

# **Lindsey Wilson College**

## **Title IX and Sexual Misconduct Policy**

**Policy 08-07**

### **Purpose**

### **Policy**

No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance. – Title IX of the Education Amendment of 1972

### **Statement of Nondiscrimination**

Lindsey Wilson College does not discriminate on the basis of race, color, national origin, sex, disability, or age in its programs and activities as required by Title IX of the Educational Amendments of 1972, the American with Disabilities Act of 1990, Section 504 of the Rehabilitation Act of 1973, Title VII of the Civil Right Acts of 1964, and other applicable statutes and College policies. College programs and activities include but are not limited to athletics (NAIA and club sports), admissions, financial aid, and employment.

Lindsey Wilson College will not tolerate any form of sexual misconduct. The College is required by law to investigate complaints of sexual misconduct. The College has a responsibility to investigate and ensure a fair, effective, comprehensive, and timely response to complaints. The College will take prompt and effective action to address allegations of sexual misconduct.

If you would like further information, or to file a complaint, please contact:

Andy McAllister  
Title IX Coordinator  
L.R. McDonald Administration Building  
210 Lindsey Wilson St. Columbia, KY 42728  
270-384-8036  
titleixcoordinator@lindsey.edu

For further information on notice of non-discrimination, visit <http://wdcrobcolp01.ed.gov/CFAPPS/OCR/contactus.cfm> for the address and phone number of the Office of Civil Rights that serves your area, or call 1-800-421-3481

## Sexual Misconduct Policy

### **1. INTRODUCTION**

Lindsey Wilson College is committed to providing an environment free from all forms of sexual misconduct, examples of which can include acts of sexual violence, sexual harassment, domestic violence, dating violence, and stalking. All employees, students, guests, visitors, and third party affiliations of the College are expected to conduct themselves in a manner that does not infringe upon the rights of others. Instances of sexual misconduct, in any form, will not be tolerated. If an allegation of sexual misconduct is reported to an appropriate College official (Board of Trustee, Administrator, Faculty, and/or Staff), protective and other remedial measures will be used to reasonably ensure that such conduct ends, is not repeated, and the effects on the victim and community are remedied, including appropriate sanctions when a responding party is found to have violated this policy. Lindsey Wilson College employees at all levels are responsible for taking reasonable and necessary action to prevent, address and respond to sexual misconduct.

“Sexual misconduct” is a term that encompasses a broad range of behavior, from harassing statements to criminal sexual assault. Any individual who has been the target of sexual misconduct, stalking, or relationship abuse or violence has the option to make a report to local law enforcement agencies, file a complaint with Lindsey Wilson College’s internal complaint procedure as outlined in this Policy, to do both, or to do neither.

The College’s Sexual Misconduct Policies are not meant to inhibit or prohibit educational content or discussions inside or outside of the classroom that include controversial or sensitive subject matters protected by academic freedom. Academic freedom extends to topics that are pedagogically appropriate and relevant to the subject matter of courses or that touch on academic exploration of matters of public concern.

The College uses the preponderance of the evidence (also known as “more likely than not”) as a standard for proof of whether a violation occurred. In campus resolution proceedings, legal terms like “guilt”, “innocence” and “burdens of proof” are not applicable, but the College never assumes a responding party is in violation of the College policy. Campus resolution proceedings are conducted to take into account the totality of all evidence available, from all relevant sources.

This policy has been developed to reaffirm these principles and to provide recourse for those individuals whose rights have been violated. These policies are not and should not be construed to be a replacement or alternative for the criminal justice system. Rather, they provide avenues through which the campus community may work to create a better environment.

### **2. SCOPE OF THE POLICY**

This Policy outlines the procedures that apply to sexual misconduct. The Lindsey Wilson College community, including faculty, staff, students, visitors, guests, and third party affiliations is subject to this Policy. The Sexual Misconduct Policy applies to any act(s) of sexual misconduct that occurs:

- On campus or any other College property owned, leased, and/or controlled by the college.
- During any College programs and activities, including but not limited to internships, study abroad locations, and/or research activities.
- And applies to the conduct of third parties who are not College employees or students (visitors, vendors, contracted professionals, guests, etc).

The Lindsey Wilson College community is required to comply with the policy and procedures outlined to address sexual misconduct complaints. In addition to the procedures outlined herein, discrimination and harassment complaints may be filed with the U. S. Equal Employment Opportunity Commission or U. S. Department of Education, Office for Civil Rights. Any complaint of sexual harassment filed under the College's policy shall be processed even if the complainant also files a complaint or suit with an outside agency, U. S. Equal Employment Opportunity Commission or U. S. Department of Education, Office for Civil Rights. Retaliation against anyone who makes a complaint or participates in the complaint process will not be tolerated.

### **Confidentiality**

If the victim requests confidentiality of their report, the College will take all reasonable steps to respond consistently with the request. Different employees on campus have different abilities to maintain confidentiality.

As a general rule, the College will not conduct an investigation into the report or take any remedial action without first obtaining consent, and will conduct any investigation and respond to the report consistent with the request for confidentiality or request not to pursue action. The College's ability to respond to a report may be severely limited if the Complainant requests confidentiality or asks that the report not be pursued. Refer to the section below on Requests for Confidentiality for additional information about confidentiality and the College's investigation of reports.

In the event the College's internal complaint resolution procedures are initiated, all persons participating in that process will pledge in writing to maintain in confidence all matters presented in the process. The college will limit disclosure of information to those individuals involved in the College's response to the report and to legally required and permitted disclosures.

### **3. Options for Assistance Following an Incident of Sexual Misconduct**

If you are in an emergency situation, go to a safe location and call 911.

The following procedures are encouraged:

1. Immediately seek a safe place.
2. Contact local authorities, Campus Public Safety and Security, Residence Life member, a responsible employee, friend, etc.
3. Seek medical care immediately at any emergency medical facility.

4. Report sexual violence/assault to local authorities or a responsible employee.

The College encourages you to report any instance of sexual misconduct to campus personnel so we may provide you with support, assistance and resources. Any Lindsey Wilson College employee can also assist you in contacting other resources both on and off campus.

### **On Campus Immediate Assistance Options**

The following resource options are available for **immediate assistance**, regardless of whether the victim chooses to make an official report or participate in an investigation or criminal process. Public Safety and Security is available to contact any on and off campus resource(s) after normal business hours.

- **Public Safety & Security (24 Hours):**
  - **270-384-8106**

Public Safety and Security can assist you with personal safety, seeking medical attention, preserving evidence, or filing a police report. Public Safety and Security also can contact other on- and off-campus resources to assist you.

- **Title IX Coordinator:**
  - **270-384-8036**

The Title IX Coordinator ensures that all students, faculty, and staff receive appropriate resources, support, and response/reporting options to eliminate and address sexual misconduct.

- **Counseling Services (The Adanta Counseling Group):**
  - **270-384-7484 or 270-634-2730**

Counseling Services is a confidential resource for students seeking medical assistance or psychological counseling. The Counselor can assist you in seeking immediate emergency medical care at a local hospital and/or provide additional counseling resources. An individual can call the counselor to address a psychological emergency. Calls are fully confidential, as with all counseling services, with exception made only in the case of imminent harm or as required by law.

- **Residence Life**
  - **Men's Housing: 270-384-8521**
  - **Women's Housing: 270-384-8375**

The Residence Life Staff (Resident Directors and Managers and Resident Assistants) is trained to assist with personal safety, seeking medical attention, preserving evidence, and responding to emergencies. Residence Life can help connect you with on- and off-campus resources.

- **Student Services:**
  - **270-384-8036**

Student Services can connect an individual to various campus resources. Student Services can aid with personal safety, seeking medical attention, reporting incidents, and filing allegations of Title IX complaints/violations.

**Off-Campus Immediate Assistance Options:**

Local Law Enforcement: 911 (24 Hours)

- KY State Police Post:
  - 270-384-4796
- TJ Samson Columbia:
  - 270-384-4753
- Rape Crisis Center (24 Hours):
  - 1-800-633-5599
- Adanta Sexual Assault Resource Center:
  - 1-800-656-4673

**Health Care/Medical Service Providers (Off-Campus Services):**

- TJ Samson Columbia, Columbia, KY
  - 270-384-4753
- Taylor County Regional Hospital, Campbellsville, KY
  - 270-465-3561
- Russell County Hospital, Russell Springs, KY
  - 270-866-4141
- Casey County Hospital, Liberty, KY
  - 606-787-6275
- Cumberland County Hospital, Burkesville, KY
  - 270-864-2511
- TJ Sampson Community Hospital, Glasgow, KY
  - 270-651-4444
- Jane Todd Crawford Hospital, Greensburg, KY
  - 270-932-4211

**Seeking Treatment Options:**

The medical service providers listed above are available for treatment of injuries, preventative treatment for sexually transmitted diseases, other health services, and consultations. Medical treatment and a forensic examination may aid in the preservation of relevant evidence. Kentucky law requires all medical personnel to report to law enforcement when a victim seeks treatment for injuries related to a violent crime, including sexual assault. Medical personnel are also required to report to law enforcement and/or Child Protective Services when a minor presents for treatment for any injury or condition that reasonably indicates it was caused by violence or abuse, including physical or sexual

abuse. Medical personnel are also required to report to law enforcement and/or Adult Protective Services when certain vulnerable adults present and there is reasonable belief that they are victims of adult abuse, neglect, or exploitation.

### **Preservation of Evidence**

If you have experienced sexual assault, evidence of the assault may be left on your body. You should take steps to preserve evidence of the assault even if you have not made a decision to file a criminal report. If the assault occurred within the past 96 hours, you are strongly encouraged to receive an exam from a sexual assault nurse examiner (SANE) at a local hospital. It is important that you not bathe, wash, douche, smoke, or change clothing prior to the exam so that evidence may be preserved. If you do not opt for forensic evidence collection, health care providers can still treat injuries and take steps to address concerns of pregnancy and/or sexually transmitted infection(s).

There may also be physical evidence of the assault at the location where you were assaulted. A College Official can assist you in the collection and preservation of physical evidence even if you have not yet decided whether to file a criminal report. It is important that you not clean the bed/linen/area where you were assaulted so that evidence may be preserved. In all cases of sexual misconduct, domestic violence, dating violence, or stalking, you are encouraged to preserve evidence by saving text messages, instant messages, social networking pages, other communications, and keeping pictures, logs, or other documents, if any, that would be useful to the investigation and complaint resolution process and/or to police.

### **Sexual Assault Nurse Examiner (SANE) Nurse/Rape Kits**

A Sexual Assault Nurse Examiner (SANE) is a Registered Nurse who has received special training so that s/he can provide comprehensive care to sexual assault victims. In addition s/he is able to conduct a forensic exam and may provide expert testimony if a case goes to trial.

- The nearest SANE Nurse is available at:
  - Russell County Hospital, Russell Springs, KY
    - 270-866-4141

\*For locations of SANE Nurse's in your area, a Victim's Advocate or Crisis Resource Center can provide further information when contacted.

- Rape Kits
  - Rape Kits are available and can be performed at a majority of local hospitals near the victim's location.

### **Resources and Support**

- Victims Advocate
  - 606-679-4782 ext. 2379
- Adanta Sexual Assault Resource Center, Somerset, KY
  - 1-800-633-5599
- Silverleaf Sexual Trauma Recover Services, Elizabethtown, KY
  - 1-877-672-2124

- The Center for Women & Families, Louisville, KY
  - 1-877-803-7577
- Bluegrass Rape Crisis Center, Lexington, KY
  - 1-859-253-2615
- Hope Harbor, Bowling Green, KY
  - 1-800-656-4673
- Cumberland River Victims Services, Corbin, KY
  - 606-523-2520

**Ongoing Assistance Options**

The following resources are available for ongoing assistance, regardless of whether the victim chooses to make an official report or participate in an investigation or criminal process. As stated in the “Reporting and Confidentiality” section below are some of these resources and may be subject to mandatory reporting requirements. This policy indicates the level of confidentiality offered by each of the listed on-campus resources.

**On-Campus On Going Assistance:**

- Counseling Services (The Adanta Counseling Group):
  - 270-384-7484 or 270-634-2730
- College Chaplin and Assistant Chaplins
  - 270-384-8148
  - 270-384-8144
  - 270-384-7322
  - 270-384-7318

**Off-Campus On Going Assistance:**

These resources listed below may provide additional assistance during the criminal process as well.

- The Adanta Clinic
  - 200 E Frazier Ave Columbia, KY 42728
  - 270-384-4719
- Adanta Victim Advocate
  - 606-679-4782 ext. 2379
- Pollard Counseling Services LLC
  - 203 Burkesville St Columbia, KY 42728
  - 270-384-1198
- Grey Counseling Services LLC
  - 933 Russell Rd #93 Columbia, KY 42728
  - 270-384-1736
- Somerset Mental Health PSC

- 933 Russell Rd Columbia, KY 42728
- 270-384-1270
- 1-877-301-1106
- The Rape Victim Assistance Program
  - 502-696-5500
- Kentucky Association of Sexual Assault Programs
  - 502-226-2704
- The Sexual and Domestic Violence Program of the Department of Mental Health
  - 502-564-4448
- Kentucky Coalition Against Domestic Violence
  - 1-800-779-7233

### **Academic Accommodations and Interim Measures**

Interim measures are those services, accommodations, or other assistance that the College puts in place for victims after receiving notice of alleged sexual misconduct but before any final outcomes – investigatory, disciplinary, or remedial – have been determined. Upon receiving an alleged complaint, the Title IX Coordinator or designee will take appropriate immediate actions to protect the safety and well-being of the individuals involved in an alleged complaint of sexual misconduct. Generally, such actions include but are not limited to the following:

- No-contact order between Respondent and Complainant. Such a directive serves as notice to both parties that they must not have verbal, electronic, written, or third-party communication with one another
- Limiting access to certain college facilities or activities (including “social probation”)
- Limiting access to campus to specific times of day
- Alteration of class schedules
- Alteration of on-campus housing arrangements
- Alteration/establishing on-campus dining arrangements
- Removal from on-campus housing
- Changing campus work schedules or job assignments
- Suspension or termination from on-campus employment
- Suspension from athletic teams or other student organizations
- Rescheduling of lectures, exams, papers, or other assignments
- Taking an incomplete in a class
- Authorized withdrawal from a class
- Alternative course completion options
- Voluntary leave of absence
- Access to counseling services
- Providing an escort to ensure safe movement between classes and activities
- Providing academic support services



- Additional academic accommodation and interim measures can be tailored to the involved individuals to achieve the goals of this Policy

#### **4. TITLE IX COORDINATOR**

The Title IX Coordinator for Lindsey Wilson College is:

Andy McAllister  
 Assistant Dean of Students and Title IX Coordinator  
 210 Lindsey Wilson St, Columbia, KY 42728  
 270-384-8036  
 titleixcoordinator@lindsey.edu  
 L.R. McDonald Administration Building, 3<sup>rd</sup> Floor

To reach the Title IX Coordinator after hours or in an emergency, please contact Public Safety at 270-384-8106.

#### **Core Job Duties and Responsibilities:**

- Coordinate Title IX efforts including the development, implementation, and monitoring of appropriate disclosures, policies and procedures, and practices designed to comply with federal and state legislation, regulation, and case law requiring the prompt and equitable resolution of all complaints pursuant to Title IX
- Provide leadership, direction and supervision for all activities and personnel of the Title IX program including consulting with relevant policy-making bodies and senior personnel for the purpose of advising, clarifying and identifying necessary action to eliminate sex and/or gender-based discrimination in all education programs and activities, to ensure that access to facilities, opportunities, and resources is gender equitable through Lindsey Wilson College
- Provide ongoing training, consultation, and technical assistance on Title IX for all students and employees, with specialized training content for hearing officers/boards, investigators, Public Safety and appeals officers
- Develop, implement and coordinate campus and/or school-based strategic efforts aimed at the prevention of sexual violence and other forms of sex and/or gender-based discrimination
- Develop and disseminate education materials, including brochures, posters, and web-based materials that inform members of the school or campus community (students, faculty, administrators, staff, and parents) of Title IX rights, responsibilities and resources both within and external to school/campus premises
- Oversee prompt, effective, and equitable intake, investigation, processing, issuing of findings of fact, and timely resolution of all instances of sex/gender discrimination made known to responsible employees and/or reported or filed by students, faculty, employees, third parties, or by members of the broader community
- Oversee Title IX compliance efforts of the Lindsey Wilson College community and campuses
- Provide appropriate notice of an investigation; determine the extent of an investigation, appoint, train, and supervise Title IX investigators and any deputy coordinators, oversee investigation efforts; ensure provision of initial remedial actions assure compliance with timelines; deliver appropriate notice of charge, notice of hearing, notice of outcome, duty to

warn, and remedies, and provide a repository for and source of institutional record-keeping (may also be delegated)

- Provide guidance and assistance to alleged victims of sexual assault violence and sex/gender discrimination including the referral to support resources, notice of right to file internal grievances, notice of the right to grieve to the US Department of Education Office for Civil Rights, and notice of the right to report incidents to law enforcement
- Monitor institutional compliance provide ongoing consultation of Section 504 of the Rehabilitation Act of 1973 and related federal and state laws prohibiting discrimination and harassment (OCR enforces both Section 504 and Title IX, but joint responsibility may not fall to Title Coordinator for all campuses)
- Organize and maintain grievance files, disposition reports, and other records regarding Title IX compliance, including annual reports of the number and nature of filed complaints and the disposition of said complaints, data collection, climate assessment, pattern monitoring
- Serve as principal contact for government inquires pursuant to Title IX

### **Title IX Coordinator Core Competencies**

The Department of Education does not specify any training, education or degree requirements, but the following knowledge, skills and abilities are implied:

- Ability to recommend and/or effect changes to policies, to revise practices and to implement equitable procedures across many departments, including human resources, athletics, academic affairs, and student affairs/student conduct/discipline
- Knowledge of current state and federal law and regulations, institution-specific policies, practices and procedures
- Ability to identify best practices and trends in the field of education related to harassment and other discriminatory practices that violate Title IX
- Ability to manage a caseload of grievances to a prompt effective and equitable remedy
- Maintain professional qualifications through ongoing training and professional development
- Ability to design and deliver training programs to all constituencies of the campus, demonstrate accountability with respect and assess the effectiveness of these trainings
- Ability to build relationships and balance the multiple, varying and even conflicting interests of diverse stockholders around a politically charged subject matter

### **5. DEFINITIONS:**

#### **Accused**

The alleged perpetrator of any form of sexual misconduct/assault and/or harassment. This individual can also be defined and/or referred to as a respondent.

#### **Awareness programs**

Community-wide or audience-specific programming, initiatives, and strategies that increase audience knowledge and share information and resources to prevent violence, promote safety, and reduce perpetration.

#### **Bullying**

Bullying or cyber-bullying is harassing conduct that may take many forms, including verbal acts and name-calling; graphic and written statements, which may include the use of cell phones or the Internet; or other conduct that may be physically threatening, harmful, or humiliating. Harassment does not have to include intent to harm, be directed at a specific target, or involve repeated incidents. Bullying or cyber-bullying creates a hostile environment when the conduct is sufficiently severe, pervasive, or persistent so as to interfere with, or limit a person's ability to participate in, or benefit from the services, activities, or opportunities offered by the College. When such harassment is based on gender or perceived sexual orientation it is considered sexual misconduct.

### **Bystander Intervention**

Safe and positive options that may be carried out by an individual or individuals to prevent harm or intervene when there is a risk of dating violence, domestic violence, sexual assault, or stalking. Bystander intervention includes recognizing situations of potential harm, understanding institutional structures and cultural conditions that facilitate violence, overcoming barriers to intervening, identifying safe and effective intervention options, and taking action to intervene.

### **Consent**

Consent must be informed, voluntary, and mutual, and can be withdrawn at any time. There is no consent when there is force, expressed or implied, or when coercion, intimidation, threats, or duress is used. Whether a person has taken advantage of a position of influence over another person may be a factor in determining consent. Silence or absence of resistance does not imply consent. Past consent to sexual activity with another person does not imply ongoing future consent with that person or consent to that same sexual activity with another person.

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, there is no consent; this includes impairment or incapacitation due to alcohol or drug consumption that meets this standard, or being asleep or unconscious. According to Kentucky law, lack of consent results from forcible compulsion or the incapacity to consent. Where the perpetrator is charged with the crime of sexual abuse, lack of consent results when circumstances show that the victim did not expressly or impliedly agree in the perpetrator's conduct. Children under the age of sixteen are deemed legally incapable of giving consent. KRS 510.020(3)(a). Consent means words or actions demonstrating a knowing and voluntary agreement to engage in a mutually agreed-upon sexual activity.

### **Coercion**

Coercion is unreasonable pressure for sexual activity.

### **Complainant**

The alleged victim or individual reporting the incident of sexual misconduct/discrimination.

**Domestic Violence, Dating Violence, or Intimate Partner Violence:** These forms of violence are defined as sexual or physical abuse or the threat of such abuse committed by

- a person who is the current or former spouse or domestic partner of the person against whom the violence is perpetrated;
- a person who shares a child in common with the person against whom the violence is perpetrated;

- a person who is cohabitating or has cohabitated as a spouse or in the context of a social relationship of a romantic or intimate nature with the person against whom the violence is perpetrated; or
- a person who has another type of intimate relationship, including as a parent, guardian, or other status defined by Kentucky law

### **Force**

Force is the use of physical violence and/or imposing on someone physically to gain sexual access. Force includes threats, intimidation (implied threats) and coercion that overcome resistance or produce consent. The presence of force is not demonstrated by the absence of resistance. Sexual activity that is forced is by definition non-consensual, but nonconsensual sexual activity is not by definition necessarily forced.

### **Fraternization**

It is the College's policy that employees not fraternize in any sexual or otherwise inappropriate manner with a student beyond the normal business relationship between employee and student or the normal academic relationship between teacher and student.

### **Gender-Based Harassment**

Gender-based harassment is unwelcome conduct of a nonsexual nature based on an individual's actual or perceived sex, including conduct based on gender identity, gender expression, and nonconformity with gender stereotypes.

### **Harassment**

Harassment may be verbal, visual, or physical. Verbal harassment may include, but is not limited to: comments on one's appearance or body; questions about one's intimate relationships; or graphic, obscene, degrading comments or jokes. Suggestive sounds, ridicule, and written or oral invitations or advances that are inappropriate and unwelcome may be harassment. Visual conduct that can be harassing includes such actions as leering, staring at certain body parts, and displaying sexual objects, offensive posters or pictures. Physical harassment includes any unwelcome hugging or touching, pinching, fondling, kissing or similar behavior. The following types of conduct are only some of the ways in which sexual harassment may occur in violation of College policy:

Types of conduct such as:

- Physical assault;
- Direct or subtle solicitation of sexual activity;
- Direct or subtle solicitation of sexual activity or sex-related behavior coupled with a promise of reward or threat of punishment;
- Unwelcome physical contact such as touching, or physical interference which limits participation in or benefit from work or academic performance;
- Unwelcome remarks about a person's clothing or body;
- Explicit sexual questions, innuendoes, gestures, jokes, stories, and anecdotes;
- Display or posting of sexually offensive posters, pictures, words, graffiti or messages;

- Introduction of sexually explicit materials into the classroom or workplace without an educational or work-related purpose.

### **Hostile Environment**

A hostile environment exists when sex-based harassment is sufficiently serious to deny or limit the student's ability to participate in or benefit from the College's programs or activities.

A hostile environment can be created by anyone involved in a College's program or activity (e.g., administrators, faculty members, students, and campus visitors). In determining whether sex-based harassment has created a hostile environment, the College considers the conduct in question from both a subjective and objective perspective. It will be necessary, but not enough, that the conduct was unwelcome to the student who was harassed. But The College will also need to find that a reasonable person in the student's position would have perceived the conduct as undesirable or offensive in order for that conduct to create or contribute to a hostile environment.

To make the ultimate determination of whether a hostile environment exists for a student or students, the College considers a variety of factors related to the severity, persistence, or pervasiveness of the sex-based harassment, including:

- the type, frequency, and duration of the conduct
- the identity and relationships of persons involved
- the number of individuals involved
- the location of the conduct and the context in which it occurred
- the degree to which the conduct affected one or more student's education.

The more severe the sex-based harassment, the less need there is to show a repetitive series of incidents to find a hostile environment. Indeed, a single instance of sexual assault may be sufficient to create a hostile environment. Likewise, a series of incidents may be sufficient even if the sex-based harassment is not particularly severe.

### **Incapacitation**

Incapacitation means the physical and/or mental inability to make informed, rational judgments. States of incapacitation include, without limitation, sleep, blackouts, and flashbacks. Where drugs or alcohol are involved, one does not have to be drunk or intoxicated to be considered incapacitated. Rather, incapacitation is determined by how the alcohol consumed impacts a person's decision-making capacity, awareness of consequences, and ability to make informed judgments. Alcohol and drugs can lower inhibitions and create an atmosphere of confusion over whether consent is freely and affirmatively given. The question is whether the respondent knew, or a sober, reasonable person in the position of the respondent should have known, that the complainant was incapacitated. Employees and students are strongly encouraged to err on the side of caution; when in doubt, assume that the other person is incapacitated and therefore unable to give consent. The use of alcohol and drugs never makes someone at fault for being sexually assaulted. Likewise, being intoxicated or drunk is never a defense to a complaint of sexual misconduct under this Policy.

### **Intimidation**

Intimidation is defined as an actual or implied threat or act that causes fear of harm in an individual on the basis of race, color, religion, national origin, age, sex, pregnancy, citizenship, familial status, disability, veteran, and genetic information.

### **Non-Consensual Sexual Intercourse**

Non-Consensual Sexual Intercourse is defined as any sexual penetration or intercourse (anal, oral, or vaginal), however slight, with any object, by a person upon another person, that is without consent and/or by force.

### **Non-Consensual Sexual Contact**

Non-Consensual Sexual Contact is defined as any intentional sexual touching, however slight, with any object, by a person upon another person that is without consent and/or by force.

### **Rape**

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.

### **Responsible Employee**

The following are Responsible Employees under this Policy: The President of the College and all members of the Executive Staff; all employees within the Department of Public Safety, the Office of Student Life (including Resident Assistants and Resident Directors), the Athletics Department, the Human Resources Office, all Faculty, and any Staff who have sufficient authority to take action to address the concern.

### **Result**

Any initial, interim, and final decision by any official or entity authorized to resolve disciplinary matters within the institution. The result must include any sanctions imposed by the institution. Notwithstanding section 444 of the General Education Provisions Act (20 U.S.C. 1232g), commonly referred to as the Family Educational Rights and Privacy Act (FERPA), the result must also include the rationale for the result and the sanctions.

### **Respondent**

The "Respondent" is the individual whose conduct is alleged to have violated this Policy and whose conduct is being investigated.

### **Retaliation**

Retaliation is defined as any adverse action taken against a person because a person participated in or inquired regarding any process set forth in this policy.

### **Sex-Based Harassment**

Sex-based harassment includes sexual harassment and gender-based harassment.

### **Sexual Assault**

Sexual assault is actual or attempted sexual contact with another person without that person's consent. Sexual assault includes, but is not limited to:

- Intentional touching of another person's intimate parts without that person's consent; or
- Other intentional sexual contact with another person without that person's consent; or
- Coercing, forcing, or attempting to coerce or force a person to touch another person's intimate parts without that person's consent; or
- Rape, which is penetration, no matter how slight, of (1) the vagina or anus of a person by any body part of another person or by an object, or (2) the mouth of a person by a sex organ of another person, without that person's consent.

### **Sexual Contact**

Sexual contact includes intentional contact with the breasts, buttocks, groin, or genitals, or touching another with any of these body parts, or making another person touch you 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.

### **Sex Discrimination/Sexual Misconduct**

Sex Discrimination and sexual misconduct occurs anytime a person's sex becomes a factor or basis in treating them unfairly. Sex Discrimination may also occur when an individual is treated unfairly due to his/her connection with a group or organization that is typically associated with a certain sex. Sex discrimination includes behaviors such as sexual assault, sexual harassment, any non-consensual behavior of a sexual nature, domestic or dating violence and stalking. Such behaviors could be committed by force, intimidation or use of a victim's incapacity (physical, mental or through the use of drugs or alcohol).

### **Sexual Exploitation**

Sexual Exploitation is the use of non-consensual or abusive sexual advantage of another, and includes situations in which the conduct does not fall within the definitions of Sexual Harassment, Non-Consensual Sexual Intercourse, or Non-Consensual Sexual Contact. Examples of Sexual Exploitation include, but are not limited to:

- Sexual voyeurism (such as watching a person undressing, using the bathroom, or engaging in sexual acts without the consent of the person observed); or
- Taking pictures or video or audio recording another in a sexual act, or in any other private activity without the consent of all involved in the activity, or exceeding the boundaries of consent (such as allowing another person to hide in a closet and observe sexual activity, or distributing sexual pictures without the photographed person's consent);
- Prostitution;
- Engaging in sexual activity with another person while knowingly infected with human immunodeficiency virus (HIV) or other sexually transmitted infection (STI) and without informing the other person of the infection; and
- Administering alcohol or drugs to another person without his or her knowledge or consent.

### **Sexual Harassment**

Sexual harassment is unwelcome conduct of a sexual nature, including but not limited to unwelcome sexual advances; requests for sexual favors; or other verbal or nonverbal conduct of a sexual nature,

including rape, sexual assault, and sexual exploitation. In addition, depending on the facts, dating violence, domestic violence, and stalking may also be forms of sexual harassment.

Sexual harassment is a form of sex discrimination prohibited by Title VII of the Civil Rights Act of 1964, as amended, by Title IX of the Education Amendments of 1972, and, in Kentucky, by the Fair Employment Practices Act, KRS 344.010 et seq. and KRS 207.170. Sexual harassment involves unwelcome sexual advances, requests for sexual favors, and other verbal, visual, or physical behaviors related to a person's gender, sexual identity, or sexuality when:

- Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's academic advancement or employment;
- Submission to or rejection of such conduct by an individual is used as the basis for employment decisions or academic decisions affecting such individual; or
- Such conduct has the purpose or effect of unreasonably interfering with an individual's work or academic performance or creating an intimidating, hostile, or offensive work or academic environment.

The Equal Employment Opportunity Commission guidelines recommend that the "totality of the circumstances" be considered in determining whether sexual harassment has occurred. Thus, the appropriateness or legitimacy of behavior or objects is largely determined by the context and purpose of their presence in a particular situation.

### **Sexual Violence**

Sexual violence, a form of sexual misconduct, refers to physical acts perpetrated against a person's will or where a person is incapable of giving consent due to the victim's use of drugs or alcohol. An individual also may be unable to give consent due to an intellectual or other disability. Sexual assault, rape, sexual battery, and sexual coercion are all acts of sexual violence. Examples include, but are not limited to:

- Having or attempting to have sexual intercourse with another individual without consent. Sexual intercourse includes vaginal or anal penetration, however slight, with a body part or object, or oral copulation by mouth-to-genital contact.
- Having or attempting to have sexual contact with another individual without consent. Sexual contact includes kissing, touching the intimate parts of another, causing the other to touch one's intimate parts, or disrobing of another without permission. Intimate parts may include the breasts, genitals, buttocks, mouth or any other part of the body that is touched in a sexual manner.

### **Stalking**

Stalking is a course of conduct directed at a specific person on the basis of actual or perceived membership in a Protected Class (i.e. race, color, religion, national origin, age, sex, pregnancy, citizenship, familial status, disability, veteran, and genetic information) that is unwelcome and would cause a reasonable person to feel fear.

## **6. REPORTING**

Any individual who has been the target of sexual misconduct, stalking, or relationship abuse or violence is strongly encouraged to report the incident.



## **How to Report**

The College provides the following options for reporting an act of sexual misconduct, stalking, or relationship abuse and violence. Individuals are encouraged to report an incident even if you do not want to file a criminal report or initiate the College's internal complaint procedures: by reporting, the College can ensure you have access to counseling services, academic support services, and any other interim measures that are appropriate. Incident reports also provide information to help the College provide a safe and non-discriminatory environment for all members of the College.

All non-confidential reports will be reported to the Title IX Coordinator, who will meet with victims and respondents to review your options and all available resources. The College will limit disclosure of information included in a non-confidential report to those individuals involved in the College's response to the report and to legally required or permitted disclosures. This means only people who need to know will be told.

## **Report to Public Safety and Security**

Public Safety and Security Staff can assist you with personal safety, seeking medical attention, preserving evidence, or filing a formal police report. Public Safety and Security can contact other on and off-campus resources to assist you.

Public Safety and Security will record the report for Clery Act purposes, but shall do so without disclosing any personally identifiable information about the Complainant.

**Public Safety and Security: 270-384-8106**

**Columbia Police Department or local law enforcement: 911**

## **Report to Title IX Coordinator**

Alleged Title IX and sexual misconduct complaints can be filed with the Title IX Coordinator. All reported incidents of sexual misconduct are reviewed by the Title IX Coordinator. The Title IX Coordinator will provide you with a written explanation of your rights and options under this Policy, including resources and services available to you, your option to request assistance or interim measures and additional remedies, and an explanation of the College's internal complaint resolution procedures.

The Title IX Coordinator also will report the alleged incident to Public Safety and Security for Clery Act purposes, but may refrain from disclosing personally identifiable information about you, at your request.

## **Title IX Coordinator**

**210 Lindsey Wilson St, Columbia, KY 42728**

**270-384-8036**

**[titleixcoordinator@lindsey.edu](mailto:titleixcoordinator@lindsey.edu)**

**L.R. McDonald Administration Building, 3rd Floor**

## **Report to a Responsible Employee**

Reports made to a Responsible Employee will be referred to the Title IX Coordinator for assessment. A Responsible Employee who receives a report must report all relevant details about the alleged misconduct to the Title IX Coordinator, including the date, time, and location of the alleged misconduct, and the names of: the person who provided the report, the individual who experienced the alleged

misconduct, the individual(s) accused of committing the alleged misconduct, any other persons involved in the alleged misconduct.

### **Options for the Reporting Person (“Complainant”)**

Complainants are not required to take any action when reporting a Policy violation, but if the Complainant chooses to take action, the following options include:

- Filing a formal criminal report with Columbia Police Department or local law enforcement
- Filing a written institutional complaint with the Title IX Coordinator requesting that the College initiate its internal complaint procedures
  - A formal written complaint must include, at a minimum, the time, place, and type of alleged violation, a factual summary of the alleged incident(s), and the name of the Respondent.
  - Complaints may also be submitted online: [www.lindsey.edu/titleix](http://www.lindsey.edu/titleix)
- In appropriate cases, pursuing informal mediation of the complaint conducted by staff of the Dean of Student’s Office
- Requesting interim measures and additional remedies (for example, a no-contact order, alteration of class schedules or housing arrangements)
- Accessing available resources, including counseling.

Additional information about initiating the College’s internal complaint procedures is set forth below. If you do not want to pursue the College’s internal complaint procedures, you may nonetheless access support resources, such as counseling or, in appropriate cases, academic relief; and/or request interim measures.

Informal mediation of a complaint is only available in appropriate cases. Informal mediation is never appropriate in cases involving allegations of nonconsensual sexual penetration or nonconsensual sexual contact. Both Complainant and Respondent must agree to engage in informal mediation, and either party can end the informal mediation process at any time, for any reason.

Students must understand that anything said in this informal mediation may be used in either criminal proceedings or the college’s internal complaint procedures. The Dean of Students has the discretion to determine if it would be inappropriate to informally mediate any particular sexual misconduct complaint.

### **Confidentiality and Reporting Sexual Violence: Know the Options**

The College encourages victims of sexual violence to talk to somebody about what happened – so victims can get the support they need, and so the College can respond appropriately. Different employees on campus have different abilities to maintain a victim’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 victim in confidence, and generally only report to the College that an incident occurred without revealing any personally identifying information. Disclosures

to these employees will not trigger a College investigation into an incident against the victim's wishes.

- Some employees are required to report all the details of an incident (including the identities of both the victim and alleged perpetrator) to the Title IX Coordinator. A report to these employees (called "Responsible Employees") constitutes a report to the College – and generally obligates the College 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 victim of sexual violence. The College encourages victims to talk to someone identified in one or more of these groups.

### **Privileged and Confidential Communications**

#### **Professional and Pastoral Counselors**

Professional, licensed counselors and pastoral counselors who provide mental-health counseling to members of the College 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 victim's permission.

#### **Non-professional Counselors and Advocates**

Individuals who work or volunteer in the non-professional counseling on-campus services and off-campus advocates can generally talk to a victim without revealing any personally identifying information about an incident to the College. A victim can seek assistance and support from these individuals without triggering a College investigation that could reveal the victim's identity or that the victim has disclosed the incident.

While maintaining a victim's confidentiality, these individuals or their office can report the nature, date, time, and general location of an incident to the Title IX Coordinator. This limited report – which includes no information that would directly or indirectly identify the victim – helps keep the Title IX Coordinator informed of the general extent and nature of sexual violence on and off campus so the coordinator can track patterns, evaluate the scope of the problem, and formulate appropriate campus-wide responses. Before reporting any information to the Title IX Coordinator, these individuals will consult with the victim to ensure that no personally identifying details are shared with the Title IX Coordinator.

A victim who speaks to a professional or non-professional counselor or advocate must understand that, if the victim wants to maintain confidentiality, the College 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 victim in receiving other necessary protection and support, such as victim advocacy, academic support or accommodations, disability, health or mental health services, and changes to living, working or course schedules.

A victim who at first requests confidentiality may later decide to file a complaint with the College or report the incident to local law enforcement, and thus have the incident fully investigated. These counselors and advocates will provide the victim with assistance if the victim wishes to do so.

NOTE: While these professional and non-professional counselors and advocates may maintain a victim's confidentiality vis-à-vis the College, they may have reporting or other obligations under state law.

### **Reporting to “Responsible Employees”**

A “responsible employee” is a College employee who has the authority to redress sexual violence, who has the duty to report incidents of sexual violence or other misconduct, or who an individual could reasonably believe has this authority or duty.

When a victim reports to a responsible employee about an incident of sexual violence, the victim has the right to expect the College 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 violence shared by the victim and that the College will need to determine what happened. This includes the names of the victim and alleged perpetrator(s), any witnesses, and any other relevant facts, including the date, time and specific location of the alleged incident.

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

All Lindsey Wilson College employees (faculty and staff) are the College's responsible employees.

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

If the victim wants to tell the responsible employee what happened but also maintain confidentiality, the employee should tell the victim that the College will consider the request, but cannot guarantee that the College 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 victim's request for confidentiality.

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

### **Requesting Confidentiality From the College: How the College Will Weigh the Request and Respond.**

If a victim 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 College must weigh that request against the College's obligation to provide a safe, non-discriminatory environment for all students, including the victim.

If the College honors the request for confidentiality, a victim must understand that the College'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 College may not be able to honor a victim's request in order to provide a safe, non-discriminatory environment for all students.

The Title IX Coordinator or designee will evaluate requests for confidentiality once a responsible employee is on notice of alleged sexual violence.

When weighing a victim's request for confidentiality or that no investigation or discipline be pursued, Lindsey Wilson College will consider a range of factors, including the following:

- 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 victim or others;
  - whether the sexual violence was committed by multiple perpetrators;
- whether the sexual violence was perpetrated with a weapon;
- whether the victim is a minor;
- whether the College possesses other means to obtain relevant evidence of the sexual violence (e.g., security cameras or personnel, physical evidence);
- whether the victim'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 College to investigate and, if appropriate, pursue disciplinary action. If none of these factors is present, the College will likely respect the victim's request for confidentiality.

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

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

- assist the victim in accessing other available victim 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 victim of the right to report a crime to campus or local law enforcement – and provide the victim with assistance if the victim wishes to do so.

The College may not require a victim to participate in any investigation or disciplinary proceeding.

Because the College is under a continuing obligation to address the issue of sexual violence campus-wide, reports of sexual violence (including non-identifying reports) will also prompt the College to consider broader remedial action – such as increased monitoring, supervision or security at locations where the reported sexual violence 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 College determines that it can respect a victim’s request for confidentiality,** the College will also take immediate action as necessary to protect and assist the victim.

### **Confidential Protected Resources and Public Awareness Events**

Confidential Resources are those required to keep all information disclosed to them confidential within the legal and ethical bounds of their profession. At Lindsey Wilson College these individuals include counselors and College Chaplains. Refer to Non-professional Counselors and Advocates of this Policy for further details.

Public awareness events such as “Take Back the Night.” In which information disclosed through a public awareness event is not considered notice of sexual misconduct as described in this Policy.

### **Mandatory Reporting Guidelines: Title IX and the Clery Act**

There are two federal laws that establish responsibilities for employees of college and universities to report certain types of crimes and incidents, especially sexual misconduct – Title IX and the Clery Act. Each of these areas of federal law has a different purpose, but generally the laws are intended to protect members of the campus community, visitors, and guests from criminal and discriminatory behavior. The responsibilities established by these laws give rise to the term “mandatory reporter.”

Title IX focuses on the adverse consequences faced by victims of gender discrimination and sexual harassment and creates obligations for the College to investigate and to provide a “prompt and effective remedy.” If the victim is a student, Title IX means, among other things, that the College must provide an environment that does not interfere with the victim’s right to pursue an education. The College incurs this obligation when a victim has given notice to a “responsible employee,” or when the College, in the exercise of reasonable care, should have known about the assault or harassment.

The Clery Act creates a duty for institutions to report crimes in different categories and has the broadest scope. Guided by the language of the Clery Act and subsequent amendments, the College is required to define which employees must report crime information they receive.

### **Mandatory Reporters**

Title IX and Clery Act mandatory reports include any employee who has the authority to take action to redress the harassment, who have the duty to report to appropriate school officials sexual harassment

or any other misconduct by students and employees, or an individual who a student could reasonably believe has the authority or responsibility which include, but are not limited to:

- Vice Presidents, Deans, Provosts, Department Chairs, Directors, and Coaches
- Any employee in a supervisory or management role
- Any faculty member responsible for supervising any activities or programs that include direct contact with students outside of classroom (including faculty advisors to recognized student organizations)
- Public Safety and Security and any contracted security personnel

### **Amnesty Related to other Policy Violations, “Good Samaritan Reporting”**

To encourage reporting of the acts prohibited by this Policy, the College will not subject an individual who reports an alleged incident of sexual misconduct, stalking, or relationship abuse and violence to disciplinary action for the individual’s own minor policy violation, such as personal consumption of alcohol or drugs, at or near the time of the alleged incident, provided that any such violations did not place the health or safety of any other person at risk. The College may, however, initiate an educational discussion or pursue other educational remedies regarding alcohol or drug use. Further, the College may offer amnesty related to other policy violations revealed in the process of pursuing a formal complaint.

### **Bystander Intervention**

The College expects all community members to take reasonable and prudent actions to prevent or stop an act of sexual misconduct. Taking action may include direct intervention, calling law enforcement, or seeking assistance from a person in authority. Community members who choose to exercise this positive moral obligation will be supported by the College and protected from retaliation.

## **7. GRIEVANCE AND INVESTIGATING PROCEDURES**

### **Student Reports**

1. The Title IX Coordinator should be informed of all complaints and/or reports by faculty, staff or students within 24 hours of receipt of a complaint and/or report.
2. If Complaint is a student, the following procedures shall apply.
3. The Dean of Students shall be responsible for investigating reports involving student-to-student concerns by utilizing the following:
  - a. Both the complainant and the respondent will be:
    - i. Provided periodic status updates regarding the investigation
    - ii. Receive notification of the outcome
    - iii. Be informed of his/her right to appeal.
  - b. The Dean of Students will evaluate and consider mechanisms for remedies which address both individual and community safety, including implementation of no contact orders, academic support, and adjustment of academic schedules or living arrangements.
  - c. The Dean of Students will provide both the complainant and the accused with information concerning counseling or emotional support.
  - d. The Dean of Students will establish contact with the accused as soon as possible following the report.

- e. The Dean of Students will have notified student(s) in writing as to the time and place of the conference to be held for student disciplinary matters, the nature of the problem or charge, and the information against the student(s). The Title IX Coordinator will oversee methods for concluding disciplinary action involving, but not limited to, employee-to-student, employee-to-employee, and student-to-employee concerns.
4. Notification of the student(s) shall be made at least three days before the hearing is held. The student will meet with the Dean of Students or his/her designee. A decision will be made as to whether or not a violation of misconduct occurred and an appropriate sanction may be imposed at the hearing or conclusion of an investigation. The Title IX Coordinator will oversee methods for concluding disciplinary action involving, but not limited to, employee-to-student, employee-to-employee, and student-to-employee concerns.
5. The Dean of Students or his/her designee shall provide a written report of facts related to the case. The designated investigator for cases involving, but not limited to, employee-to-student, employee-to-employee, and student-to-employee concerns will provide a written report of facts related to the case to the Title IX Coordinator.
6. If so desired, the student(s) may be accompanied to the hearing by a full-time faculty, staff, or administrative member of the College. Only current full-time members of the of the College community are permitted to participate in the investigation phase. An attorney or outside counsel is not permitted to participate.
7. Persons accompanying the student may only advise and will not be permitted to represent the student. Student(s) must speak for himself/herself.
8. Due to the delicate nature of the hearing and because of the need to protect confidential records and the alleged victim, these meetings shall be otherwise closed. Further information should not be shared outside of the investigation or hearings except as allowed by The Family Educational Rights and Privacy Act (FERPA) or other applicable law.

### **Employee Reports**

1. The Title IX Coordinator should be informed of all complaints and/or reports by faculty, staff or students within 24 hours of receipt of a complaint and/or report.
2. If the Complainant is an employee the following procedures shall apply and the violation should be reported to and handled by Human Resources.
3. Employees should try to work out any problems directly with the individual(s). If this is not possible, such as cases related to sexual misconduct/assault, then the employee should involve their supervisor and ask for their assistance.
4. In the case where the supervisor and the employee are in conflict, the employee and the supervisor should try to work out the problems informally, except in such cases related to sexual misconduct/assault.
5. In the event that the problem has not been resolved at the lowest level, then the grievance should be reduced to writing and submitted to the Office of Human Resources. The Director of Human Resources will work with the parties involved in order to attempt resolve the issue within three working days.
6. If the Director of Human Resources is unable to resolve the matter, the vice president in charge of the employee's area will be included in the effort to resolve the problem. The vice president will have three working days to resolve the problem.
7. If the vice president is unable to resolve the problem, the Human Resources department will arrange an informal hearing to occur within the next seven working days. The hearing panel will consist of three individuals chosen from a list of five employees provided by the Human



Resources Office. From the list of five employees, the employee grievant will pick one. The person being grieved against will pick the second member and the Human Resource officer will pick the third.

8. An informal hearing process wherein either side may bring witnesses will be held. As this is an informal hearing, no attorneys will be permitted to attend or represent either side of the grievance, nor will the proceedings be recorded.
9. The three-member panel will make a recommendation to the Vice President for Administration and Finance within five working days. In the event the employee is in the area of the Vice President for Administration and Finance, the Vice President for Student Affairs will hear the panel's recommendation.
10. The Vice President in coordination with the Title IX Coordinator will issue a final and binding decision within five working days of receipt of the recommendation from the hearing panel.

### **Documentation and Evidence**

The Complainant or Respondent may wish to present additional documentation or other evidence at the hearing that was not previously provided. Within three days they must submit to the Title IX Coordinator, Dean of Students, or Human Resources Director, the list of documents or other evidence. The list of documents must contain the following information:

- Identification and description of the document or other evidence the party intends to present.
- A summary of why the document or other evidence is relevant to making a decision on the complaint.
- The reason why the document or other evidence was not provided to the Investigator.
- The Title IX Coordinator, Dean of Students, Human Resources Director or designee will determine if the additional documentation or other evidence is relevant and if there is sufficient justification for permitting its use.
- The Title IX Coordinator, Dean of Students, Human Resources Director or designee may also require that an Investigator review the additional documentation or other evidence.
- If the additional documentation or evidence is approved, it will be shared with the parties and the investigators.

### **Prior Sexual History, Bad Acts, or Pattern Evidence**

In a case where the Respondent raises consent as a defense, any prior consensual relationship between the parties may be deemed relevant, but not necessarily determinative. As noted in the Sexual Misconduct Policy, a current or previous dating or sexual relationship, by itself, is not sufficient to constitute consent. However, in limited circumstances, such as pattern evidence, it may be relevant in the determination of responsibility or, in the case of Respondent, assigning of a sanction. Additionally, a prior finding (post appeal rights) of responsibility for a similar act of sexual misconduct will always be deemed relevant and may be considered in making a determination as to responsibility and/or assigning of a sanction.

If either party wishes to bring forth information concerning the other party's sexual history, bad acts, or pattern evidence, such requests must be made to the Title IX Coordinator, Dean of Students, or Human Resources Director, or designee, who will judge the admissibility of such information. To aid in an advance determination of relevance, the following must be submitted no later than three days before the hearing:

- A written statement and/or description of the proposed information, if not already provided during investigation; and
- A summary of why this information is relevant to making a decision of responsibility at the hearing.

### **Sanctions and Corrective Actions**

- If the accused perpetrator of the sexual misconduct/assault is a student, the provisions of the Lindsey Wilson College Student Handbook will apply, and may include disciplinary action if the respondent is found to be in violation of this Policy. Possible disciplinary sanctions:
  - Warning or Reprimand
  - Community Service/Educational
  - Restricted Privileges of use of Facilities
  - Restitution/Fines
  - Disciplinary Probation
  - Personal Counseling Referral
  - Probationary Reporting
  - Disciplinary Suspension
  - Disciplinary Expulsion
- If the accused perpetrator of the sexual misconduct/assault is an employee, disciplinary action up to termination may be taken if the assailant is found to in violation of this Policy.
  - Oral Reprimand
  - Written Reprimand
  - Suspension
  - Termination
- **Visitors, Guests, and Contractor**  
Visitors, guests, and contractors are expected to conduct themselves as responsible citizens and as members of a community where respect for others, civility, and personal integrity are integral. Failing to meet this standard may result in suspension, expulsion, or other disciplinary actions.

### **Appeal Process**

Once a decision has been made and both parties have been notified either party will have the right to appeal within 72 hours of receiving the decision.

The appeal must be written and signed sent by email, mail, hand delivered, or other appropriate means to the President of the College within 72 hours of notification of the decision. An appeal submitted after the deadline will not be processed.

The President of the College will assess and decide the appeal based on the investigation and hearing record from the previous levels. An appeal will not be granted based purely on the dissatisfaction with the outcome of the investigation because it is not relevant in determining if a student is responsible.

Both parties will be notified in writing that an appeal was submitted. The burden of proof lies with the appellant.

Grounds for written appeals are limited to the following:

- The College made a procedural error, which could have significantly affected the outcome.
- Previously unavailable and relevant evidence was found that could impact the final result.
- The sanctions imposed seem unfair

If the appeal is granted, the President has three distinct courses of action:

- To affirm the ruling
- To allow the ruling to stand, but apply different sanctions
- To overturn the ruling

Once the appeals process has been exhausted, the decision is considered final and the imposed sanctions must be fulfilled. The President of the College will notify the parties of the outcome of the appeal.

- It is the responsibility of the College to ensure that no retaliatory action is taken regarding the grievance during and after the conclusion of the grievance process.
- The process will be conducted to protect the privacy and confidentiality of all parties involved.
- A record of the filed grievance will be kept on record with the appropriate office(s).
- Documentation collected as part of the grievance process will be kept in student and employee records with the appropriate office(s).

## **8. TRAINING, PREVENTION, AND EDUCATION**

Title IX requires that all employees and students must be provided training on sexual harassment and sexual violence, as well as the campus policies and procedures for reporting sexual harassment and sexual violence. Lindsey Wilson College will use online and/or classroom training for all on-campus employees and students.

### **Faculty and Staff**

Both faculty and staff play an important role in helping the College carry out its commitment to Title IX. Many times victims turn to professors, advisors, and staff members for assistance. Therefore, it is necessary to know the procedures to aid the student and to file a complaint. Also, the ability to notice signs of sex discrimination could protect the victim from further harm.

All employees, including faculty and staff, will be required to complete designated training programs in order to facilitate a working understanding of Title IX and the College's related policies and procedures.

All employees will be informed and educated and employees who fail to complete training within the time allowed are subject to disciplinary action consistent with College policy.

### **Students**

Students need to go through training which will enable them to seek help if they encounter sexual violence or sexual harassment, as well gain knowledge about related College policies and resources.

Student training aims to educate individuals about what Title IX means, what qualifies as sexual misconduct and what rights students have under the Policy.

Training is not only important to a student's personal safety but also to help others who might be in risk of, or already subject, to sexual harassment. Many times survivors feel intimidated to seek authorities help but with the guidance and help of a friend they find the courage to report the incident.

All Lindsey Wilson College students will be required to complete a training program in order to facilitate a working understanding of Title IX and the College's related policies and procedures. Students must complete training on an annual basis. Students who fail to complete the training within the time allowed will be subject to possible disciplinary action. Other educational programs and materials will be provided to students throughout the academic year through various means of orientation, educational hall programs, awareness programs, and various community partnerships with local prevention and mental health facilities.

#### **The Title IX Coordinator**

The Title IX Coordinator will be required to complete annual training and certification programs to gain a working understanding of Title IX compliance and the College's related policies and procedures.

### **9. ADDITIONAL POLICY PROVISIONS**

#### **Conflicts of Interest**

Individuals involved with a Title IX investigation with disclosed conflicts of interest or demonstrated bias for or against an individual shall not be assigned to investigate or determine responsibility for an alleged policy violation.

Those individuals deeming themselves disqualified for reasons of bias or interest shall remove themselves from the matter or may be removed by the Title IX Coordinator, Dean of Students, or Human Resources Director. A party may petition the Title IX Coordinator, Dean of Students, or Human Resources Director for removal of an Investigator on the basis of a conflict of interest or demonstrated bias.

\*Lindsey Wilson College reserves the right to amend, adapt, and/or change this Policy to comply with Federal Title IX regulations and Lindsey Wilson College policies.

Last Revision(s): November 30, 2017