there is a dispute of fact which impacts the determination of whether Title IX Sexual Harassment has occurred, or it is otherwise in the best interest of the campus community to do so. During the entirety of this grievance process, there will be a presumption that a Title IX Respondent is not responsible for the alleged conduct until a determination regarding responsibility is made at the conclusion of the grievance process.

2. Supportive Measures. During their initial review of the Complaint, the Title IX Coordinator shall determine whether Title IX Supportive Measures are appropriate. Title IX Supportive measures are non-disciplinary, non-punitive, individualized services offered as appropriate, as reasonably available, and without fee or charge to the Title IX Sexual Harassment Complainant or Title IX Sexual Harassment Respondent before or after the filing of a Formal Title IX Sexual Harassment Complaint or where no Formal Title IX Sexual Harassment Complaint has been filed. Title IX Supportive Measures are designed to restore or preserve equal access to the University's education program or activity without punishing, disciplining, or unreasonably burdening the other party, including measures designed to protect the safety of all parties or the University's educational environment, or deter Title IX Sexual Harassment. Title IX Supportive Measures may include, but are not limited to: counseling, extensions of deadlines or other course-related adjustments, modifications of work or class schedules, campus escort services, mutual restrictions on contact between the parties, changes in work, leaves of absence, increased security and monitoring of certain areas of the campus, and other similar measures. The determination of what Title IX Supportive Measures are appropriate in a given situation must be based on the facts and circumstances of that situation. The Title IX Coordinator shall promptly contact the

alleged victim to discuss the availability of Title IX Supportive Measures and consider the person's wishes with respect to such measures. The Title IX Coordinator will engage in a meaningful dialogue with the alleged victim to determine which supportive measures may restore or preserve equal access to the University's education program or activity without unreasonably burdening the other party, including measures designed to protect the safety of all parties of the University's educational environment, or deter sexual harassment. If a complainant desires supportive measures, the recipient can, and should, keep the complainant's identity confidential (including from the respondent), unless disclosing the complainant's identity is necessary to provide supportive measures for the complainant (e.g., where a no-contact order is appropriate and the respondent would need to know the identity of the complainant in order to comply with the no-contact order, or campus security is informed about the no-contact order in order to help enforce its terms). When supportive measures are not provided to the alleged victim, the Title IX Coordinator shall document the reason why such measures were not provided and why this decision was not clearly unreasonable in light of the known circumstances. The Title IX Coordinator may also provide Title IX Supportive Measures to the person accused of Title IX Sexual Harassment, as appropriate.

3. Assignment of Neutral Investigator. If an investigation is required, then the Title IX Coordinator shall assign a qualified neutral investigator to investigate the alleged misconduct ("Investigator"). In some cases, an investigative team may be utilized. The Investigator shall have no conflict of interest and be free of bias for or against a Title IX Complainant or Title IX Respondent generally or individually with respect to the people involved. Such determinations regarding bias shall be made by an objective evaluation of the circumstances without relying on stereotypes (e.g., assuming that all self-described feminists or survivors are biased against men, or that a man is incapable of being sensitive to women, or that prior work as a victim

advocate or as a defense attorney renders the person biased for or against complainants or respondents). The Title IX Coordinator shall have broad discretion in selection of an Investigator, provided that the person assigned has the skills, training, and resources necessary to conduct a complete investigation. The Investigator may be a University employee or a third-party investigator.

4. Notice of Formal Title IX Sexual Harassment Complaint Procedures. Before the investigation begins, the Title IX Coordinator will simultaneously provide the Title IX Complainant and Title IX Respondent with a Notice of Formal Title IX Complaint & Investigation Procedures (“Notice of Formal Title IX Sexual Harassment Complaint”). If a party has already elected an Advisor and submitted the required documentation for their Advisor, the Notice of Formal Title IX Sexual Harassment Complaint shall also be delivered to the Advisor. Additionally, in the case of unemancipated minors, the Title IX Coordinator shall send a copy of such notice to the unemancipated minor’s parent or guardian and is permitted to communicate with the parent or guardian regarding the grievance process. If the alleged victim’s identity is unknown and the Formal Title IX Sexual Harassment Complaint is filed by the Title IX Coordinator, the Notice of Formal Title IX Sexual Harassment Complaint is not required to be provided to the alleged victim or a third party who may have filed the initial report of Title IX Sexual Harassment. The Notice of Formal Title IX Sexual Harassment Complaint shall include the following information, as applicable:

- a. The alleged conduct that, if true, constitutes Title IX Sexual Harassment, including, if known, the identities of the Parties involved in, and the date, time, and location of, the alleged incident;
- b. 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 grievance process;
- c. A summary of the grievance process, including information regarding informal resolution procedures, each party’s entitlement to inspect and

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- review evidence, rights regarding an Advisor, and a copy of this Policy;
- d. Information regarding the importance of preserving evidence and the identification and location of witnesses, and that such evidence may assist in proving a criminal offense or in obtaining a protection order in a court of law;
 - e. The purpose of the investigation and a statement that the investigation is when all known and/or available evidence or information must be introduced;
 - f. A statement that knowingly making false statements or knowingly submitting false information to the University as part of the grievance process is a violation of this Policy and the codes of conduct applicable to employees and the student code of conduct, and may subject the person doing so to corrective measures, up to and including expulsion from the University's academic program and/or termination from employment;
 - g. The identity and contact information for the Investigator;
 - h. A statement that the standard of evidence is a Preponderance of Evidence;
 - i. A statement warning against interference with the integrity of the investigation, including, but not limited to, discussions with witnesses which may be perceived as threatening or coercive;
 - j. Any Title IX Supportive Measures that have been imposed (including information regarding the availability of both on-campus and off-campus resources and other supportive services);
 - k. An admonition against Retaliation;
 - l. A statement that any new allegations that arise during the course of the investigation that could subject either party to new or additional sanctions shall be subject to the same notice requirements; and
 - m. A statement that advises student parties of their right to consult with an attorney, at their own expense, at any stage of the process if they wish to do so and that an attorney may serve as a support person or an advisor.

5. Amended Notice of Formal Title IX Sexual Harassment Complaint. If during the course of the investigation, the Investigator will be investigating new allegations about the Parties that are not originally included in the Notice of Formal Title IX Sexual Harassment Complaint, then a subsequent notice containing these new allegations (“Amended Notice of Formal Title IX Sexual Harassment Complaint”) will be issued to both Parties. Additionally, if the new allegations do not constitute Title IX Sexual Harassment then the University may elect to process those allegations under other applicable grievance or dispute resolution processes, including, but not limited to, Grievance Process 1 or those contained in student or employee handbooks.

6. Investigation Process

- a. Timeline. Generally, the investigation shall be complete within ninety (90) business days from the issuance of the Notice of Formal Title IX Sexual Harassment Complaint to the Parties. This deadline and all deadlines contained in this Policy may be extended by the University for good cause. The Complainant and Respondent will be notified in writing of any such extensions, the reasons for the extension, and the projected new timeline. The University shall not unreasonably deny a student party’s request for an extension of a deadline based on periods of examination or school closures
- b. Standard of Proof. The applicable standard of proof shall be a Preponderance of the Evidence.
- c. Interviews, Participation of the Parties, and Gathering of Evidence. The Investigator is the person primarily responsible for gathering evidence sufficient to reach a determination regarding responsibility (i.e., such burden shall not rest on the Parties). During the investigation, the investigator will meet separately with the parties and witnesses who may have relevant information and will also gather other available and relevant evidence and information. The Investigator will provide an equal opportunity for the Parties

to present witnesses, including fact and expert witnesses, and will objectively review other inculpatory and exculpatory evidence. The Investigator will also consider relevant circumstances such as the ages of the Complainant and Respondent, disability status, position of authority of involved parties, and other factors. The Parties are permitted to discuss the allegations under investigation with others or to gather and present relevant evidence; however, the Parties are precluded from intimidating or otherwise tampering with Parties or witnesses or otherwise interfering with the investigation, such as by attempting to alter or prevent a Party's or witnesses' testimony involved in the investigation. To the extent a student who is a Respondent declines to participate in the investigation, non-participation may not be used as a basis for appeal of the process and the Investigator will complete the investigation without the input of the Respondent. The interviews may be electronically recorded at the discretion of the Investigator and will be maintained by the Title IX Coordinator. It will be the sole electronic recording permitted; the Parties are not permitted to make their own recording of their interview. No recording devices, including cell phones, will be permitted in the room where the interview is taking place other than the Investigator's recording device. The University reserves all rights with regard to requiring employee participation in the investigation process provided by law and University policy. The Investigator may bring support staff to investigative interviews or other proceedings to assist in the process. Parties and witnesses may bring an Advisor, as described below. No other persons are permitted at an investigatory interview or other proceeding unless granted permission by the Title IX Coordinator.

d. Consent Required for Privileged Information. The Investigator cannot access, consider, disclose, or otherwise use a Party's records which are protected by a legally recognized privilege, including, but not limited to, the

following: the attorney-client privilege, questions and evidence 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 Investigator obtains that party's voluntary, written consent to do so.

e. Sexual History. The Investigator may not consider a Title IX Complainant's prior sexual history with the following two (2) exceptions: if such information is offered to prove that someone other than the respondent committed the conduct alleged by the Title IX Complainant, or if the questions and evidence concern specific incidents of the Title IX Complainant's prior sexual behavior with respect to the Respondent and are offered to prove consent.

f. Prior Dating Relationship. The Investigator may not consider the existence of a dating relationship or prior or subsequent consensual sexual relations between the Complainant and Respondent unless the evidence is relevant to how the parties communicated consent in prior or subsequent consensual sexual relations. Where the Investigator allows consideration of evidence about a dating relationship or prior or subsequent consensual sexual relations between the complainant and the respondent, the mere fact that the Complainant and Respondent engaged in other consensual sexual relations with one another is never sufficient, by itself, to establish that the conduct in question was consensual. Before allowing the consideration of any evidence of a prior dating relationship, the Investigator shall provide a written explanation to the parties as to why consideration of the evidence is appropriate.

7. Opportunity to Review Documentation and Information During Investigation Process. During the investigation process, the Investigator shall provide both

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 a Formal Title IX Sexual Harassment Complaint. This includes evidence upon which the University does not intend to rely in reaching a determination regarding responsibility and includes inculpatory or exculpatory evidence whether obtained from a Party or other source, such that each Party should be able to meaningfully respond to the evidence prior to conclusion of the investigation. All Parties should submit any evidence that they would like the Investigator to consider prior to when the Parties' time to inspect and review evidence begins.

a. Redactions. The Investigator may redact information provided to either Party that is not directly related to the allegations or that is otherwise barred by a legally recognized privilege, or a Party's treatment records if the Party has not provided written consent. The Title IX Coordinator shall keep a log of all information not directly related or that is otherwise withheld from the Parties.

b. Procedures for Review of Documentation. The University will send to each Party and the Party's advisor, if any, the evidence subject to inspection and review in an electronic format or a hard copy. The Parties will have ten (10) calendar days after receiving this information to submit a written response which the Investigator will consider prior to completion of the investigative report. During this ten (10) calendar day period, both Parties may provide additional evidence in response to their inspection and review of the evidence that had been provided to them. The additional evidence provided by both parties will be shared with the other party and each party shall have an additional opportunity to respond to the other party's additional evidence during a five (5) calendar day period following the end of the ten (10) calendar day period. Following this process, the Investigator may also follow up with the Parties regarding any outstanding evidence either Party has not

had a chance to speak to. No further review, exchange, or submissions will be permitted at this stage.

8. Investigation Report; Parties' Review of Report. The Investigator shall prepare a written investigation report that fairly summarizes relevant evidence and includes copies of relevant documents as enclosures to the report ("Investigation Report"). The Investigation Report will include a statement summarizing the alleged misconduct, the perspectives of the parties (e.g., admissions or denials), a summary of the evidence including a list of witnesses interviewed and documents reviewed, preliminary credibility assessments for all witnesses if made, including the Complainant and Respondent (without basing such determination on the person's status as a Complainant, Respondent, or witness). In a case where there are multiple Title IX Sexual Harassment Complainants and/or multiple Title IX Sexual Harassment Respondents, a single investigative report is permitted. At least ten (10) calendar days prior to the live hearing, the Investigator will send to each Party and each Party's advisor, if any, the investigative report in an electronic format or a hard copy, for their review and written response. At the same time the Investigator sends the Investigation Report to the Parties, the Investigator shall also send a copy of the Investigation Report to the Title IX Coordinator. During this ten (10) calendar day period, the Parties may provide a written response to the Investigation Report to the Investigator.

9. Title IX Sexual Harassment Case File. The Title IX Sexual Harassment Case File shall include: (a) the initial report of Sex-Based Misconduct; (b) the Formal Complaint; (c) all notices delivered to the parties; (d) copies of all documents and information provided to the parties for review and inspection (either included as part of the Investigation Report or as separate documents); (e) the Parties' written responses to the Investigator regarding their inspection and review of documents and information during the investigation; (f) the Investigation Report including all exhibits; and (g) the Parties' written responses to the Investigation Report, if

available.

10. Notices. All notices and communications to LAPU faculty, staff, administration, and students will be delivered via the University's email system. All such parties have a responsibility to promptly read all University emails. For individuals outside of the LAPU community (including former employees and former/withdrawn students), notices and communications will be sent to the most recent email and physical home address on file with the Title IX Coordinator.

11. Advisor. The Title IX Complainant and/or Title IX Respondent may choose anyone (including legal counsel, a colleague, friend, family member or other representative) to voluntarily serve as an advisory support person ("Advisor") but in all cases the parties must participate directly in all meetings or process prior to the live hearing. The Complainant and Respondent may be accompanied by their Advisor to any meeting or investigation process; however, the Advisor may not speak on their behalf, advise them on how to answer a question of the Investigator, or engage with the Investigator or others participating in any part of the investigation (excluding the live hearing), or otherwise interfere with the investigation in any way, other than to take reasonable breaks during the meeting or proceeding to confer with the respective Party. The Complainant and Respondent must notify the Investigator at least three (3) business days in advance if they wish to bring an Advisor and must disclose their name and contact information to the Investigator. The University may require the Parties and Party advisors to enter into non-disclosure agreements.

F. Live Hearing Procedures

Formal Title IX Sexual Harassment Complaints shall be adjudicated at a live hearing ("Hearing") as set forth below. References to the "Parties" include the Title IX Complainant(s) and Title IX Respondent(s).

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1. Hearing Officer Appointment and Purpose. The Title IX Coordinator shall appoint a Hearing Officer to conduct a live hearing as required under Title IX procedures. The Hearing Officer shall be the decision-maker and shall: (a) evaluate all relevant evidence, both inculpatory and exculpatory, and independently reach determinations regarding findings of fact and whether the Title IX Respondent is responsible for Title IX Sexual Harassment; and (b) determine the appropriate Preventative and Corrective Measures, consistent with the University's past practice and this Policy.
 2. Hearing Officer Qualifications. The Hearing Officer may be a University employee or external third-party, such as an attorney, so long as the person:
 - a. Is not the Title IX Coordinator or Investigator;
 - b. Is free from conflict of interest or bias, including bias for or against complainants or respondents generally or with respect to the individual parties;
 - c. Has reviewed this Policy and understands the regulations applicable to the live hearing process pursuant to 34 Code of Federal Regulations Section 106.45; and
 - d. Is qualified by experience, education and/or training to effectively implement the requirements to: (i) serve impartially; (ii) understand issues of relevance of evidence (including how to apply the sexual history evidentiary rules); (iii) apply the preponderance of the evidence standard; and (iv) utilize any technology to be used at the hearing.
 3. Delivery of Notice, Documents, and Information. All notices to LAPU faculty, staff, administration, and students will be delivered via the University's email system. All such parties have a responsibility to promptly read all University emails. For individuals outside of the LAPU community, notices and communications will be

sent to the most recent email address on file with the Title IX Coordinator or, if no email address is on file, then to their last known physical address. Copies of all documents provided to the Parties will also be provided to each Party's advisor if known at the time the documents are delivered to the Parties. If a Party is an unemancipated minor, copies of all documents will be provided to the Party and a parent or guardian of the minor upon request of either the parent/guardian or Party. The Title IX Sexual Harassment Case File and other relevant documents and information will be provided electronically unless otherwise requested by a hearing participant.

4. Virtual Hearing; Participants. Generally, all hearings will be virtual. A virtual hearing means that the Parties are located in separate locations such that the parties never come face-to-face with each other, the Hearing Officer, or witnesses. This may be done through the use of technology whereby all participants are still able to simultaneously see and hear the proceedings. At a virtual hearing, the Parties have the right to be present to observe and hear (or, if deaf or hard of hearing or blind or visually impaired, to access through auxiliary aids) testimony of all individuals who testify and to propose questions to be asked of all individuals who testify at the hearing through their Advisor. The University may, in its discretion, designate that the hearing will be in-person and, if so, either Party may request a virtual hearing instead. Such request must be made in writing submitted to the Title IX Coordinator at least five (5) business days prior to the Hearing. Only the Parties, witnesses, Advisors, the Title IX Coordinator, University support staff, and support staff of external professionals involved in the proceeding may attend the Hearing.

5. Pre-Hearing Procedures.

- a. Notice of Hearing. The Title IX Coordinator will send a written Notice of Title IX Sexual Harassment Hearing to the Title IX Complainant and the Title IX Respondent at least fifteen (15) calendar days before the hearing. The

Notice of Title IX Sexual Harassment Hearing shall include the following information: (a) the date, time, and location; (b) purpose of the hearing; (c) the name of the Hearing Officer; (d) other applicable pre-hearing, hearing, and post-hearing procedures; (e) an electronic or hard copy of the Title IX Sexual Harassment Case File; and (f) notification of whether the University had elected to hold the hearing in person and, if so, information regarding how to request a virtual hearing. The Hearing Officer shall also receive a copy of the Notice of Title IX Sexual Harassment Hearing.

- b. Summary of Information. At least ten (10) calendar days before the hearing, the Title IX Complainant and the Title IX Respondent will submit to the Title IX Coordinator a written summary of the information they intend to present at the hearing, including a list of documents to be presented, the names of all requested witnesses, and a brief summary of such witnesses' expected testimony ("Summary of Information"). The Parties must provide the Title IX Coordinator with electronic or hard copies of any documents not already in the Title IX Sexual Harassment Case File.
- c. Notice to Witnesses. The Title IX Coordinator shall contact each requested witness and notify them of the date, time, location of the Hearing, and procedures relevant to their appearance ("Notice to Witness of Hearing Appearance").
- d. Deadline for Response to Investigation Report. The last day for the Parties to submit their response to the Investigation Report is five (5) calendar days before the hearing.
- e. Cross-Examination or Other Questions. The University encourages that the Parties submit their questions in advance of the hearing to the Title IX Coordinator to allow for a more efficient hearing process, although this does

not preclude either Party from asking questions at the Hearing which were not previously submitted. Student parties will have the opportunity to submit written questions to the Hearing Officer in advance of the hearing. At the hearing, the other party will have the opportunity to note an opposition to the questions posed based on criteria under this Policy. If a Party chooses to submit questions in advance, they are encouraged to do so at least three (3) calendar days prior to the Hearing.

f. Pre-Hearing Packet. At least three (3) calendar days prior to the Hearing, the Title IX Coordinator will provide to each Party and the Hearing Officer, either a hard copy or an electronic copy of the Pre-Hearing Packet, which shall include: (i) the Summary of Information provided by the Parties; (ii) any new documents not already provided; and (iii) a list of witnesses who are expected to appear at the Hearing.

g. Request for Disability Accommodations. If a Party, witness, Hearing Officer, or Decision-Maker Panel Member requires reasonable accommodation for a disability, they shall submit such request in writing to the Title IX Coordinator along with supporting information from a healthcare provider as soon as possible and at least three (3) calendar days prior to the hearing.

6. Hearing Procedures.

a. Hearing Officer Guidelines; Standard of Evidence. Prior to and during the live hearing the Hearing Officer shall approach each case without any preconceived ideas of the responsibility of the Parties involved and thoroughly review the Title IX Sexual Harassment Case File, Summaries of Information, and any other relevant documents and information submitted by the Parties prior to hearing. To arrive at findings of fact and determination of responsibility, the Hearing Officer must objectively evaluate relevant

evidence (both inculpatory and exculpatory) and analyze whether that evidence warrants a high or low level of weight or credibility, including the credibility of each Party and witness. The Hearing Officer has discretion to accept or exclude additional information presented at the live hearing; however, the Hearing Officer may not exclude any evidence relevant to the allegations of Title IX Sexual Harassment. The standard of evidence at the Hearing shall be a Preponderance of the Evidence. The Hearing Officer may determine that an extension or continuance of the hearing is necessary and, if so, shall coordinate with the Title IX Coordinator to issue simultaneous notices to all Parties and witnesses.

- b. Recording. The University will create an audio or audiovisual recording, or transcript, of any live hearing and will make it available to the parties for inspection and review, within a reasonable time period following the hearing. The type of recording shall be at the Title IX Coordinator's discretion. The University's recording shall be the only recording permitted at Hearing, and the Parties will receive a copy of it with the Hearing Officer's Decision.
- c. Hearing Advisor. Each Party is given the opportunity to choose their own advisor, who may be but is not required to be an attorney, to attend the Hearing ("Hearing Advisor") to ask relevant questions of the other Party at the Hearing. If a Party does not select their own Hearing Advisor, the University will assign such Party their own Hearing Advisor selected by the University at no cost to the Party. The Hearing Advisor may be, but is not required to be, the Advisor who supported the Party during the investigation phase. The Parties are prohibited from being accompanied at the Hearing by anyone other than their Hearing Advisor except as follows: (i) a parent or guardian of a Party who is an unemancipated minor may attend; and (ii) additional parties required as part of a reasonable accommodation for a

disability (e.g., a sign language interpreter) may attend.

- d. Availability of Evidence: Presentation of Evidence. The University will make all such evidence that has been shared with the Parties subject to the other Party's inspection and review available at the live hearing to give each Party equal opportunity to refer to such evidence during the hearing, including, but not limited to for purposes of cross-examination. The Title IX Coordinator (or designee), Investigator (or designee), or other University representative may, but is not required to, present evidence to the Hearing Officer at the Hearing. If the University presents evidence to the Hearing Officer, that shall not make the University a party to the proceeding. A designee or other University representative may be another University employee or an external third-party, such as an attorney or other qualified representative. The Complainant and Respondent will each have the opportunity to present the information they submitted (unless excluded by the Hearing Officer).
- e. Rules of Procedure and Decorum. The Hearing Officer shall decide on any procedural issues as they may come up during the Hearing. The Hearing Officer will also make any determinations necessary to ensure an orderly, productive, and procedurally proper hearing. The Hearing Officer may pause or continue the proceeding as needed in order to make appropriate decisions on procedural issues, including issues of relevance of evidence. Complainant(s), Respondent(s), witnesses, and Hearing Advisors are prohibited from interrupting or disturbing the hearing process. Additionally, Hearing Advisors are prohibited from questioning witnesses or the other Party in an abusive, intimidating, harassing, unduly time-consuming, repetitive, or disrespectful manner. If a Party's Hearing Advisor refuses to comply with the rules of decorum they may be removed from the Hearing and, if so, the University shall provide that Party a different Hearing Advisor

to conduct the cross- examination on behalf of that Party.

f. Questions During Hearing.

1. Questions by Parties' Hearing Advisors. All questioning on behalf of a Party shall be done by the Parties' Hearing Advisors. The Hearing Advisor may only ask relevant cross-examination and other questions of a party or witness. After each question is asked by the Hearing Advisor, and before the Party or witness answers the question, the Hearing Officer will determine whether the question is relevant and, if it is not relevant, explain the decision to exclude the question. If a Party or witness is present at the Hearing, but disagrees with a relevance determination, they may either: (1) abide by the Hearing Officer determination and answer the question; or (2) refuse to answer the question. A Party or witness may not answer a question that the Hearing Officer has determined to be irrelevant. Unless the Hearing Officer reconsiders the relevance determination, the Hearing Officer cannot rely on any statement made by a Party or witness which that Party or witness has declined to answer regarding cross-examination questions.
2. Questions by the Hearing Officer. Additionally, the Hearing Officer has the right and responsibility to ask questions and elicit information from Parties and witnesses on the Hearing Officer's own initiative to aid the Hearing Officer in obtaining relevant evidence, both inculpatory and exculpatory.
3. Failure to Appear for Cross-Examination. If a Party or witness does not submit to cross-examination at the live hearing, the Hearing Officer may still rely on any relevant statement of that Party or witness

previously made in reaching a determination regarding responsibility, including, for example, those statements made by the parties and witnesses during the investigation, emails or text exchanges between the parties, statements about the alleged misconduct, statements in police reports, sexual assault examination reports, medical reports, and other documents even if those documents contain statements of a party or witness who is not cross-examined. However, the Hearing Officer cannot draw an inference about the determination regarding responsibility based solely on a Party's or witness' absence from the live hearing or refusal to answer cross-examination or other questions. Statements that a Party or witness made to a third party when that Party or witness are unavailable themselves to be cross-examined at the live hearing (e.g., statements that a Party made to a family member or friend), including statements made against a Party's own interests, may still be relied on when the Party having made those statements fails to submit to cross-examination.

4. Irrelevant Questions. Questions regarding the below information are deemed not relevant and will be excluded at the Hearing unless the question(s) falls into an exception described below:

- a. Consent Required for Privileged Information. The Hearing Officer cannot access, consider, disclose, or otherwise use a Party's records which are protected by a legally recognized privilege, including, but not limited to, the following: the attorney-client privilege, questions and evidence 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 Party has provided voluntary, written consent to do so.

- b. Sexual History. The Hearing Officer may not consider a Title IX Complainant's prior sexual history with the following two (2) exceptions: if such information is offered to prove that someone other than the Respondent committed the conduct alleged by the Title IX Complainant, or if the questions and evidence concern specific incidents of the Complainant's prior sexual behavior with respect to the Respondent and are offered to prove consent.
- c. Prior Dating Relationship. The Hearing Officer may not consider the existence of a dating relationship or prior or subsequent consensual sexual relations between the Complainant and Respondent unless the evidence is relevant to how the parties communicated consent in prior or subsequent consensual sexual relations. Where the Hearing Officer allows consideration of evidence about a dating relationship or prior or subsequent consensual sexual relations between the Complainant and the Respondent, the mere fact that the Complainant and Respondent engaged in other consensual sexual relations with one another is never sufficient, by itself, to establish that the conduct in question was consensual. Before allowing the consideration of any evidence of a prior dating relationship, the Hearing Officer shall provide a written explanation to the parties as to why consideration of the evidence is appropriate.

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- d. Duplicative or Repetitive Questions. Once a question has been asked, duplicative or repetitive questions are irrelevant.
 - e. Questions of Witnesses Without Relevant Information. Questions of witnesses who do not have any relevant information regarding the allegations of Title IX Sexual Harassment.
5. Hearing Officer Decision. The Hearing Officer shall generally issue a written decision (“Hearing Officer Decision”) to the Title IX Coordinator within five (5) business days following the end of the Hearing, unless the Hearing Officer indicates that more time is needed due to good cause. Additionally, where not enough information exists for the Hearing Officer to issue a decision, the Hearing Officer may remand the case for further investigation or consideration by the Investigator. The Title IX Coordinator shall simultaneously deliver the Hearing Officer Decision to the Parties within two (2) business days following receipt of it from the Hearing Officer. The Title IX Coordinator is responsible for the effective implementation of Preventative and Corrective Measures determined by the Hearing Officer. The Hearing Officer Decision becomes final when: (a) the appeal deadline has passed; or (b) the appeal process has concluded and the Parties receive notification of the appeal decision. Specifically, the Hearing Officer Decision shall include the following information:
- a. Identification of the allegations of Title IX Sexual Harassment;
 - b. A description of the procedural steps taken from the receipt of the Formal Title IX Sexual Harassment Complaint through the determination, including, but not limited to, any notices to the

Parties, interviews with Parties and witnesses, site visits, methods used to gather other evidence, and the Hearing;

- c. Findings of fact supporting the determination of whether the Title IX Respondent is responsible for Title IX Sexual Harassment;
- d. Conclusions regarding the application of this Policy;
- e. A statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility, any Preventative and Corrective Measures to be imposed on the Title IX Respondent and/or provided to the Title IX Complainant in order to restore or preserve equal access to the University's education program or activity;
- f. A summary of matters not addressed under the grievance process that may be separately addressed pursuant to another University policy including, but not necessarily limited to, codes of conduct applicable to employees and the student code of conduct;
- g. A statement that the Title IX Coordinator is responsible for effective implementation of the Preventative and Corrective Measures;
- h. The University's procedures and grounds for appeal, and the name and contact information for the appeal adjudicator; and
- i. A copy of the recording of the Hearing.

- 6. Preventative and Corrective Measures – Guidelines for the Hearing Officer. Preventative and Corrective Measures should serve the purpose of stopping Title IX Sexual Harassment, and preventing its recurrence, and restoring or

preserving equal access to the University's education program or activity. Such measures need not avoid burdening a Title IX Respondent who has been found responsible for Title IX Sexual Harassment. Importantly, Preventative and Corrective Measures should appropriately reflect the University's commitment to education, personal growth, accountability, and ethical behavior. The Hearing Officer shall ensure they are consistent and proportionate responses to conduct that violates this Policy, taking into consideration the context and seriousness of the violation, and based on a fact-specific, case-by-case inquiry.

G. Appeal of Hearing Officer's Decision Regarding Title IX Sexual Harassment

An appeal by either Party may be made in writing to the appeal adjudicator within five (5) business days after such Party has received the Hearing Officer Decision. An appeal must state the ground on which the appeal is made. Grounds for appeal are limited to:

1. Procedural irregularity that affected the outcome of the matter;
2. New evidence that was not reasonably available at the time the determination regarding responsibility was made, that could affect the outcome of the matter; or
3. The Title IX Coordinator, Investigator, Hearing Officer, or Decision-Maker had a conflict of interest or bias for or against Complainants or Respondents generally or the individual Complainant or Respondent that affected the outcome of the matter. Upon receipt of an appeal, the Appeal Adjudicator shall forward the appeal to the other Party. The non-appealing Party will have five (5) calendar days to submit a written statement in support of or against the appeal to the Appeal Adjudicator. Supportive measures will continue to remain in place during the appeal process. However, no Corrective or Preventative Measures will be implemented prior to the appeal process ending. The Appeal Adjudicator will issue a written decision regarding the appeal and the rationale for appeal

decision within ten (10) business days of receiving the appeal, unless more time is needed for good cause. This decision will be provided to both Parties simultaneously and will be a final determination regarding the Title IX Respondent's responsibility and cannot be further appealed.

XII. OUTSIDE AGENCIES

LAPU encourages all students and employees who believe they have been subjected to unlawful discrimination or harassment to bring their concerns to the University so that appropriate action can be taken. While it is not required that they exhaust LAPU's internal investigation process before contacting a governmental agency, LAPU encourages all members of the LAPU community to take advantage of LAPU's process for resolving harassment, discrimination, and retaliation concerns and complaints. LAPU cannot remedy claimed discrimination, harassment, or retaliation unless such complaints are brought to its attention. Failure to report these claims prevents LAPU from taking steps to address the problem. If an LAPU community member observes a violation of this policy or believes someone has violated this policy, the member is strongly encouraged to report the incident, irrespective of whether the alleged victim files a complaint themselves. Responsible Employees who learn of such a complaint are required to bring it to the University's attention as described above.

The U.S. Equal Employment Opportunity Commission ("EEOC") and the California Civil Rights Department ("CRD") investigate reports of unlawful harassment and sexual violence in employment. The U.S. Department of Education Office for Civil Rights ("OCR") investigates reports of unlawful harassment and sexual violence by students in educational programs or activities. These agencies may serve as fact-finders and attempt to facilitate the voluntary resolution of disputes. For more information students/employees may contact these agencies as described below:

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- California Civil Rights Department: <https://calcivilrights.ca.gov/> or by phone at 800-884-1684 (voice), 800-700-2320 (TTY) or California's Relay Service at 711 or at Call our Communication Center at 800-884-1684 (voice), 800-700-2320 (TTY) or California's Relay Service at 711, or via mail 651 Bannan Street, Suite 200, Sacramento, CA 95811
 - US Department of Education Office for Civil Rights: <https://www.ed.gov/laws-and-policy/civil-rights-laws/file-complaint> or by phone at 415-486-5555 or TDD: 800-877-8339 or by mail 50 United Nations Plaza, Mail Box 1200, Room 1545 San Francisco, CA 94102
 - US Equal Employment Opportunity Commission: <http://www.eeoc.gov> or by phone at 1-800-669-4000 (voice), 1-800-669-6820 (TTY), 1-844-234-5122 (ASL Video Phone), or by mail 131 M. Street, NE, Washington, DC 20507.