

Longwood University Sexual Misconduct Policy

Longwood University is committed to providing a healthy living, learning and working environment; an atmosphere that emphasizes the dignity and worth of the individual, which promotes personal integrity, civility and mutual respect, and creates an environment that is free from sexual misconduct and discrimination. Sexual misconduct, sexual discrimination and sexual harassment, are incompatible with Longwood's commitment to diversity and educational equity. Educational training and prevention programs will be provided along with appropriate resources and reporting options. This policy includes all forms of sexual misconduct, including sexual discrimination, sexual harassment, sexual assault, sexual violence, dating and relationship violence, and stalking by employees, students, or third parties. This policy addresses any sexual misconduct that involves members of the Longwood community regardless of whether the incident occurs during working hours and regardless of whether the incident occurs on or off campus. The intent of this policy is to provide the campus community with information, common definitions, and strategies to report and manage incidents that occur.

Eligibility for Assistance

This policy applies to all Longwood students, staff and faculty in all university programs and activities regardless of location of the incident(s). This policy also applies to individuals who join our community as an affiliate or part of an affiliated program. The University will conduct investigations to the best of their ability that may lead to appropriate criminal, personnel, and student conduct actions. Action will be taken to offer Longwood students, staff and faculty immediate resources which may include counseling, medical assistance and living, learning and/or appropriate working environment adjustments.

If the complainant is a Longwood student, staff or faculty member and the accused respondent has no affiliation to Longwood, the complainant shall be offered available resources as appropriate. To the extent possible, the University will address the behaviors defined below towards any member of the Longwood community by non-members, including contractors, alumni, visitors, and any others identified as non-employees or non-students of the University.

If the complainant is a Longwood student, staff or faculty member and the accused respondent is affiliated with Longwood, both the complainant and accused respondent shall be offered available resources as appropriate.

If the complainant is not a Longwood student, staff or faculty member but the accused respondent is affiliated with Longwood, the respondent shall be offered counseling, medical and other resources as appropriate.

Definitions

Sexual Misconduct is a term that encompasses any sexual behaviors that violate Longwood University's Code of Conduct and University Policies. In general, any non-consensual contact of a sexual nature may constitute Sexual Misconduct. Sexual Misconduct may vary in its severity and consists of a range of behaviors or attempted behaviors that may be grounds for conduct action under University policy. The following policy definitions apply:

1. **Consent:** Effective consent is the basis of the analysis applied to unwelcome sexual contact. Lack of consent is the critical factor in any incident of sexual misconduct and sexual violence. Consent is informed, freely and actively given and requires clear communication between all persons involved in the sexual encounter. Consent is active, not passive. Consent can be communicated verbally or by actions. But in whatever way consent is communicated, it must be mutually understandable. Silence, in and of itself, cannot be interpreted as consent. It is the responsibility of the initiator of sexual contact to make sure they understand fully what the person with whom they are involved wants and does not want sexually. Consent to one form of sexual activity does not imply consent to other forms of sexual activity. Previous relationships or consent does not imply consent to future sexual acts. Consent may be withdrawn at any time, by any party to the sexual activity.

Consent cannot be procured by use of physical force, compelling threats, intimidating behavior, or coercion. Coercion is unreasonable pressure for sexual activity. Coercive behavior differs from seductive behavior based on the type of pressure someone uses to get consent from another. Effective consent cannot be given by minors, mentally disabled individuals or persons incapacitated as a result of drugs or alcohol. If a person is mentally or physically incapacitated or impaired so that such person cannot understand the fact, nature or extent of the sexual situation or activity, there is no consent; this includes impairment or incapacitation due to voluntary alcohol or drug consumption by the alleged victim, or being asleep or unconscious. Incapacitation is a state where one cannot make a rational, reasonable decision because they lack the ability to understand the: who, what, when, where, why or how of their sexual interaction. Use of alcohol or other drugs will never function to excuse behavior that violates this policy.

This policy also covers someone whose incapacity results from mental disability, sleep, involuntary physical restraint, or from the taking of a so-called “date-rape” drug. Possession, use and/or distribution of any of these substances, including Rohypnol, Ketamine, GHB, Burundanga, etc. is prohibited, and administering one of these drugs to another person for the purpose of inducing incapacity is a violation of this policy.

2. **Sexual Activity:** includes intentional contact with the breasts, buttock, groin, or genitals, or touching another with any of these body parts, or making another touch oneself or themselves with or on any of these body parts; any intentional bodily contact in a sexual manner, though not involving contact with/of/by breasts, buttocks, groin, genitals, mouth or other orifice. Intercourse however slight, meaning vaginal penetration by a penis, object, tongue or finger; anal penetration by a penis, object, tongue; or finger, and oral copulation (mouth to genital contact or genital to mouth contact).
3. **Sexual Discrimination:** includes all forms of: sexual harassment, sexual assault, and sexual violence by employees, students, or third parties against employees, students, or third parties. Students, University employees, and third parties are prohibited from harassing other students and/or employees whether or not the incidents of harassment occur on the Longwood campus and whether or not the incidents occur during working hours.
4. **Unwelcome Sexual Contact:** includes fondling or touching, either of the complainant, or when the complainant is forced to touch another person's body, directly or through clothing. The definition of fondling is the touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the victim, including instances where the victim is

incapable of giving consent because of their age or because of their temporary or permanent mental incapacity.

5. **Coerced Sexual Intercourse:** includes rape, attempted rape, sodomy, or other sexual acts or misconduct; or when the complainant is incapable of consent by reason of age, mental incapacity (including unwitting consumption of drugs), or physical helplessness. The definition of rape is penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the victim. The definition of incest is sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law. The definition of statutory rape is sexual intercourse with a person who is under the statutory age of consent.
6. **Sexual Exploitation:** Sexual exploitation occurs when an individual takes non-consensual or abusive sexual advantage of another for his/her own advantage or benefit, or to benefit or advantage anyone other than the one being exploited, and that behavior does not otherwise constitute one of the other sexual misconduct offenses. Examples of sexual exploitation include, but are not limited to:
 - a. Prostituting another student;
 - b. Non-consensual video or audio-taping of sexual activity;
 - c. Going beyond the boundaries of consent (such as allowing friends to hide in a closet to watch you having consensual sex);
 - d. Engaging in voyeuristic behavior;
 - e. Knowingly transmitting an STD, STI or HIV to another.
 - f. Disseminating or using video or photographic still images created by any means that depicts another person who is totally nude, or in a state of undress so as to expose the genitals, pubic area, buttocks, or female breast, without consent of the person(s) who are the subject of the video or still images.
7. **Sexual Harassment:** Sexual harassment is unwanted sexual advances, requests for sexual favors, or visual, verbal, or physical conduct of a sexual nature when: (1) submission to such conduct is made a term or condition of employment or the educational relationship; (2) submission to or rejection of such conduct is used as a basis for employment or education decisions affecting the individual; or (3) such conduct has the effect of unreasonably interfering with a student's or employee's work performance or creating an intimidating, hostile, or offensive working, educational, or living environment. While sexual harassment encompasses a wide range of conduct, some examples of specifically prohibited conduct include:
 - a. Promising, directly or indirectly, a student or employee a reward, if the student or employee complies with a sexually oriented request.
 - b. Threatening, directly or indirectly, retaliation against a student or an employee, if the student or employee refuses to comply with a sexually oriented request.
 - c. Denying, directly or indirectly, a student or employee an employment or education related opportunity, if the student or employee refuses to comply with a sexually oriented request. Engaging in sexually suggestive conversation or physical contact or touching another student or employee.
 - d. Displaying pornographic or sexually oriented materials.
 - e. Engaging in indecent exposure.

- f. Making sexual or romantic advances toward a student or employee and persisting despite the student or employee's rejection of the advances.
- g. Physical conduct such as assault, touching, or blocking normal movement.
- h. Retaliation for making harassment reports or threatening to report harassment.

Sexual harassment can involve a person or persons being harassed by members of any sex. Although sexual harassment sometimes involves a person in a greater position of authority as the harasser, individuals in positions of lesser or equal authority also can be found responsible for engaging in prohibited harassment.

Sexual harassment can be physical and/or psychological in nature. The accumulative effect of a series of incidents can constitute sexual harassment even if one of the incidents considered separately would not rise to the level of harassment.

- 8. **Dating and Relationship Violence:** Abuse or violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim. This relationship involves physical or emotional intimacy. Physical intimacy is characterized by romantic or passionate attachment or sexual activity.
 - a. The existence of such a relationship shall be determined based on the complainant'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.
 - b. For the purposes of this definition, dating and relationship violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse.
 - c. Any incident meeting this definition is considered a crime for the purposes of Clery Act reporting.
 - d. To better meet these requirements, if the complainant states that a relationship currently exists, formerly existed, and existed in the past 12 months, etc., it will be counted for Clery reporting purposes.

Dating and relationship violence is abuse or violence between partners or former partners, characterized by one or more of the following elements:

- a. Intentionally causing bodily injury;
 - b. Purposely or knowingly causing reasonable apprehension of bodily injury;
 - c. Emotional abuse creating apprehension of bodily injury or property damage;
 - d. Repeated telephonic, electronic, or other forms of communication -- anonymously or directly -- made with the intent to intimidate, terrify, harass, or threaten;
- 9. **Stalking:** includes repeatedly following, harassing, threatening, or intimidating another by telephone, mail, electronic communication, social media, or any other action, device or method that purposely or knowingly causes emotional distress or apprehension of bodily injury or death. Stalking is a course of conduct directed at a specific person that would cause a reasonable person to fear for her, his, or others' safety or to suffer substantial emotional distress. For the purposes of this definition:
 - a. Course of conduct means two or more acts, including, but not limited to, acts in which the stalker directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, participates in surveillance of, threatens, or communicates to or about a person, or interferes with a person's property.

- b. Reasonable person means a reasonable person under similar circumstances and with similar identities to the victim.
 - c. Substantial emotional distress means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling.
 - d. Any incident meeting this definition is considered a crime for the purposes of Clery Act reporting.
10. **Retaliation:** is action taken by an accused individual or an action taken by a third party or a group of people against any person because that person has opposed any practices prohibited under this policy or because that person has filed a complaint, testified, assisted, or participated in any manner in an investigation or proceeding under this policy. This includes action taken against a bystander who intervened to stop or attempt to stop discrimination, harassment, or sexual misconduct.

Retaliation includes intimidating, threatening, coercing, discouraging or in any way discriminating against an individual because of the individual's complaint or participation in the complaint process. Action is generally deemed retaliatory if it would deter a reasonable person in the same circumstances from opposing practices prohibited by this policy.

Filing a Sexual Misconduct Complaint

All incidents of sexual misconduct and retaliation should be reported. Longwood University's complaint procedures provide for immediate, thorough, and objective investigation of all claims. The University will take appropriate remedial action that is commensurate with the severity of the offense. The University encourages those who have experienced these types of incidents to immediately report them to both the University Title IX Coordinator and Longwood University Police Department. All University employees, except those designated as Confidential Reporting Options, are designated as "responsible employees." Responsible employees are required to promptly report all incidents and/or knowledge of sexual misconduct, including personally identifiable information of the parties involved, to the University Title IX Coordinator. All reports are treated with the maximum possible privacy.

An immediate report to the Longwood Police will enable the preservation of evidence necessary for a successful criminal prosecution. The Longwood University Police Department is trained in collecting and preserving evidence for criminal cases. When evidence exists that could help support a criminal charge or assist the complainant in obtaining protective orders, contacting the Longwood University Police Department immediately, so the evidence may be collected, may ensure that even if the complainant does not want to file a criminal report at this time, the complainant may change their mind at a later date. Evidence collected by the Longwood University Police Department will be retained indefinitely unless destruction is authorized by the Commonwealth of Virginia Attorney. Complainants have the right, however, to choose whether or not to provide a statement to Longwood Police and to choose whether or not to pursue criminal prosecution after such a statement has been made.

Title IX Coordinator and Role of Title IX Coordinator

Jennifer Fraley, Associate Dean of Conduct and Integrity
Office: Lancaster Hall, G-08C;
Office Phone (434) 395-2490, Cell Phone (434) 808-9439
Email: titleix@longwood.edu

Students, staff or faculty who believe they have either witnessed or been subjected to sexual

discrimination, sexual harassment, sexual misconduct, dating and relationship violence, stalking and retaliation should notify the Title IX Coordinator.

After the university receives notice of sexual misconduct or retaliation, it will conduct an impartial investigation. For specifics regarding investigations, see investigation procedures below. Student reporters of misconduct will not be charged with alcohol offenses or other minor violations of the Student Code of Conduct Standards and Regulations disclosed during the reporting process. Minor violations are defined as those that have a minimum sanction of letter of admonition. Please see the Code of Conduct Standards and Regulations within the Student Handbook for more information.

When the complainant and the respondent participate in the same educational opportunities, work in the same employment area and/or reside in the same University residence or in proximity to one another, the University will take immediate steps to separate the individuals and prevent contact, if appropriate. The applicable Vice President or designee will make the appropriate determination regarding alternative arrangements. Alternative arrangements may include, but are not limited to: temporary disciplinary suspension (depending on the severity of the allegations), adjustment of academic schedule or employment, no contact orders, and/or alternative living arrangements.

The Title IX Coordinator can assist with all aspects of the process and is responsible for:

- Convening a review committee consisting of the Title IX Coordinator, Longwood University Police Department Representative and Student Affairs Representative. This committee will meet within 72 hours, and continue to meet as necessary, when notice to the University of an alleged violation of this policy is received. This committee will review and determine if it is necessary to disclose to the appropriate law-enforcement agency, all information of the alleged violation, including personally identifiable information, to protect the health or safety of the individual or community. It is the responsibility of the Longwood University Police Department Representative or designee to notify the appropriate law-enforcement agency and/or Commonwealth of Virginia Attorney.
- Ensuring that both the individual filing the complaint and the individual responding are aware of the seriousness of the complaint.
- Explaining Longwood University's policy and investigation procedures.
- Exploring various means of resolving the complaint.
- Making referrals to Counseling and Psychological Services for counseling or other mental health resources, if appropriate.
- Discussing with the complainant the option of notifying the police if criminal activities are alleged.
- Conducting or arranging for an investigation of the alleged prohibited conduct.
- Arranging support services for the complainant, which could include changes in living arrangements, course schedules, assignments, or tests.
- Arranging interim services to prevent reoccurrence of the alleged prohibited conduct, which could include increased monitoring, supervision, or security at locations or activities where the misconduct occurred and no-contact directives, as necessary.
- Preparing or overseeing any reports, recommendations, or remedial action(s) that are needed or warranted to resolve any prohibited conduct and maintaining all information pertaining to an investigation or complaint in a secure file.
- The Title IX Coordinator is responsible for maintaining records relating to sexual misconduct reports, investigations and resolutions.

- The Title IX Coordinator and Deputy Title IX Coordinators will participate in ongoing sexual misconduct training and maintain a high level of knowledge of the policy and procedures.

Longwood University strictly prohibits retaliation against any person for using this reporting process, or for reporting, providing witness, assisting or participating in any manner in any investigation or proceeding involving allegations. Any person who violates this policy will be subject to discipline, up to and including termination if they are an employee, and/or expulsion if they are a student.

Employees who believe they have either witnessed or been subjected to sexual discrimination, sexual harassment, sexual misconduct, dating and relationship violence, stalking and retaliation notify the Chief Human Resources Officer (Deputy Title IX Coordinator for Employees).

Lisa Mooney, Chief Human Resources Officer
Office: Lancaster Hall, 212
Phone: (434) 395-2074
Email: mooneylj@longwood.edu

Reporting Options

1. Title IX Coordinator: Students, staff or faculty who believe they have either witnessed or been subjected to sexual discrimination, sexual harassment, sexual misconduct, dating and relationship violence, stalking and retaliation should notify the University Title IX Coordinator:

Jennifer Fraley, Associate Dean of Conduct and Integrity
Office: Lancaster Hall, G-08C;
Office Phone (434) 395-2490, Cell Phone (434) 808-9439
Email: titleix@longwood.edu
www.longwood.edu/titleix

2. Making a report with Longwood Police: Persons who wish to file a police report may contact Longwood Police at (434) 395-2091. Office: Dorrill Dining Hall, Ground Floor. Online reporting: <http://www.longwood.edu/police/forms/report-a-crime>
3. Making a Limited Report: Persons who wish to report an incident and desire that the University take no action to investigate this incident, may speak to the Campus Advocate. This option produces a limited report, which includes no generally identifiable information about the complainant. A complainant may later choose to file a complaint with the University Title IX Coordinator and thus have the incident fully investigated to the best of the University's ability. The Campus Advocate may be contacted at Counseling and Psychological Services (CAPS): Health and Fitness Center, Upper Level; Phone: (434) 395-2409.
4. Making a Confidential Report: Persons who wish to report an incident or speak to someone about what happened and desire that the details of the incident be kept confidential, they should speak with staff members of Counseling and Psychological Services (CAPS), University Health Center, or off-campus crisis resources, who will maintain confidentiality. CAPS staff is available to assist students free of charge.

- Counseling and Psychological Services: Health and Fitness Center, Upper Level; Phone: (434) 395-2409
- University Health Center: Longwood Landings, 106 Midtown Ave, Farmville, VA; Phone: (434) 395-2102

In addition, you may go off campus to speak with clergy and chaplains, who will also keep reports made to them confidential. Longwood University has an established Cooperative Agreement with an off-campus crisis resource agency to provide services for those who wish to utilize off-campus confidential crisis resources.

- Madeline's House / Southside Center for Violence Prevention 24-Hour Hotline: (888) 819-2926

Confidentiality

If you would like to report an incident or speak to someone about what happened and you desire that details of the incident be kept confidential, you should speak with staff members of Counseling and Psychological Services, University Health Center or off-campus crisis resources, who will maintain confidentiality. All inquiries, complaints, and investigations are treated with utmost discretion. Information can be released as law and policy permit. However, the identity of the complainant is usually revealed to the person(s) accused of such conduct and any witnesses. A complainant can decide after they talk to the University Title IX Coordinator, whether or not to pursue a Title IX Complaint. In addition to the choice of whether or not to pursue a Title IX complaint, complainants may also request confidentiality in terms of not revealing the complainant's name to a respondent. These requests are evaluated on a case by case basis by the University Title IX Coordinator to determine whether that request can be honored while still providing a safe and nondiscriminatory environment for all students, including the complainant.

Many factors are weighed when determining whether or not to honor a request to withhold the complainant's name from the respondent. These factors include, but are not limited to, when there is a clear and present danger of harm to the complainant or others, when there is knowledge or suspicion of abuse or neglect of minor children or elderly persons, reporting obligations under state law and as otherwise required by law. Additionally, these factors also include circumstances that suggest there is an increased risk of the respondent committing additional acts or there is an increased risk of future acts under similar circumstances, as well as whether the University possesses other means to obtain relevant evidence.

Although a complainant's request to have their name withheld from the respondent may limit the University's ability to respond fully to an individual allegation of sexual misconduct, other means may be available to address the sexual misconduct. There are steps the University can take 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 complainant.

Federal Statistical Reporting Obligations

Certain campus officials (campus security authorities) have a duty to report sexual misconduct for federal statistical reporting purposes. All personally identifiable information is kept private, but statistical information must be passed along to campus law enforcement regarding the type of incident and its general location (on or off-campus, in the surrounding area, but no addresses are given), for publication in the annual Campus Security Report. This report helps to provide the

community with a clear picture of the extent and nature of campus crime, in order to ensure greater community safety.

Mandated federal reporters (campus security authorities) include student/conduct affairs, campus law enforcement, local police, coaches, athletic directors, residence life staff, student activities staff, human resources staff, advisors to student organizations and any other official with significant responsibility for student and campus activities.

Federal Timely Warning Reporting Obligations

Victims of sexual misconduct should also be aware that University administrators must issue timely warnings for incidents reported to them that pose a substantial threat of bodily harm or danger to members of the campus community. The University will make every effort to ensure that a victim's name and other identifying information is not disclosed, while still providing enough information for community members to make safe decisions in light of the danger.

Procedures

1. The Title IX Coordinator shall provide for the adequate, reliable, and impartial investigation of all complaints:
 - Investigations of student versus student complaints shall be coordinated by the University Title IX Coordinator and/or designee.
 - Investigations of student versus employee complaints shall be coordinated by the Chief Human Resources Officer (Deputy Title IX Coordinator for Employee Issues) with support from the University Title IX Coordinator and/or designee.
 - Investigations of employee versus employee complaints shall be coordinated by the Chief Human Resources Officer (Deputy Title IX Coordinator for Employee Issues) and/or designee.
2. Procedure terms associated with the Longwood University Sexual Misconduct Policy are defined below:
 - Appeal:** A proceeding held to determine whether there was a failure to follow policy procedures; determine if additional evidence has come to light that was not available at the time of the University Hearing Board's decision; determine if the sanctioning recommended is out of proportion with, or inappropriate for the offense. An appeal is processed by the University Appeals Board.
 - Complainant:** Individual responsible for filing the initial complaint or Title IX Investigator on behalf of the University.
 - Hearing:** A proceeding held to determine whether to uphold a Title IX Investigation report that has determined a respondent is responsible for a violation of the Sexual Misconduct Policy. A hearing may consist of one or more respondents and is processed by the University Hearing Board.
 - Outcome:** The results of a Title IX investigation, hearing proceeding or appeal proceeding.
 - Respondent:** The individual accused of an alleged violation.
3. Complainant and/or respondent may each select one support person or advisor, who may also be legal counsel, to accompany them during the investigation process, Informal Procedures and Formal Procedures. The support person or advisor may be present with their respective party for all meetings, hearings and appeals, but may not actively participate, address the hearing or appeals board, present arguments, question other parties or witnesses. Please note that a support person or advisor's schedule will not be considered when scheduling any meetings, hearings and/or appeals.

4. Only trained investigators will conduct an investigation; both parties will have the opportunity to review and provide comments to the investigator about their statements before the investigation report is finalized.
5. The University will conduct an investigation to the extent of the information available. If the University obtains independent corroborating information of the misconduct it may determine it necessary to move forward with the investigation procedures and/or remedial measures without the involvement of a complainant.
6. Criminal investigations, separate from the process outlined in this policy, shall be conducted by the Longwood University Police or appropriate law enforcement agency, in parallel with the University's investigation. In cases where students are the subject of a criminal investigation, the University's investigation will commence parallel to or at the conclusion of such investigation.
7. Barring extenuating circumstances the entire process shall be completed within 60 days. Complainants and respondents will be notified if the process cannot be completed within this timeframe.
8. Informal Procedures
Some complaints can be resolved through informal mediation between the parties. The University Title IX Coordinator and/or designee may arrange for, or facilitate mediation between the involved parties and coordinate other informal problem resolution measures.
 - a. Once a report has been made, informal resolution procedures shall be pursued within five business days of the initial report.
 - b. Informal Resolution Procedures are optional and may be used when deemed appropriate. Informal procedures are never applied in cases involving violence or non-consensual sexual intercourse.
 - c. An investigation into the report shall be conducted by the University Title IX Coordinator or designee.
 - d. Once the informal resolution procedure is complete, written notification of the agreed upon resolution shall be given to both parties by the University Title IX Coordinator or designee.
 - e. The involved parties will sign a voluntary agreement specifying the behavioral expectations resulting from the mediation. If re-occurrence takes place, those responsible for such behavior will be subject to additional action, with greater penalties, under this policy.
 - f. If either party is unsatisfied with the outcome of the informal resolution procedure, the formal resolution procedure may be pursued.
9. Formal Procedures
 - a. Once the university has received notice of sexual discrimination, sexual harassment, sexual misconduct, sexual assault, sexual violence, dating and relationship violence, stalking and retaliation, an investigation shall commence within five business days.
 - b. To ensure a prompt and thorough investigation, the complainant should provide as much of the following information as possible:
 - The name, department, and position of the person or persons allegedly committing the misconduct.
 - A description of the incident(s), including the date(s), location(s), and the presence of any witnesses.
 - The alleged effect of the incident(s) on the complainant's educational opportunities, living situation, position, salary, benefits, promotional opportunities, or other terms or conditions of employment.

- The names of other students or employees who might have been subject to the same or similar misconduct.
- Any steps the complainant has taken to try to stop the misconduct, if appropriate.
- Any other information the complainant believes to be relevant to the misconduct.
- c. The investigator shall determine, by a preponderance of evidence, whether the respondent violated this policy. Preponderance of evidence means that it is more likely than not that a violation occurred. If the investigator determines that the respondent did not violate this policy, the matter will be closed.
- d. At the completion of the investigation, both the respondent and complainant will be informed within five working days, in writing, of the outcome of the investigation.
- e. Both the complainant and respondent are entitled to a copy of the investigators' report, redacted of any personally identifiable information. The redacted report shall be provided to the complainant or respondent within two working days after the University Title IX Coordinator or designee has received a written request. The non-redacted report may be viewed by the complainant and respondent at any time during normal business hours.
- f. If it is determined by a preponderance of the evidence that a violation did occur, the respondent may accept findings of the investigation and the sanctions / measures determined by the University Title IX Coordinator or designee to prevent the violation's recurrence; or challenge the findings and request a hearing. The respondent must, within five working days from the written notification of the outcome of the investigation, make a decision to, accept the findings or challenge the findings and sanctions / measures, and request a hearing. The University Title IX Coordinator or designee reserves the right to send the case to the University Hearing Board for sanction/measures recommendations only, in investigations that the respondent has been found responsible and accepts those findings.
- g. The complainant may decide, subsequent to the filing of formal charges against the respondent, to withdraw the complaint. The university will, however; still proceed based on the investigative findings.

Procedures for Hearings on Violations of the Sexual Misconduct Policy

1. The University Hearing Board will conduct hearings regarding alleged violation(s) of this policy.
2. A University Hearing Board hearing will proceed in the following manner:
 - a. Hearings conducted by the University Hearing Board are closed to the public. The only individuals allowed to be present are active participants in the hearing process: the complainant, the respondent, an advisor for each, the investigator (s), the University Hearing Board, witnesses, and necessary university administrators. Either the complainant or the respondent may dispute the presence of individuals in the hearing room. The hearing board will make the final decision.
 - b. The hearing will be non-adversarial and strict rules of evidence will not be applied.
 - c. The hearing board members and all aforementioned participants are introduced.
 - d. Participants state any questions they have concerning rights or procedures.
 - e. The statement of charges is presented.
 - f. The respondent enters a plea of responsible, not responsible or no plea.
 - g. Testimony phase: During the testimony phase of the hearings, cross-examination will be conducted by the hearing board in the presence of the University and complainant, the respondent and their respective advisors. Witnesses may only be present when actively giving testimony. Advisors may be present with their respective parties for all testimony, but may not actively participate, address the hearing board, present arguments or question witnesses.

- h. The respondent, the complainant and/or University, may each present an opening statement and a closing statement before the Board. The respondent and complainant and/or University may view each other's statements on live video feed.
 - i. The respondent and complainant and/or University may present evidence and witnesses. Witnesses may be cross-examined by the hearing board in opposing party's presence. The board will privately cross-examine the respondent, the complainant, and any witnesses they deem necessary. The respondent and complainant and/or University may view testimony on live video feed.
 - j. The respondent and the complainant and/or University may each submit a list of questions to the board's chairperson for the board to consider. The past sexual history or sexual character of a party to the complaint, complainant or respondent, with anyone other than each other, will not be admissible. Notwithstanding the above, demonstration of pattern, repeated, and/or predatory behavior by the respondent, in the form of previous findings in any University, judicial or student conduct proceeding will be admissible. The parties will be notified in advance of the hearing if any information addressed by this paragraph is deemed admissible.
 - k. After all of the evidence has been introduced, the parties will be excused from the room so that the board may deliberate.
 - l. The University Hearing Board shall determine, by a preponderance of evidence, whether the respondent violated this policy. Preponderance of evidence means that it is more likely than not that a violation occurred. If the University Hearing Board determines that the respondent did violate this policy, the complainant will be allowed to submit a statement regarding the impact that the misconduct has had on the educational, living and/or working environment of the complainant.
 - m. When the board has made a decision regarding responsibility, the parties will be invited back into the room for a reading of the decision and any recommended sanctions.
3. The outcome of the hearing and any recommended sanctions will be forwarded to the applicable Vice President or designee immediately following the hearing if no appeal is filed: The Associate Dean of Conduct & Integrity in the case of a student respondent, the Provost and Vice President of Academic Affairs in the case of a faculty respondent, and the Vice President of Administration and Finance in the case of a classified staff or administrative employee.
 4. Both the respondent and complainant will be informed within five working days, in writing, of the outcome of the hearing and the appeal (if an appeal is filed) and of any sanctions being recommended to the applicable Vice President or designee. If the complainant is deceased as the result of the alleged violation, the next of kin of such complainant shall be treated as the complainant for purposes of this paragraph, upon written request.

Composition of the University Hearing Board

1. A five-member University Hearing Board will be appointed by the University Title IX Coordinator, on a per-case basis from a pool of trained members: no less than 6 faculty and 6 staff. The chair of the hearing board is a non-voting member, except in cases of a tie, who leads the hearings and facilitates discussion among board members. The University Title IX Coordinator will serve as a non-voting advisor to the chair. All Board members are appointed annually and serve from October 1 - September 30.
2. The pool of candidates for the University Hearing Board shall be nominated by:
 - Faculty Senate, Executive Committee (faculty members).
 - Vice President for Student Affairs and Vice President for Finance and Administration (staff).

3. In the case of a faculty respondent, at least three members of the University Hearing Board shall be faculty, in the case of a professional staff respondent; at least three members of the University Hearing Board shall be staff (except in cases where there is not sufficient availability in the pool of trained members).
4. The complainant and/or respondent can request board members to recuse themselves from the hearing for actual or perceived bias or other conflict of interest. The final decision regarding this request will be made by the University Title IX Coordinator based on the information provided by the requesting party. Board members may also recuse themselves if they feel they cannot or should not hear a particular case.
5. The University Hearing Board panel will be trained by the University Title IX Coordinator regarding hearing procedures, evaluation of evidence, Title IX requirements and other relevant subjects, as needed.
6. Individuals cannot serve on both the University Hearing Board panel and the University Appeals Board panel during the same academic year.

Appeals

1. Appeals will be heard by the University Appeals Board.
2. Respondents and complainants have the right to one appeal each of the University Hearing Board's decision.
3. Appeals must be filed within three working days of the University Hearing Board's written decision. To file an appeal, students and employees must fill out the appeal form provided with written notice of the University Hearing Board's decision.
4. Appeals may only proceed based on one of three reasons:
 - a. Failure to follow policy procedures.
 - b. Additional evidence has come to light that was not available at the time of the University Hearing Board's hearing.
 - c. The sanction received is out of proportion with the offense.Eligibility for an appeal based on the above reasons will be determined by the Title IX Coordinator or designee.
5. The University Appeals Board will convene within five working days of the receipt of the appeal. All parties will receive notice of the time and place of the appeal.
6. The appeal will be non-adversarial and strict rules of evidence will not be applied.
7. The outcome of the appeal and any recommended sanctions will be forwarded to the applicable Vice President or designee immediately following the appeal: The Associate Dean of Conduct & Integrity in the case of a student respondent, the Provost and Vice President of Academic Affairs in the case of a faculty respondent, and the Vice President of Administration and Finance in the case of a classified staff or administrative employee.

8. Both the respondent and complainant will be informed within five working days, in writing, of the outcome of the appeal and of any sanctions being recommended to the applicable Vice President or designee. If the complainant is deceased as the result of the alleged violation, the next of kin of such complainant shall be treated as the complainant for purposes of this paragraph, upon written request.

Composition of the University Appeals Board

1. A three-member University Appeals Board will be appointed by the University Title IX Coordinator, on a per-case basis from a pool of trained members: no less than 6 faculty and 6 staff. All Board members are appointed annually and serve from October 1 - September 30.
2. The pool of candidates for the University Appeals Board shall be nominated by:
 - The Faculty Senate, Executive Committee (faculty members).
 - Vice President for Student Affairs and Vice President for Finance and Administration (staff).
3. In the case of a faculty respondent, at least two members of the University Appeals Board shall be faculty, in the case of a professional staff respondent; at least two members of the University Appeals Board shall be staff (except in cases where there is not sufficient availability in the pool of trained members).
4. The complainant and/or respondent can request board members to recuse themselves from the appeal board for actual or perceived bias or other conflict of interest. The final decision regarding this request will be made by the University Title IX Coordinator based on the information provided by the requesting party. Board members may also recuse themselves if they feel they cannot or should not hear a particular case.
5. The University Appeals Board will be trained by the University Title IX Coordinator regarding hearing procedures, evaluation of evidence, Title IX requirements and other relevant subjects, as needed.
6. Individuals cannot serve on both the University Hearing Board and the University Appeals Board during the same academic year.

Postponement of Hearings and Appeals

A respondent or complainant may request one postponement of a hearing or appeal by contacting the University Title IX Coordinator at least two (2) business/working days prior to the scheduled hearing or appeal, unless extenuating circumstances exist. Postponement will be allowed only under the following conditions:

- a. The respondent/complainant has an academic conflict;
- b. The respondent/complainant is unable to produce necessary witnesses on the scheduled date of the hearing;
- c. The respondent/complainant has a family emergency;
- d. The respondent/complainant is too ill to attend the hearing;
- e. The respondent/complainant cannot attend because of a religious holiday.

The Title IX Coordinator may require written verification of the reason claimed.

Rights of the Complainant

1. The right to have a support person or advisor throughout the process, who may also be legal counsel.
2. The right to remain present, either in person or via live feed, throughout the entire hearing (not including the deliberative process).
3. The right to attend a pre-hearing meeting with the University Title IX Coordinator or designee.
4. The right to have access to existing campus counseling and support services.
5. The right to interim services to prevent reoccurrence of the behavior.
6. The right to freedom from retaliation by the respondent (or supporters of the respondent).
7. The right to be notified of the time, date and place of the scheduled hearing and appeal, if applicable, at least 72 hours prior to the hearing or appeal.
8. The right to submit a statement of how the misconduct has impacted the educational, living and/or working environment of the complainant.
9. The right to know the outcome of the investigation, the outcome of the hearing, appeal and the sanctions, remedies and corrective actions taken by the University.
10. The right to be informed of the ability to request changes in academic, employment and living situations.
11. The right to request a single appeal of the outcome of the University Hearing Board's decision and recommended sanctions (if necessary).

Rights of the Respondent

1. The right to a support person or advisor throughout the process, who may also be legal counsel.
2. The right to remain present during the entire hearing either in person or via live video feed (not including the deliberative process).
3. The right to attend a pre-hearing meeting with the University Title IX Coordinator or designee.
4. The right to have access to existing campus counseling and support services.
5. The right to freedom from retaliation by the complainant (or supporters of the complainant).
6. The right to notice of allegations and the opportunity to testify.
7. The right to be presumed not responsible unless shown responsible by a preponderance of the evidence.
8. The right to a timely hearing.
9. The right to notification of the charges, the specific rule or policy violated, and the time, date and place of the scheduled hearing and appeal, if applicable, at least 72 hours prior to the hearing or appeal.
10. The right to notification of any information that may be used in the hearing.
11. The right to request a single appeal of the outcome of the University Hearing Board's decision and recommended sanctions (if necessary).

Sanctions, Remedies and Corrective Actions

Violations of this policy will be addressed through the sanctions, remedies and corrective actions listed below. The severity of sanctions, remedies or corrective action depends on the facts and circumstances of the offense and/or any history of past conduct that violates this policy. Sanctions, remedies and corrective actions could include (but are not limited to):

- A requirement not to repeat or continue the conduct.
- Reprimand.
- Reassignment.

- Disciplinary Probation.
- Disciplinary Suspension.
- Termination of employment.
- Expulsion.

Student Records

Compliance with the provisions in this policy does not constitute a violation of the General Education Provisions Act (20 U.S.C. § 1232g; 34 CFR Part 99), commonly known as the Family Education Rights and Privacy Act of 1974 (FERPA). Longwood student records policies comply fully with the Family Educational Rights and Privacy Act (FERPA) of 1974, as amended, of the General Education Provisions Act. The accumulation, processing, and maintenance of student data by the University are limited to that information, which is necessary and relevant to the purposes of the University. Personal data of students will be used only for the purpose for which it is collected.

Academic Transcripts – Pursuant to Virginia Code § 23-9.2:15

A prominent notation shall be placed on the academic transcript of any student who has been found responsible and expelled or suspended for sexual violence, which includes the following as defined by this policy: sexual activity, unwelcome sexual contact, coerced sexual intercourse, and dating and relationship violence. The language will read as follows: Expelled – For a Violation of the University’s Code of Conduct Standards and Regulations, or, Suspended – For a Violation of the University’s Code of Conduct Standards and Regulations. The notation shall be removed from the transcript when the student has completed the term of the disciplinary suspension, completed any conditions of the disciplinary suspension, and has been determined by Longwood University to be in good disciplinary standing.

A prominent notation shall be placed on the academic transcript of any student who withdraws prior to the final outcome of an investigation, hearing and/or appeal that alleges sexual violence, which includes the following as defined by this policy: sexual activity, unwelcome sexual contact, coerced sexual intercourse, and dating and relationship violence. The language will read as follows: Withdrawal while under Investigation – For a Violation of the University’s Code of Conduct Standards and Regulations. The notation shall be removed from the transcript when the student is subsequently found not responsible for a violation of this policy, or not suspended or expelled as a result of a violation of this policy.

Academic Freedom and Free Speech

This policy does not allow censorship of constitutionally-protected speech, which is valued in higher education and by Longwood University. In addressing all complaints and reports of alleged violations of this policy, Longwood University will take all permissible actions to ensure the safety of students and employees while ensuring free speech rights of students and employees. This policy does not in any way apply to curriculum and curriculum decisions or limit the use of particular textbooks or curricular materials.