

# Sexual Misconduct Policy

Lewis University does not tolerate sexual misconduct of any type. Our Catholic, Lasallian tradition sees each and every human as created in the image of God, full of dignity and worth. Members of the community, guests and visitors have the right to be free from sexual violence, harassment and discrimination. All members of the community are expected to conduct themselves in a manner that respects the rights of others to control their sexual behavior and bodily integrity. All members of the community have the right to decline to engage in any sexual activity without fear of retaliation or adverse actions from the person seeking to engage in that activity. The University Sexual Misconduct Policy has been developed to reaffirm this expectation and to provide recourse for those individuals whose rights have been violated. The University enforces this policy regardless of the sexual orientation or gender identity of individuals engaging in sexual activity. The University takes seriously any incidents of sexual misconduct that come to its attention, whether by formal complaint or other means. Resolution by the University is intended to bring an end to harassing or discriminatory conduct, prevent its recurrence and remedy the effects on the victim and the community.

Some violations of this policy may also violate the criminal laws of the State of Illinois. Victims of sexual misconduct that also experience violations of criminal law may, at their option, proceed with a complaint to law enforcement authorities as well as to the University under this policy.

In applying this policy, the sex, gender identification, and sexual orientation of the parties to the incidents is irrelevant to whether a violation has occurred. Voluntary use of alcohol or other judgment impairing substances by a person whose conduct otherwise violates this policy will rarely, if ever, excuse the behavior.

Sexual misconduct prohibited by this policy includes but is not limited to sexual harassment, non-consensual sexual intercourse, non-consensual sexual contact, sexual exploitation, dating violence, domestic violence, and possession, distribution or administration of "date rape" drugs.

## Sexual Harassment

For purposes of this policy sexual harassment means conduct on the basis of sex that satisfies one or more of the following criteria:

- 1) An employee of the University conditioning the provision of an aid, benefit or service on an individual's participation in unwelcome sexual conduct;
- 2) Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the University's education program or activities; or
- 3) Sexual assault, dating violence, domestic violence or stalking as those terms are defined in federal law.

Sexual harassment is not always sexually explicit and can involve differential treatment of persons of one sex that has the purpose and effect of creating a hostile environment. It may also include acts taken in retaliation for a person's refusal to engage in sexual activity.

### a. Sexual Assault Includes

#### i. Non-Consensual Sexual Intercourse:

- Any sexual intercourse (anal, oral, or vaginal),
- However, slight
- Whether with an object or body part,
- By any person upon any person,
- Without effective consent

#### ii. Non-Consensual Sexual Contact:

- Any intentional sexual touching,
- However slight,
- With any object or body part,
- By any person upon any person,

- Without effective consent

**b. Dating and Domestic Violence**

- Dating violence is violence, including sexual or physical abuse, or threat of the same, committed by a person who is currently, or has been previously, involved in a social relationship of a romantic or intimate nature with the alleged victim. Domestic violence is violence, including sexual or physical abuse, or threat of the same, committed by a person who is currently, or has been previously, the alleged victim's spouse, cohabitant, or other person protected by family or domestic law (ex. someone who shares a child with the alleged victim).

**Stalking** includes any pattern or conduct such as pursuit, following, harassment, repetitive communications that are intended to or have the effect of causing another community member to have a reasonable fear of death or serious bodily injury to themselves, a family member or pet/service animal or which otherwise would be reasonably expected to cause the other community member substantial emotional distress.

When a grievance involves conduct which may be sexual harassment as defined above and conduct which would violate other applicable codes of conduct, rules or policies, even if it did not meet the definition of sexual harassment, the grievance will be processed under the procedure provided in this policy unless and until the allegations of sexual harassment are withdrawn or dismissed. If such a withdrawal or dismissal occurs prior to a hearing on the sexual harassment grievance, then the matter will be processed under the provision of the conduct code, rule or policy otherwise applicable.

**Sexual Exploitation**

Occurs when a student takes abusive sexual advantage of another for his/her own advantage or benefit, or that of third persons, and that behavior does not otherwise constitute one of the other sexual misconduct offenses. Examples of sexual exploitation include, but are not limited to:

- Invasion of sexual privacy
- Prostituting another student
- Non-consensual video or audio-taping of sexual activity
- Going beyond the boundaries of consent (ex. permitting or participating in voyeurism or secretly watching others who are engaged in consensual behavior)
- Knowingly transmitting a sexually transmitted disease to another student
- Exposing on

Violations of other University policies, such as those relating to domestic violence, stalking, bullying or other

**Special consideration for matters involving Sexual Assault**

or other legal order from a court. It is important to note, confidential resources may have a duty to report information you disclose, but without identifying you personally, for purposes of fulfilling the University's

168 N. Ottawa Street Joliet, IL 60432  
(815) 729-0930 (Main Number)  
(815) 730-8984 (24-hour Sexual Assault hotline)  
(815) 729-1228 (24-hour Domestic Violence Hotline)

Should a student be a victim of sexual assault of any kind (acquaintance, date or stranger), staff members of the Student Wellness Center staff are available to provide medical referral and counseling support. There is also a contracted partnership with Guardian Angel Community Services <https://www.gacsprograms.org/>. Advocates are on campus and available for advising and consultation in MT-022, around the corner from the Student Wellness Center.

## **PROCEDURE FOR REPORTING AND RESPONDING TO INSTANCES OF SEXUAL MISCONDUCT**

A community member may report conduct which they believe to violate this policy to a University official with authority to institute corrective measures on behalf of the University. A report may be made by any community member, whether they are the target of the harassment.

A formal complaint of harassment under this policy may be filed only by the person against whom the sexually harassing conduct was directed (the "complainant") or in some cases by the Title IX coordinator. A formal complaint is required before the University can move forward with an investigation of the conduct to determine if the person engaging in the conduct has violated this policy, and if so what the appropriate sanctions should be.

A formal complaint must be in writing, either in hard copy or electronic form, be signed either physically 201.3 (i)3.en1 (t)--3.1de1 (t)--3.a3 (i)3.d( ) (opric ondiiiititpy in igneL9 Tc 0 T.9 (ng,-)1.1 ( )-12.2 (ei)3.106301 Tw9 (

sexual harassment as



are expected to be honest and forthright in response to any questions asked during the course of the investigation;

-may present evidence relevant to the determination that they have gathered, including either statements from witnesses or the identification of witnesses believed to have relevant knowledge;

-will be given written advance notice of the time, place and location of any hearing, interview or other meeting to which they are invited or expected to attend;

-will be provided equal access to inspect and review the evidence gathered in the investigation with an opportunity of no less than 10 calendar days to comment thereon prior to the close of the investigation;

-will be provided with a copy of the investigation report at least 10 days prior to any hearing on the formal complaint, so that they may review and file a written response if they so choose;

-are not required to waive any information that is privileged against disclosure by law.

Prior to the convening of the hearing on the formal complaint, the University may dismiss the formal complaint and cease the investigation if: i) each complainant to the formal complaint provides written notice of their desire to withdraw the formal complaint to the Title IX Coordinator; ii) the respondent(a) has/have ended their affiliation with the University and further proceedings are deemed unwarranted; iii) specific circumstances prevent the gathering of sufficient

to the  
party requesting it and should be supported by a statement of such reasons. Any postponement or

sexual harassment alleged in the formal complaint in fact occurred and/or that a respondent(s) was the person who engaged in the harassing conduct. Generally, prior sexual history of the complainant is not relevant to the determination, unless the complainant and the respondent were involved in an on-going consensual relationship and evidence concerning the prior sexual history between them is relevant to a disputed issue of whether consent was given on a particular occasion, or to prove that someone other than the respondent committed the conduct in question.

An audio recording of the hearing shall be made and maintained together with other records pertaining to the hearing and investigation.

## **DETERMINATIONS AFTER HEARING**

After the evidence has been presented the Hearing Officer(s) shall promptly issue a written decision as to the whether the respondent did or did not commit sexual harassment as defined above. In addition, the Hearing Officer(s) may decide any other questions of conduct, policy or rule violations that are related to the alleged harassment. The decision shall be in writing and simultaneously sent to each party. The decision shall include:

- A statement of the conduct alleged to have been sexual harassment
  
- A description of the procedural steps taken from the receipt of the formal complaint through the making of the determination
  
- A statement of the factual findings made by the Hearing Officer(s) that support the decision
- A statement of how the code of conduct and/or sexual harassment policy apply to the facts as found
  
- A statement of the rationale for the result as to each allegation.

If the Hearing Officer(s) are also the university officials with the authority to determine sanctions to be imposed on a respondent found to be responsible, then a statement of the sanctions to be imposed. If authority to impose sanctions on the particular respondent rests in a different official or body, the Hearing Officer(s) may, but are not required to, make a recommendation of appropriate sanctions to the appropriate university official or body.

-A statement of the applicable process for either party to file an appeal and the permissible grounds for an appeal.

The decision of the hearing officers will become final either upon the expiration of the time for appeal with no appeal being filed, or upon the determination of an appeal.

In matters involving a student respondent for conduct that occurred in his role as a student, appeals shall be filed with the Vice President for Student Life no later than 3 working days after the determination is sent to the parties.

In matters involving a Respondent who is a faculty member, Appeal shall be in accordance with Article XVI of the University Faculty By-laws. In matters involving an employee respondent(s), the appeal shall be filed within 3 working days of the Hearing Officer's decision, and shall be filed with the Office of the Provost to be decided by the Provost or the Provost's designee.

**Appeals of decisions to impose interim restrictions**

Appeals from a decision to remove a student or faculty respondent from campus or otherwise restrict such a respondent's access to campus or the University's educational programs/activities pending a final determination shall (am)-1decsdj-0.0-6.3 (( )Tj0n)-5.5 (s)J0 be (m Tc 0 Tw1 (os)-2 Tw 0.D (l)3.1 (ed wI2Mc 0 Tw Tc 0 Tds)J0 Tc c)-8 (a)- P

If a party to a formal complaint believes that any of the investigators or decision makers involved in the investigation or hearing of the formal complaint has a conflict of interest or a bias that could materially affect the outcome of the process, the party may request the person so affected to recuse themselves from the proceedings. If the person believed to have a conflict or bias declines to recuse themselves, then the party may file a written request to disqualify the person with the Title IX Coordinator to determine whether a conflict or bias exists. The request to recuse or disqualify must be supported by specific explanation and evidence supporting the belief that a conflict or bias exists. (If the request to disqualify pertains to the Title IX Coordinator, then the request shall be made to the Office of the Vice President for Student Life).

### **Interim Supportive Measures**

At any time prior to the final resolution of a report, the University may implement, either at the request of the alleged victim or on its own initiative, interim measures that are designed to promote a healthy and safe environment while the resolution process is continuing. Examples of these measures include:

- Changes in academic, living, dining, transportation and working situations
- A campus No Contact Order
- Honoring on campus an order of protection issued by a civil

Dean of Students Office, Ground Level of the Learning Resource Center (815) 836-5275

University Ministry, Sancta Alberta Chapel (815) 836-5550

**The following off-campus victim support services are available to assist the victim:**

Provena St. Joseph Medical Center 333 N. Madison St., Joliet, IL (815) 725-7133

~~7133~~ ~~7133~~ Silver Cross Hospital 1900 Silver Cross Blvd ~~7133~~ ~~7133~~ Services