



LONG ISLAND UNIVERSITY

TITLE IX & SEXUAL MISCONDUCT POLICY

PURPOSE

Long Island University is committed to creating and maintaining an educational and work environment free from all forms of sexual misconduct. The broad term “sexual misconduct” includes, but is not limited to, acts of sexual harassment, domestic violence, dating violence, sexual assault, and stalking. Such behaviors are illegal, against University policy, and strictly prohibited.

STATEMENT OF POLICY

It is the policy of the University to comply with Title IX of the Education Amendments of 1972, and Article 129B of the New York Educational Law, both of which prohibit discrimination on the basis of sex (including sexual harassment and sexual violence) in the University's educational programs and activities, and prohibit retaliation for asserting or otherwise participating in claims of sex discrimination. Additionally, the University complies with Title VII of the Civil Rights Act, the Equal Pay Act, the ADA, and all other federal, state and city laws that ban discrimination in employment.

Long Island University does not discriminate on the basis of sex in the workplace, educational program or activity that it operates. The requirement not to discriminate in the education program or activity extends to admission and employment.

This policy covers all members of the University community – students, faculty and staff – as well as those who interact with members of the University community such as vendors or visitors.

PROCEDURES

All members of the University community should report incidents of sexual misconduct in order to support the University policy. In order to ensure the University is free of prohibited sexual misconduct, University officers, deans, department heads, faculty members, directors, supervisors, and paraprofessionals are required to report all incidents of violations of this policy that they may have witnessed or been informed about.

University community members should report any incident to the Title IX Coordinator, Title IX Deputies, administrators, faculty members, or any other responsible employee of the University. It is the duty of all members of the University to notify the following Title IX Coordinator of Title IX Deputies if they are informed of any and all incidents.

The University will maintain the confidentiality of the complainant to the greatest extent consistent with law and the University's goal of conducting thorough and complete investigations. Effort will be made to safeguard the privacy and rights of all persons involved.

OPTIONS FOR ASSISTANCE FOLLOWING AN INCIDENT OF SEXUAL MISCONDUCT

Immediate Assistance

The Title IX Coordinator and Title IX Deputies are able to provide immediate and confidential response in a crisis situation. Specific points of contact for each campus are provided below.

Title IX Team

Title	Staff Member	LIU Email	Phone Number
University Title IX Coordinator	Jean Conroy	Jean.Conroy@liu.edu	631-287-8301
Deputy Title IX Coordinator	Nick Savva	Nick.Savva@liu.edu	718-488-1613
Deputy Title IX Coordinator	Jean Anne Smith	JeanAnne.Smith@liu.edu	516-299-2480

Public Safety Team

Campus	Phone Number	Campus Location
Post	516-299-2222	Public Safety and Facilities Building, 1 st Floor
Brooklyn	718-488-1078	LLC, Public Safety Entrance
Brentwood	631-451-4242	Office of Public Safety, North Cottage
Riverhead	516-299-2480	Office of Public Safety, Peconic Building, Room 119
Hudson	914-831-6911	Police Headquarters, CMFT Building, Basement Level

If reporting individuals are unsure of who to directly contact, they or University reporting entity should contact either the LIU Post Department of Public Safety or the LIU Brooklyn Department of Public Safety at the above listed phone numbers. Both of these departments are available to provide initial assistance twenty-four hours a day, three-hundred and sixty-five days a year.

In addition, any reporting individual has the right to make a report to University police or campus security, local law enforcement, and/or state police or choose not to report; to report—the incident to the University; to be protected by the University from retaliation for reporting an incident; and to receive assistance and resources from the University. Reporting individuals will be provided any and all necessary or requested on-campus or off-campus health care or medical needs. The Title IX Coordinator and/or Title IX Deputies will institute the appropriate steps to ensure the safety and well-being of the reporting individual:

- Ensure the survivor is aware of the options to seek treatment for injuries, preventative treatment for sexually transmitted diseases, and other health services.
- Discuss the option of seeking medical treatment in order to preserve evidence.
- Identify where/how to get a rape kit or find a Sexual Assault Nurse Examiner (SANE).
- Provide locations, including contact information, for an advocate (e.g., a local rape crisis center, on-campus advocacy program) who can accompany a survivor to the hospital or health provider.

Anonymous Reporting

Although the University encourages victims, survivors and bystanders to talk to someone, the University provides a system for anonymous reporting, either by telephone or via an online form. Employees, students or visitors can access EthicsPoint/NAVEX Global by clicking [here](#) (click box "file a report" and then enter "Long Island University" in the box that asks for the name of the institution) or by calling 1866-295-3143.

Individuals may request from the Title IX Coordinator information on confidential resources where they can discuss their options and advice without any obligation to tell anyone without their consent unless there is imminent danger to self or others, or as otherwise required by law (e.g., mandatory reporting for sexual violence against minors, subpoena to report in court, etc.).

Reporting to the Federal and New York State Governments

Inquiries or complaints that involve potential violations of Title IX may also be referred to the [U.S. Department of Education's Office for Civil Rights](#) (OCR):

New York Office

Office for Civil Rights
U.S. Department of Education
32 Old Slip, 26th Floor
New York, NY 10005-2500
Telephone: 646-428-3900
FAX: 646-428-3843
TDD: 800-877-8339
E-mail: OCR.NewYork@ed.gov

National Headquarters

U.S. Department of Education
Office for Civil Rights
Lyndon Baines Johnson Department of Education Bldg.
400 Maryland Avenue, SW Washington, DC 20202-1100
Telephone: 800-421-3481
FAX: 202-453-6012
TDD: 800-877-8339
E-mail: OCR@ed.gov

Inquiries or complaints may also be addressed to the [Educational Opportunities Section of the Civil Rights Division of the U.S. Department of Justice \(DOJ\)](#):

U.S. Department of Justice Civil Rights Division

950 Pennsylvania Avenue, NW
Educational Opportunities Section
PHB Washington, D.C. 20530
E-mail: education@usdoj.gov
Telephone: (202) 514-4092 or 1-877-292-3804 (toll-free)
FAX: (202) 514-8337

New York State Hotline for Sexual Assault and Domestic Violence
1-800-942-6906

ONGOING ASSISTANCE

Counseling, Advocacy, and Support – On and Off Campus

All reporting individuals, Complainants or Respondents, may receive support, whether or not the reporting individual chooses to make an official report or participate in the University's established community standards process or criminal processes.

All reporting individuals and Complainants are provided the opportunity to disclose confidentially with counseling, advocacy, health, mental health, or sexual-misconduct-related sources, both on and off campus.

The campus specific Title IX Coordinator and/or Title IX Deputies will provide ongoing support during the University's established community standards process or criminal processes.

Academic Accommodations and Interim Supportive Measures

To ensure the safety and well-being of all parties or the University's educational environment, or to deter sexual harassment, the Title IX Coordinator and/or Title IX Deputies will provide supportive measures which may include counseling, assistance in relocation of the student (if a resident student), assistance with the altering or amending of work schedules, assistance in the altering or amending of academic schedules, extensions of deadlines or other course related adjustments, the coordination of withdrawing from an academic class and/or the coordination for the opportunity to retake an academic requirement without penalty, and access to any and all necessary academic support.

To assist all parties, the Title IX Coordinator and/or Title IX Deputies will ensure the issuance of no contact orders, changes in work or housing locations (if a resident student), and any other established Emergency Administrative Action, as outlined in the Student Code of Conduct.

Any student subject to such interim measures may request a review of the need for and terms of such orders by the institution and may submit information as to their reasoning for requesting a change. If a student is removed on an emergency basis, such student will be given notice of such removal and an opportunity to challenge the removal.

When the accused is not a student but a member of the institution's community and presents a continuing threat to the health and safety of the community, the University may subject the accused to interim measures in accordance with applicable collective bargaining agreements and rules and policies of the University.

ADDITIONAL OFF CAMPUS RESOURCES AND INFORMATION

New York State Office of Victim Services (OVS): The New York State Office of Victim Services (OVS) is available to help in a number of ways if you, a family member, or friend have been victim to a crime. Visit: ovs.ny.gov

OVS Resource Connect: The OVS Resource Connect (ovs.ny.gov/connect) is a concern-based online search engine connecting users with potential crime victim resources in New York State. It features enhanced search functionalities and allows users seeking crime victim services and information to search for resources by concerns, keywords (i.e. "advocate", "safe housing", etc.) as well as geographic location. This new search engine immediately returns information provided by Victim Assistance Programs (VAPs), who can provide help to crime victims and offer additional services that are not directly offered by OVS.

Confidential Hotline (24/7): The New York State Domestic and Sexual Violence Hotline can provide individuals with information on resources in their community.

Live Chat 24/7: Offers confidential support in most languages from advocates who are trained professionals: resourceconnect.com/nysdvsachat/chat

Text Line: Trained professionals available 24/7 respond by text; texts are secure and confidential:
Text: 844-997-2121

Call: 1-800-942-6906 (English and Español/multi-language accessibility)

Deaf or Hard of Hearing: 711

New York City: 1-800-621-HOPE (4673) or 311 TDD: 1-800-810-7444

Individuals who have experienced sexual violence may choose to have a sexual assault forensic exam preformed, sometimes known as a “rape kit,” to preserve possible DNA evidence and receive important medical care. Individuals may accept or decline any and all parts of an exam or suggested treatment. Providers will assist patients to make choices about their care. Patients who are 18 years or older do not have to report to police or press charges to get a forensics/sexual assault exam. Individuals have 1 year to decide whether or not to have law enforcement process the kit. A Sexual Assault Forensic Examination may be performed at a hospital (Designated SAFE Centers may be found here: <https://www.health.ny.gov/professionals/safe/>).

While there should be no charge for a rape kit, there may be a charge for medical or counseling services off campus and, in some cases, insurance may be billed for services. Individuals are encouraged to let hospital personnel know if they do not want their insurance policyholder to be notified about their access to these services. The New York State Office of Victim Services may be able to assist in compensating victims/survivors for health care and counseling services, including emergency funds. More information may be found by calling 1-800-247-8035. Options are explained here: <https://ovs.ny.gov/help-crime-victims>.

Once individuals are at the hospital, they are in control of their treatment and what happens next. They may wish to seek medical attention to treat any possible injuries, to check for injuries they may not be able to see, and to access medications to prevent sexually transmitted infections.

TITLE IX COORDINATOR – GENERAL RESPONSIBILITIES

The University’s Title IX Coordinator has primary responsibility for coordinating the University’s efforts to comply with and carry out its responsibilities under Title IX, which prohibits sex discrimination in all the operations of this University, as well as retaliation for the purpose of interfering with any right or privilege secured by Title IX.

The Title IX coordinator oversees the University’s response to reports and complaints that involve possible sexual misconduct to monitor outcomes, identify and address any patterns, and assess effects on the campus climate, so the University can address issues that affect the wider school community.

A student should contact the Title IX Coordinator or Deputy Title IX Coordinator(s) in order to:

- seek information or training about students’ rights and courses of action available to

- resolve reports or complaints that involve potential sexual misconduct,
- file a complaint or make a report of sexual misconduct,
- notify the University of an incident or policy or procedure that may raise potential Title IX concerns,
- get information about available resources (including confidential resources) and support services relating to sexual misconduct, and
- ask questions about the University's policies and procedures related to sexual misconduct.

In the event that the incident, policy, or procedure about which the student seeks to file a report or complaint creates the appearance of a conflict of interest with one of the members of the Title IX compliance team, students may contact any other member of the team.

Monitoring and Advising

In order to address sexual misconduct on campus and ensure ongoing compliance with Title IX, the Title IX Coordinator:

- coordinates an annual climate survey, in consultation with research personnel with expertise in survey design and data collection and analysis,
- analyzes data collected by the annual climate survey to assess the rates and nature of sexual misconduct, any location hot-spots or risk factors, knowledge of the University's sexual misconduct policies, procedures and resources, and the consequences of violating such policies, and the effectiveness of the University's efforts to ensure that the University is free from sexual misconduct,
- reviews regularly all reports and complaints raising potential Title IX issues throughout the University to ensure that the University responded consistent with its Title IX obligations, even if the report or complaint was initially filed or raised with another individual,
- reviews regularly all reports and complaints raising potential Title IX issues throughout the University to identify and address any patterns,
- reviews regularly the University's policies and procedures to ensure that they comply with the requirements of Title IX,
- organizes and maintains files related to grievances, reports, complaints, and other records of potential sex discrimination, including sexual misconduct, in a secure manner,
- assesses regularly the University's compliance with, and the effectiveness of, policies and procedures related to sexual misconduct, and recommends modifications where appropriate,
- consults regularly with the administration and campus stakeholders to promote campus-wide awareness and discussion of Title IX-related issues, and develop and implement any modifications of policies and procedures to prevent and eliminate sex discrimination, including sexual misconduct, and

- ensures that appropriate policies and procedures are in place for working with local law enforcement and coordinating with local survivor advocacy organizations and service providers, including rape crisis centers.

REPORTING POLICIES AND PROTOCOL

LIU is obligated, under the Clery Act and the annual reporting responsibilities of Campus Security Authorities, to report any and all incidents and to issue timely warnings as applicable to the University community.

AMNESTY FOR REPORTING INCIDENTS OF SEXUAL VIOLENCE

The health and safety of every student at Long Island University is of utmost importance. LIU recognizes that students who have been drinking and/or using drugs (whether such use is voluntary or involuntary) at the time that violence, including but not limited to domestic violence, dating violence, stalking or sexual assault occurs may be hesitant to report such incidents due to fear of potential consequences for their own conduct. LIU strongly encourages students to report incidents of domestic violence, dating violence, stalking or sexual assault to institution officials. A bystander or reporting individual acting in good faith that discloses any incident of domestic violence, dating violence, stalking or sexual assault to LIU officials or law enforcement will not be subject to the Student Code of Conduct action for violations of alcohol and/or drug use policies occurring at or near the time of the commission of the domestic violence, dating violence, stalking or sexual assault.

INVESTIGATION, PROCEDURES AND PROTOCOLS

Response to Complaint

Upon receipt of a Formal Complaint, or informal report or complaint of sexual harassment, the Title IX Coordinator and/or Deputy Title IX Coordinator will promptly respond by contacting the Complainant to discuss the availability of Supportive Measures, which are available to the Complainant with or without the filing of a Formal Complaint. The Deputy Title IX Coordinator will consider the Complainant's wishes with respect to Supportive Measures available to the Complainant and will explain the process.

Notice to Parties

Following the receipt of a Formal Complaint or informal report or complaint of sexual harassment, the Title IX Coordinator will give written notice to the parties who are known at the time and which will include the following:

- The identities of the parties involved, if known;
- The conduct allegedly constituting Sexual Harassment;
- The date, time, and location of the alleged incident, if known;
- A statement that Respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility is made at the conclusion of the grievance process; ☐ Notice of the grievance process;
- Notice that the parties may each have an advisor of their choice, who may be, but is not required to be, an attorney and may inspect and review evidence; and
- A reminder that the Student Code of Conduct prohibits knowingly making false statements or knowingly submitting false information during the grievance process.

Investigation

The Title IX Coordinator will promptly investigate the allegations in any Formal Complaint or informal report or complaint of sexual harassment and will create an investigative report that fairly summarizes all relevant evidence.

During the investigation, the Title IX Coordinator will gather evidence, and will also provide each party the opportunity to present evidence and witnesses, including fact and expert witnesses. Each party may also be accompanied to any meetings, interviews, or other proceedings during the investigation at which the party is present by an advisor of the party's choice, who may be but is not required to be an attorney. Such advisor may advise the party during such meeting, interview, or proceeding but may not ask questions or otherwise take part in the meeting or proceeding.

Prior to a meeting or proceeding at which a party will be present, the Title IX Coordinator will provide notice to such party of the date, time, location, participants, and purpose of the meeting, interview, or proceeding, with sufficient time for the party to prepare to participate.

Before completing the investigative report, the Title IX Coordinator will send any evidence obtained to each party and their advisors, in electronic format or hard copy. The parties will have 10 days to submit a written response, which the Title IX Coordinator will consider prior to completing the investigative report.

It should further be noted that if Complainant's or reporting individual's request for confidentiality limits the University's ability to investigate a particular matter, the University will take steps to limit the effects of the alleged sexual misconduct and prevent its recurrence without initiating formal action against the alleged perpetrator or revealing the identity of the reporting individual. Examples include but are not limited to: providing increased monitoring, supervision, or security at locations or activities where the misconduct occurred; providing training and education materials for University Community members; revising and publicizing the University's policies on sexual misconduct; and conducting climate surveys regarding sexual misconduct.

Investigative Report

After collecting the evidence, the Title IX Coordinator will prepare an investigative report that fairly summarizes relevant evidence and at least 10 days prior to a hearing send to each party and the party's advisor, if any, the investigative report in an electronic format or hard copy, for their review and written response. The Investigative Report should be completed within 90 days of receipt of a Formal Complaint or informal report or complaint of sexual harassment, unless the Title IX Coordinator informs the parties in writing that there is good cause for extending the time to issue the report, including the reasons for the extension.

Dismissal

If the Title IX Coordinator determines that the allegations in the Formal Complaint would not constitute Sexual Harassment even if proved, did not occur in a University Program or Activity or did not occur against a person in the United States, then the University must dismiss the Formal Complaint under Title IX. Additionally, the University may dismiss a Formal Complaint for purposes of Title IX if the Complainant requests to withdraw the Formal Complaint, if Respondent is no longer enrolled or employed by the University, or when specific circumstances prevent gathering evidence sufficient to reach a determination. A dismissal under Title IX, however, does not necessarily constitute a dismissal under University Policy and/or Article 129B of the New York Educational Law. If the allegations in a Formal Complaint are dismissed under Title IX, the Title IX Coordinator will inform the parties whether the allegations will proceed under University policy and/or Article 129B of the New York Education Law.

Preponderance of Evidence Standard

The hearing officer utilizes the following standard for evaluating complaints: a preponderance of the evidence, i.e., the hearing officer shall determine whether it is more likely than not that the alleged sexual misconduct occurred. There shall be a presumption that the Respondent is not responsible for the alleged conduct until a determination is made regarding responsibility.

The Hearing Process

At least 10 days after the investigative report is provided to the Complainant and Respondent, the University will hold a live hearing to make a determination regarding responsibility for the charges. The hearing will be recorded or transcribed. At the request of either the Complainant or Respondent, the hearing will be conducted with the Complainant and Respondent in separate rooms, with audiovisual technology permitting the Complainant, Respondent, and hearing officer to simultaneously see and hear the party or the witness answering questions. Absent such a request, the hearing will take place in one room, with the hearing officer, Complainant, and Respondent all present, unless the hearing officer determines in his or her discretion that the hearing or portions of the hearing should be conducted virtually, with audiovisual technology enabling participants in the hearing to see and hear each other.

The hearing will be conducted by a hearing officer designated by the University, who shall not be the Title IX Coordinator or the investigator. At the conclusion of the hearing, the hearing officer shall make a determination based upon a preponderance of the evidence.

The Complainant and Respondent may each bring an advisor of his or her choice, who may be but is not required to be an attorney, to attend the hearing. If either the Complainant or Respondent does not have an advisor present at the hearing, the University will provide an advisor to that party in the following manner. The University shall provide the party with a choice of two University employees who can serve as an advisor, and the party shall select which of them to use as an advisor during the hearing. If the Complainant or Respondent refuses to select an advisor, the hearing officer will select the advisor.

The hearing officer may have a legal or other advisor present during the hearing. Such an advisor to the hearing officer may play no role in the hearing other than advising the hearing officer. No one shall be present at the hearing other than the hearing officer, the hearing officer's advisor, the Complainant, the Complainant's advisor, the Respondent, the Respondent's advisor, a witness providing testimony, a reporter transcribing the hearing, and University personnel whose presence is needed to ensure the operation of any technology being used during the hearing.

The hearing officer may review the investigative report, before or during the hearing and may ask the investigator to provide testimony at the hearing.

The hearing officer shall ask questions and hear testimony from all witnesses, including the Complainant and Respondent if they testify. Advisors may cross-examine the other party and all other witnesses by asking relevant questions and follow-up questions, including those challenging credibility. Such cross-examination must be conducted directly, orally, and in real time by the advisor and never by a party personally. Otherwise, the advisor's sole role during the hearing shall be to advise the relevant party, and advisors shall take no other role at the hearing.

The hearing officer shall determine whether questions to be asked of the Complainant, Respondent, and witnesses are relevant. If the hearing officer determines that a question is not relevant, the hearing officer shall exclude the question and shall explain the reason it is not relevant.

Neither the Complainant nor the Respondent is required to testify. If the Complainant, Respondent, or other witness does not testify or does not submit to cross-examination, the hearing officer may not rely on any statement of that party or witness in reaching a determination regarding responsibility, but the hearing officer also may not draw an inference about the determination regarding responsibility based solely on a party's or witness' absence or refusal to answer cross examination or other questions at the hearing.

The Complainant and Respondent each has a right to make an impact statement during the point of the proceeding where the decision maker is deliberating on appropriate sanctions should a finding of responsibility be made.

Procedural questions other than those required by this policy shall be within the discretion of the hearing officer.

Throughout this process and investigation, individuals have the right to:

- participate in concurrent processes in the institution and criminal justice system;
- review and present available evidence in the case file, consistent with institutional policy;
- exclude their own prior sexual history, mental health or health diagnosis or treatment from responsibility decision—in sanctions, past findings against a party may be admissible;
- obtain written or electronic notice of any meeting they are required or eligible to attend, violations alleged, possible sanctions;
- submit or make an impact statement to a decisionmaker deliberating sanctions;
- be informed of the sanction and rationale;
- choose whether to disclose the outcome of the process;
- have information from the process protected from public release.

Determination Regarding Responsibility

Within 20 days of the conclusion of the hearing, the hearing officer shall issue a written determination regarding responsibility. The written determination shall be provided to the Complainant and the Respondent simultaneously.

The hearing officer shall make the determination regarding responsibility based upon the preponderance of the evidence, i.e., the hearing officer shall determine whether it is more likely than not that the alleged sexual misconduct occurred and that the respondent is responsible. If it is determined that a violation of the University's Sexual Misconduct Policy has occurred, prompt remedial action shall be taken. The range of possible disciplinary sanctions is listed in the Code of Conduct. Remedies may also include items listed in the "Ongoing Assistance" and "Privileged and Confidential Communications: Professional and Pastoral Counselors" sections of this policy. No form of mediation will be used to address allegations of sexual misconduct.

The hearing officer's written determination shall include at least the following:

- identification of the allegations potentially constituting sexual harassment;
- a description of the procedural steps taken from the receipt of the formal complaint through the determination, including any notifications to the parties, interviews with the parties and
- witnesses, site visits, methods used to gather evidence, and hearings held;
- findings of fact supporting the determination;
- conclusions regarding the application of this policy to the facts;
- a statement of, and rationale for, the result as to each allegation, including a determination of responsibility, any disciplinary sanctions to be imposed on the Respondent, and whether remedies designed to restore or preserve equal access to the University's educational program will be provided to the Complainant; and
- notice of the procedures and permissible bases for appeal.

The written determination becomes final on the date that the Complainant and Respondent are provided with a written determination of the result of the appeal of the hearing officer's determination, or, if no appeal is filed, the date on which an appeal would no longer be timely.

If the results of an investigation or hearing show that the complainant knowingly filed false accusations of discrimination or harassment, or that a witness knowingly gave false statements, such individuals will be subject to appropriate disciplinary action.

Appeals

Either the Respondent or the Complainant is entitled to appeal the outcome to an Appeals Officer, who shall be a University Administrator appointed by the University's Chief Operating Officer. However, appeals are only permitted on the basis of:

- Procedural irregularity that affected the outcome;
- New evidence that was not reasonably available at the time the hearing officer's determination of responsibility was made and that could affect the outcome; or
- A conflict of interest or bias for or against complainant's and respondent's generally or the individual complainant or respondent, on the part of the Title IX Coordinator, investigator, or hearing officer, that affected the outcome.

Appeals must be filed within fifteen (15) days of receipt of the hearing officer's determination, and should contain a written statement explaining why one (or more) of the bases of appeal enumerated above apply to this determination. If an appeal is filed by one party, the University shall notify the other party in writing that such appeal has been filed, and shall provide the other party with the opportunity to submit a written statement within fifteen days of notification supporting the hearing officer's determination of responsibility and/or sanctions. Appeals shall be decided within 30 days following the receipt of the other party's written statement, or if the other party does not submit such a statement, within 45 days of receipt of the appeal. Decisions on appeal shall be in writing, and shall include a statement of the outcome of the appeal and rationale for such outcome. The decision shall be provided simultaneously to the Complainant and the Respondent.

OPTIONS FOR REPORTING AND CONFIDENTIALLY DISCLOSING SEXUAL MISCONDUCT

LIU encourages survivors of sexual misconduct to talk to somebody about what happened – so survivors can get the support they need, and so the University can respond appropriately. Different employees on campus have different abilities to maintain a survivor’s confidentiality.

- Some are required to maintain near complete confidentiality; talking to them is sometimes called a “privileged communication.”
- Other employees may talk to a survivor in confidence, and generally only report to the University that an incident occurred without revealing any personally identifying information. Disclosures to these employees will not trigger a University investigation into an incident against the survivor’s wishes.
- Some employees are required to report all the details of an incident (including the identities of both the complainant and respondent) to the Title IX Coordinator. A report to these employees (called “responsible employees”) constitutes a report to the University – and generally obligates the University to investigate the incident and take appropriate steps to address the situation.

This policy is intended to make students aware of the various reporting and confidential disclosure options available to them – so they can make informed choices about where to turn should they become a survivor of sexual misconduct. The University encourages survivors to talk to someone identified in one or more of these groups.

The Options

PRIVILEGED AND CONFIDENTIAL COMMUNICATIONS: PROFESSIONAL AND PASTORAL COUNSELORS

Professional, licensed counselors and pastoral counselors who provide mental-health counseling to members of the school community (and including those who act in that role under the supervision of a licensed counselor) are not required to report any information about an incident to the Title IX coordinator without a survivor’s permission.

A survivor who speaks to a professional or non-professional counselor or advocate must understand that, if the survivor wants to maintain confidentiality, the University will be unable to conduct an investigation into the particular incident or pursue disciplinary action against the alleged perpetrator.

Even so, these counselors and advocates will still assist the survivor in receiving other necessary protection and support, such as survivor advocacy, academic support or accommodations, disability, health or mental health services, and changes to living, working or course schedules. A survivor who at first requests confidentiality may later decide to file a complaint with the school or report the incident to local law enforcement, and thus have the incident fully investigated. These counselors and advocates will provide the survivor with assistance if the survivor wishes to do so.

Reporting to “Responsible Employees.”

A “responsible employee” is a University employee who has the authority to redress sexual misconduct, who has the duty to report incidents of sexual misconduct, or who a student could reasonably believe has this authority or duty.

When a complainant tells a responsible employee about an incident of sexual misconduct, the complainant has the right to expect the University to take immediate and appropriate steps to investigate what happened and to resolve the matter promptly and equitably.

A responsible employee must report to the Title IX coordinator all relevant details about the alleged sexual misconduct shared by the complainant and that the University will need to determine what happened – including the names of the complainant and alleged perpetrator(s), any witnesses, and any other relevant facts, including the date, time and specific location of the alleged incident.

To the extent possible, information reported to a responsible employee will be shared only with people responsible for handling the University’s response to the report. A responsible employee should not share information with law enforcement without the complainant’s consent or unless the complainant has also reported the incident to law enforcement.

Before a complainant reveals any information to a responsible employee, the employee should ensure that the complainant understands the employee’s reporting obligations – and, if the complainant wants to maintain confidentiality, direct the complainant to confidential resources.

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

Responsible employees will not pressure a complainant to request confidentiality, but will honor and support the complainant’s wishes, including for the University to fully investigate an incident. By the same token, responsible employees will not pressure a complainant to make a full report if the complainant is not ready to.

Requesting Confidentiality From the University

How the University Will Weigh the Request and Respond

If a reporting individual or complainant discloses an incident to a responsible employee but wishes to maintain confidentiality or requests that no investigation into a particular incident be conducted or disciplinary action taken, the University must weigh that request against the University’s obligation to provide a safe, non-discriminatory environment for all students, including the complainant.

If the University honors the request for confidentiality, a complainant must understand that the University’s ability to meaningfully investigate the incident and pursue disciplinary action against the alleged perpetrator(s) may be limited.

Although rare, there are times when the University may not be able to honor a complainant’s request in order to provide a safe, non-discriminatory environment for all students.

The University has designated the Title IX Coordinator to evaluate requests for confidentiality once a responsible employee is on notice of alleged sexual violence.

When weighing a complainant’s request for confidentiality or that no investigation or discipline be pursued, the Title IX Coordinator will consider a range of factors, including the increased risk that the alleged perpetrator will commit additional acts of sexual or other violence, such as:

- whether there have been other sexual violence complaints about the same alleged perpetrator;
- whether the alleged perpetrator has a history of arrests or records from a prior school indicating a history of violence;
- whether the alleged perpetrator threatened further sexual violence or other violence against the complainant or others;
- whether the sexual violence was committed by multiple perpetrators;
- whether the sexual violence was perpetrated with a weapon;
- whether the complainant is a minor;
- whether the University possesses other means to obtain relevant evidence of the sexual violence (e.g., security cameras or personnel, physical evidence);
- whether the complainant's report reveals a pattern of perpetration (e.g., via illicit use of drugs or alcohol) at a given location or by a particular group.

The presence of one or more of these factors could lead the University to investigate and, if appropriate, pursue disciplinary action. If none of these factors is present, the University will likely respect the complainant's request for confidentiality.

If the University determines that it cannot maintain a complainant's confidentiality, the University will inform the complainant prior to starting an investigation and will, to the extent possible, only share information with people responsible for handling the University's response.

Even University officers and employees who cannot guarantee confidentiality will maintain privacy to the greatest extent possible. The information provided to a non-confidential resource will be relayed only as necessary for the Title IX Coordinator to investigate and/or seek a resolution.

The University will remain ever mindful of the complainant's well-being, and will take ongoing steps to protect the complainant from retaliation or harm and work with the complainant to create a safety plan. Retaliation against the complainant, whether by students or University employees, will not be tolerated. The University will also:

- assist the complainant in accessing other available survivor advocacy, academic support, counseling, disability, health or mental health services, and legal assistance both on and off campus (see portion of policy identifying these);
- provide other security and support, which could include issuing a no-contact order, helping arrange a change of living or working arrangements or course schedules (including for the alleged perpetrator pending the outcome of an investigation) or adjustments for assignments or tests; and
- inform the complainant of the right to report a crime to campus or local law enforcement – and provide the complainant with assistance if the complainant wishes to do so.

The University may not require a complainant to participate in any investigation or disciplinary proceeding.

Because the University is under a continuing obligation to address the issue of sexual misconduct campus-wide, reports of sexual misconduct (including non-identifying reports) will also prompt the University to consider broader remedial action – such as increased monitoring, supervision or security at locations where the reported sexual misconduct occurred; increasing education and prevention efforts, including to targeted population groups; conducting climate assessments/victimization surveys; and/or revisiting its policies and practices.

If the University determines that it can respect a complainant’s request for confidentiality, the University will also take immediate action as necessary to protect and assist the complainant.

TAKE BACK THE NIGHT AND OTHER PUBLIC AWARENESS EVENTS

Public awareness events such as “Take Back the Night,” the Clothesline Project, candlelight vigils, protests, “survivor speak outs” or other forums in which students disclose incidents of sexual violence, are not considered notice to the University of sexual misconduct for purposes of triggering its obligation to investigate any particular incident(s). Such events may, however, inform the need for campus-wide education and prevention efforts, and the University will provide information about students’ Title IX rights at these events.

STUDENT CONDUCT RECORDS RETENTION POLICY

With the exception of those conduct records which have been successfully appealed by the student, and/or the student was otherwise exonerated of the charges, the existence of all student conduct records and the contents of such records are kept and maintained by the Student Affairs in accordance with the Family Educational Rights and Privacy Act of 1974, as amended; and in accordance with the policies and procedures outlined by Long Island University. While most records will be retained for a period of seven years, at its discretion, the University reserves the right to retain student conduct files permanently in accordance with the policies and procedures outlined by the University; and pursuant to U.S. Department of Education, Office of Civil Rights.

Student conduct records are retained by the Dean of Student Affairs or designee in accordance with the policies and procedures outlined by Long Island University.

Transcript Notations

Article 129-B of the New York State Education Law requires the University to make specific permanent and/or temporary notations on the transcripts of students found responsible for the following conduct prohibited by this Policy: sexual assault, dating violence, domestic violence, and stalking, as follows:

- “Expelled after a finding of responsibility for a code of conduct violation” – where a student has been expelled for sexual violence or another crime reportable under the Clery Act, this notation will be **permanently** added to the student’s transcript.
- “Suspended after a finding of responsibility for a code of conduct violation” – where a student has been temporarily suspended for sexual violence or another crime reportable under the Clery Act.
- “Withdrawal with pending disciplinary action” – where a student has withdrawn from the University while disciplinary charge for sexual violence or another crime reportable under the Clery Act are pending.

Students may request removal of a notation by petitioning the Dean of Students. This request must be in writing and include the rationale for the request. The Dean of Students, or their designee, will review the request and provide a written response within 60 days from the date the request was received. If the University vacates a finding of responsibility for any reason, any such transcript notation shall be removed.

PREVENTION AND EDUCATION

LIU maintains a pro-active approach to the prevention, education, and outreach activities vital to provide a safe environment for all University Community members, visitors and vendors. Programming efforts include but are not limited to, programming activities, bystander intervention processes and programming, educational sessions at Orientations (freshman, transfer and graduate) and periodic training and programming activities throughout the year to ensure a wide dissemination, through a variety of methods including but not limited to electronic delivery, hard-copy, pamphlets, and other programming tools, of information related to the University's sexual misconduct policies, bystander awareness, and domestic violence.

TRAINING

LIU annually provides University-wide education and training opportunities and other periodic training opportunities to ensure a wide dissemination of any and all information related to the University's policies, procedures, and other information.

LIU expects the student population take the course; however, the outcome of the test will not affect a student's academic record in any way. The training takes about 30/45 minutes. This is an important part of the University's continued fight against sexual assault and is required by the university. There is no cost attached and it is non-credit bearing.

All University Title IX Coordinators, Title IX Deputies, Department of Public Safety Officers and Supervisors, Student Affairs Staff Members, and other University responsible employees, complainant advocates – including any member of the University community – that will be responding to, investigating, or adjudicating sexual misconduct will receive adequate training.

CAMPUS SEX CRIMES PREVENTION ACT

The Campus Sex Crimes Prevention Act of 2000 requires institutions of higher education to inform the campus community where to obtain law enforcement agency information provided by a state concerning registered sex offenders. It also requires sex offenders already required to register in a state to provide notice, as mandated under state law, of each institution of higher education in that state at which the person is employed, carries on a vocation, volunteers services or is a student.

The New York State Division of Criminal Justice Services maintains the state's Sex Offender Registry, which contains information about individuals convicted of certain sex offenses. This information is available by calling **800-262-3257** or by visiting <http://www.criminaljustice.ny.gov/nsor/>.

DEFINITIONS

Affirmative Consent

The University's Student Code of Conduct contains the following definition of Affirmative Consent:

Affirmative consent is a knowing, voluntary, and mutual decision among all participants to engage in sexual activity. Consent can be given by words or actions, as long as those words or actions create clear permission regarding willingness to engage in the sexual activity. Silence or lack of resistance, in and of itself, does not demonstrate consent. The definition of consent does not vary based upon a participant's sex, sexual orientation, gender identity, or gender expression.

- Consent to any sexual act or prior consensual sexual activity between or with any party does not necessarily constitute consent to any other sexual act.
- Consent is required regardless of whether the person initiating the act is under the influence of drugs and/or alcohol.
- Consent may be initially given but withdrawn at any time.
- Consent cannot be given when a person is incapacitated, which occurs when an individual lacks the ability to knowingly choose to participate in sexual activity.
- Incapacitation may be caused by the lack of consciousness or being asleep, being involuntarily restrained, or if an individual otherwise cannot consent. Depending on the degree of intoxication, someone who is under the influence of alcohol, drugs, or other intoxicants may be incapacitated and therefore unable to consent.
- Consent cannot be given when it is the result of any coercion, intimidation, force, or threat of harm.
- When consent is withdrawn or can no longer be given, sexual activity must stop.

Bystander

A person who observes a crime, impending crime, conflict, potentially violent or violent behavior, or conduct that is in violation of University policies.

Complainant

An individual who is alleged to be the survivor of conduct that could constitute sexual harassment.

Dating Violence

Violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim. The existence of such a relationship shall be determined based on the reporting party's statement and with consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship. Dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse. Dating violence does not include acts covered under the definition of domestic violence.

Domestic Violence

A felony or misdemeanor crime of violence committed: (a) by a current or former spouse or intimate partner of the victim; (b) by a person with whom the victim shares a child in common; (c) by a person who is cohabitating with, or has cohabitated with, the victim as a spouse or intimate partner; (d) by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred, or (e) 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 in which the crime of violence occurred.

Formal Complaint

Formal complaint means a document filed by a Complainant or signed by the Title IX Coordinator, alleging sexual harassment against a Respondent and requesting that the University investigate the allegation of sexual harassment.

Reporting Individual

Encompasses the term victim, survivor, Complainant, claimant, witness with victim status, and any other reference to an individual who brings forth a complaint under this policy.

Respondent

A person who has been reported to be the perpetrator of conduct that could constitute sexual harassment and/or who has entered LIU's judicial or conduct process (i.e. LIU's investigation process under this Policy).

Sexual Act

Contact between the penis and the vulva or the penis and the anus, and for the purposes of this subparagraph, contact involving the penis occurs upon any penetration, however slight; contact between the mouth and the penis, the mouth and the vulva or the mouth and the anus; or penetration however slight of the anal or genital opening of another by a hand or finger or by any object, with the intent to abuse, humiliate, harass, degrade or arouse or gratify the sexual desire of any person.

Sexual Assault

Any sexual act directed against another person, without the consent of the victim, including instances where the victim is incapable of giving consent. Sexual Assault includes, but is not limited to, rape, fondling, incest, or statutory rape.

Sexual Contact

The intentional touching, either directly or through the clothing, of the genitalia, anus, groin, breast, inner thigh, or buttocks of any person with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person.

Sexual Discrimination

Behaviors and actions that deny or limit a person's ability to benefit from, and/or fully participate in the educational programs or activities or employment opportunities because of a person's sex. This includes but is not limited to sexual harassment, sexual assault, sexual violence by employees, students, or third parties.

Supportive Measures

Non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the Complainant or the Respondent before or after the filing of a Formal Complaint or where no Formal Complaint has been filed.

Sexual Harassment

Sexual harassment is conduct on the basis of sex that satisfies one or more of the following: (1) 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; (2) unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the University's education program or activity; or (3) sexual assault, dating violence, domestic violence or stalking.

Stalking

Engaging in a course of conduct directed at a specific person that would cause a reasonable person to:

(a) fear for the person's safety or the safety of others; or (b) suffer substantial emotional distress.

University Program or Activity

Locations, events, or circumstances over which the University exercised substantial control over both the Respondent and the context in which the sexual harassment occurs, including any building owned or controlled by a student organization that is officially recognized by the University.

POLICY TYPE: OPERATIONS