

**AMENDED AND RESTATED**  
**SEXUAL HARASSMENT**  
**AND**  
**SEXUAL MISCONDUCT POLICY**

**October 1, 2019**

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## **INTRODUCTION**

Lipscomb University and Lipscomb Academy (together, the “Institution”) were founded with a commitment to biblical faith and Christian principles and are committed to providing a learning and working environment free from all forms of sex discrimination and conduct considered harassing, coercive or disruptive. Any sex discrimination prohibited by Title IX of the Education Amendments of 1972 (“Title IX”), including Sexual Misconduct (as hereinafter defined), poses a serious threat both to individual members of the Institution Community (as hereinafter defined) and to the broader community collectively.

The Institution will not tolerate Sexual Misconduct and will take all appropriate steps to prevent and correct such behavior. Recognizing that each situation is unique, the Institution will respond promptly and equitably to all allegations of Sexual Misconduct while tailoring each solution to best fit the situation. Considering both the severity of the alleged offense and the threat it poses to the Institution Community, individuals who are found to have violated this policy may face corrective action up to and including dismissal for students and termination for employees.

The Institution encourages all members of the Institution Community to report promptly any and all alleged acts of Sexual Misconduct. With the exception of those confidential resources referenced in this policy (e.g., health center medical staff and clinical counseling staff), all Responsible Employees (as hereinafter defined) are required to report any Sexual Misconduct to the Title IX Coordinator. Any Responsible Employee who becomes aware of any alleged act of Sexual Misconduct and fails to report promptly such alleged act may be subject to disciplinary action, including termination of employment.

Retaliation or reprisal against any person, including a Complainant, a Respondent or any Third Party (each, as hereinafter defined), for making a complaint, cooperating with an investigation or participating in a formal or informal resolution under this policy is strictly prohibited. Any act of Retaliation must be reported promptly to the Title IX Coordinator.

## **PURPOSE AND SCOPE OF POLICY**

This policy applies to all members of the Institution Community and prohibits Sexual Misconduct by or of any member of the Institution Community. This policy is intended to protect and guide members of the Institution Community who have been affected by Sexual Misconduct, whether as a Complainant, a Respondent or a Third Party, and to provide fair and equitable procedures for investigation and resolution of alleged violations.

This policy applies to Sexual Misconduct by or of any member of the Institution Community that occurs (i) on Institution property, (ii) at an Institution-sanctioned event or program that does not take place on Institution property, including, without limitation, domestic and international academic and mission trips, study abroad and internship programs, and (iii) off-campus if the off-campus conduct is likely to have a substantial effect on Institution life and activities, or if the incident poses a threat of danger to any member of the Institution Community.

A Complainant or Third Party is encouraged to report Sexual Misconduct regardless of where the incident occurred, or who committed it. Even if the Respondent is not a member of the Institution Community, the Institution will take prompt action to provide for the safety and well-being of the Complainant and the broader community.

## **NOTICE OF NON-DISCRIMINATION**

The Institution is committed to establishing and maintaining a safe and nondiscriminatory environment for all members of the Institution Community. The Institution does not discriminate on the basis of sex in its education programs and activities. Sex discrimination is prohibited under Title VII of the Civil Rights Act of 1964 and is also prohibited by Title IX, which provides:

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.

The Institution, as an educational community, will promptly and equitably respond to alleged violations of this policy in order to eliminate the misconduct, prevent its recurrence and address its effects on any individual and the Institution Community. Title IX provides educational processes, remedies and outcomes for sex discrimination and local law enforcement follows criminal processes, remedies and outcomes for sexual assault. While the Institution will enforce this policy using the educational lens of Title IX, Complainants always have the option to avail themselves of, and will be fully supported by the Institution to seek, the services of local law enforcement.

## **TITLE IX COORDINATOR**

The President of the Institution has designated Kathy Hargis to serve as the Title IX Coordinator for the Institution. The Title IX Coordinator will report directly to the President on all matters involving Title IX. The Title IX Coordinator oversees the Institution's centralized review, investigation and resolution of reports of alleged violations of this policy, and oversees the Institution's overall compliance with Title IX.

The Title IX Coordinator is supported by a Title IX team which may include Title IX deputies and Title IX investigators. The Title IX Coordinator can be contacted as follows:

Kathy E. Hargis  
Title IX Coordinator  
Crisman Administration Building  
One University Park Drive  
Nashville, TN 37204  
615-966-5661  
hargiske@lipscomb.edu

Inquiries or complaints concerning the application of Title IX at the Institution may be referred to the Title IX Coordinator or the U.S. Department of Education's Office for Civil Rights:

Office of Civil Rights  
Sam Nunn Atlanta Federal Center, Suite 16T70  
61 Forsyth Street, S.W.  
Atlanta, GA 30303-8909  
800-368-1019

## DEFINITIONS

Capitalized terms used in this policy shall have the following definitions:

**Coercion:** The improper use of pressure to compel another individual to initiate or continue sexual contact or activity against his or her will. Coercion can include a wide range of behaviors, including intimidation, manipulation, threats and blackmail. A person's words or conduct are sufficient to constitute Coercion if he or she wrongfully impairs another individual's freedom of will and ability to choose whether or not to engage in sexual contact or activity.

**Complainant:** Any individual who is allegedly a victim or survivor of Sexual Misconduct (including, as applicable, such victim's parents for minors under the age 18).

**Consent:** For purposes of this policy, Consent is defined as a clear, unambiguous and voluntary agreement between two or more parties. In addition, sexual contact or activity requires consent as a matter of state and federal law. Consent to engage in any sexual contact or activity must be given knowingly, voluntarily and affirmatively. Consent to engage in any sexual contact or activity must exist from the beginning to the end of each occurrence of sexual activity and for each form of sexual contact, including any contact or activity that occurs in the context of an existing or previous intimate relationship.

Under Tennessee law, and for purposes of this policy, Consent cannot be obtained (i) through coercion or force, (ii) from a minor under the age of 18, except where the parties are within four years of age of one another, (iii) from a person who suffers from a mental disease or defect that renders the person incapable of appraising the nature of the person's conduct, (iv) from a person who is rendered temporarily incapable of appraising or controlling the person's conduct because of the influence of alcohol or drugs, or (v) from a person that is unconscious, asleep or otherwise physically or verbally unable to communicate unwillingness to do an act.

**Force:** The use or threat of physical violence or intimidation to overcome an individual's freedom of will to choose whether or not to participate in sexual contact or activity.

**Institution Community:** Students (and, as applicable, parents of students under the age of 18), faculty, administrators, staff, trustees, volunteers, vendors, independent contractors, consultants, agents and visitors of the Institution.

**Intimate Partner Violence:** Often referred to as dating violence, domestic violence or relationship violence, Intimate Partner Violence includes any act of violence or threatened act of violence against a person who is or has been involved in a sexual, dating, domestic or other intimate relationship with another person. Intimate Partner Violence can encompass a broad range of behavior including, without limitation, physical violence, sexual violence and emotional violence. It may involve one act or an ongoing pattern of behavior. Intimate Partner Violence may take the form of threats, assault, property damage, violence or threat of violence to one's self, one's sexual or romantic partner or to the family members or friends of the sexual or romantic partner. For the purposes of this policy, Sexual Harassment, Sexual Assault, Sexual Exploitation, harm to others, Stalking and Retaliation all may be forms of Intimate Partner Violence when committed by a person who is or has been involved in a sexual, dating or other social relationship of a romantic or intimate nature.

**Respondent:** Any individual (including, as applicable, such individual's parents for minors under age 18) who allegedly violates this policy as well as any person with supervisory responsibility for conduct covered by a violation hereunder.

**Responsible Employee:** Any employee:

- Who has the authority to take action to redress Sexual Misconduct;
- Who has been given the duty of reporting incidents of Sexual Misconduct or any other misconduct by students or employees to the Title IX Coordinator or other appropriate designee; or
- Whom a student could reasonably believe has this authority or duty.

Employees of the Institution with supervisory and leadership responsibilities are considered Responsible Employees, including faculty, coaches and assistant coaches, administrators, head residents, resident assistants, security personnel and other employees with a responsibility for any interim remedies or accommodations to protect the safety of the Complainant or other members of the Institution Community. For the avoidance of doubt, adjunct faculty, part-time athletic personnel, custodians, grounds keepers and maintenance and housekeeping employees will not be considered Responsible Employees for purposes of this policy.

**Retaliation:** Acts or attempts to retaliate or seek retribution against a Complainant, Respondent, Third Party, or any individual or group of individuals involved in a complaint, investigation or resolution of an alleged violation of this policy. Retaliation can take many forms, including threats, intimidation, pressure, continued abuse, violence or other forms of harm to others.

**Sexual Assault:** Having or attempting to have sexual penetration or sexual contact with another individual without such person's Consent, including by the use or threat of Force or Coercion, where an individual does not Consent to the sexual contact. Sexual Assault includes having or attempting to have sexual penetration or sexual contact with another individual without such person's Consent. As used in this definition, (a) "sexual penetration" includes vaginal or anal penetration, however slight, with a body part or object, or oral penetration involving mouth to genital contact, (b) "sexual contact" includes intentional contact with the clothed or unclothed intimate parts of another person, causing another person to touch one's intimate parts, or undressing another person without such person's Consent, and (c) "intimate parts" includes breasts, genitals, buttocks and groin.

**Sexual Exploitation:** Taking non-consensual or abusive sexual advantage of a person for one's own personal benefit or advantage. Sexual Exploitation includes, without limitation:

- Surreptitiously observing another person's nudity or sexual activity or allowing another person to observe consensual sexual activity without the knowledge and Consent of all parties involved;
- Non-consensual sharing or streaming of images, photography, video or audio recording of sexual activity or pornography, or distribution thereof without the knowledge and Consent of all parties involved;
- Exposing one's genitals or inducing another person to expose his or her own genitals in non-Consensual circumstances;
- Knowingly exposing another individual to a sexually transmitted disease or virus without his or her knowledge;
- Recording Consensual sex where one person does not Consent to the recording;
- Sexually-based bullying, whether in person or through electronic media; and
- Sexually prostituting one's self or another person.

**Sexual Harassment:** Any unwelcome sexual advance, request for sexual favors or other verbal, nonverbal or physical conduct of a sexual nature when:

- Submission to or rejection of such conduct is made, either explicitly or implicitly, a term or condition of an individual's employment, academic standing, or participation in any Institution programs or activities, or is used as the bases for Institution decisions affecting the individual; or
- Such conduct creates a hostile environment.

A hostile environment exists when the conduct is sufficiently severe, persistent, or pervasive that it unreasonably interferes with, limits, or deprives an individual's ability to participate in or benefit from the Institution's education or employment programs and/or activities. The severity, persistence, and pervasiveness of conduct are assessed from both a subjective and objective perspective. Whether gender-oriented conduct rises to the level of Sexual Harassment depends on a constellation of surrounding circumstances, expectations, and relationships, including, but not limited to, the ages of the Respondent and the Complainant, and the number of individuals involved. A single isolated incident may create a hostile environment if the incident is sufficiently severe. The more severe the conduct, the less need there is to show a hostile environment, particularly if the harassment is physical.

**Sexual Misconduct:** Sexual Harassment, Sexual Assault, Intimate Partner Violence, Domestic Violence or Stalking.

**Stalking:** A willful course of conduct involving repeated or continuing harassment of another individual that would cause a reasonable person to feel terrorized, frightened, intimidated, threatened, harassed or molested. For purposes of this definition, "course of conduct" means a pattern of conduct composed of a series of two or more separate noncontiguous acts evidencing a continuity of purpose. Stalking includes cyber-stalking, a form of Stalking in which electronic media such as the Internet, social networks, blogs, cell phones, text messages or other similar devices or forms of contact are used to pursue, harass or make unwelcome contact with another person in an unsolicited fashion.

**Third Party:** Any person who is not the subject of alleged Sexual Misconduct but who is aware of such an allegation or is a participant in the process, including a witness to the incident or an individual who makes a report on behalf of someone else.

## PRIVACY

The Institution is committed to protecting the privacy of any and all individuals involved in an alleged violation of this policy. In any report, investigation or resolution of an alleged violation, every effort will be made to protect the privacy interests of all individuals involved in a manner consistent with the need for a thorough review of the allegations.

At all times, the privacy of all parties involved in a report, investigation or resolution of an alleged violation of this policy will be respected and safeguarded. Information related to a report under this policy will only be shared with those Institution employees who need to know in order to assist in the review, investigation or resolution. Moreover, all Institution employees who are involved in the Title IX response will receive specific training and guidelines about safeguarding confidential information.

Those members of the Institution Community who desire complete confidential assistance may do so by speaking with professionals who have a statutorily-protected or designated duty of confidentiality. For students, those professionals include health center medical staff, clinical counseling staff, campus ministers in Lipscomb University's Office of Spiritual Formation , Directors of Spiritual Formation at Lipscomb Academy and Dean of Counseling at Lipscomb Academy. Information shared with these confidential resources will not be shared with others without the Complainant's consent, unless there are

circumstances posing imminent risk of harm to self or any member of the Institution Community. Because the content of discussions with confidential resources will not be reported to the Title IX Coordinator, such discussions do not serve as notice to the Institution to address any alleged violation of this policy.

An alleged violation of this policy that is reported to an Institution employee who is not a designated confidential resource must be shared with and reported to the Title IX Coordinator within 24 hours of the initial report.

If possible, the Institution will seek action in response to any alleged violation that is consistent with a Complainant's request. If a Complainant requests that his or her name or other identifiable information not be shared with the Respondent or that no formal action be taken, the Institution will balance this request with its dual obligation to provide a safe and non-discriminatory environment for all members of the Institution Community. The Institution will take all reasonable steps to investigate and respond to a report consistent with a request for confidentiality or request not to pursue an investigation, but its ability to do so may be limited based on the nature of the request by the Complainant. If the Institution is unable to take action that is consistent with a Complainant's request for confidentiality, a member of the Title IX team will promptly communicate with the Complainant about the chosen course of action.

If a report of alleged misconduct discloses a serious or immediate threat to the Institution Community, the Institution may issue a timely notice (in accordance with the requirements of the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (the "Clery Act")) to protect the health or safety of the members of the Institution Community. The Institution may also share non-identifiable information about reports received in aggregate form, including data about educational outcomes (e.g., sanctions).

All investigations, hearings and resolutions under this policy shall be conducted in compliance with the requirements of the Family Education Rights and Privacy Act ("FERPA"), the Clery Act and Title IX. No information shall be released from such investigations, hearings or resolutions except as required or permitted by law or this policy.

## **RETALIATION**

Retaliation against any person for submitting a report, cooperating with an investigation or participating in a formal or informal resolution hereunder is strictly prohibited. An individual reporting Sexual Misconduct is entitled to protection from any form of Retaliation following a report, even if the report is not later substantiated. Similarly, individuals accused of Sexual Misconduct and those who participate in an investigation conducted under this policy are entitled to protection from any form of Retaliation, except for disciplinary action in connection with a knowingly false report. Any individual who is found to have retaliated against a person in violation of this policy may face corrective action up to and including dismissal for students and termination for employees. Complaints of Retaliation should be filed immediately with the Title IX Coordinator or the U.S. Department of Education's Office for Civil Rights.

## **AMNESTY FOR STUDENT CONDUCT VIOLATIONS**

The Institution encourages the reporting of any and all alleged Sexual Misconduct. Victims of Sexual Misconduct might be hesitant to report Sexual Misconduct to Institution officials if they fear that they (or their friends) may be charged with a violation of another Institution policy, such as the Alcohol and Drug Policy. Similarly, bystanders are sometimes hesitant to offer assistance to others for fear that they may get in trouble.



To encourage reporting of Sexual Misconduct, the Institution will provide Complainants, as well as bystanders who cooperate with an investigation under this policy or who provide help to victims or likely victims of Sexual Misconduct, with immunity from being charged with violations of any other Institution policy in connection with any conduct related to an alleged violation of this policy. While violations of other policies cannot be completely overlooked, the Institution may provide referrals to counseling or may require educational assistance or other remedies in such cases. Although the Institution will provide individual bystanders with such immunity, student organizations may be subject to disciplinary action under other Institution policies in connection with any conduct related to an alleged violation of this policy, if deemed appropriate or necessary for the safety and well-being of the Institution Community.

## **BYSTANDER INTERVENTION**

One of the most effective methods of preventing all types of Sexual Misconduct is bystander intervention, which encourages people to identify situations that might lead to Sexual Misconduct and then safely intervene to prevent its occurrence. The Institution encourages the use of good judgment in regards to bystander intervention, as the safety of each member of the Institution Community is of primary concern. It is the responsibility of every member of the Institution Community to take safe and reasonable actions to prevent Sexual Misconduct.

This policy does not require individuals to place themselves in jeopardy to stop a crime in progress. There are many situations and events that occur prior to Sexual Misconduct that are appropriate for intervention. Bystander intervention encourages people to watch for behaviors and situations that appear to be inappropriate, coercive or harassing. Usually, intervening in a group is safer than intervening individually. Also, choosing a method of intervention that de-escalates the situation is safer than attempting a confrontation. However, there is no single rule that can account for every situation.

## **RESOURCES**

The Institution is committed to treating all members of the Institution Community with Christian love, respect and empathy. Any individual affected by Sexual Misconduct, whether as a Complainant, Respondent or Third Party, will have equal access to support services through the Institution. The Institution recognizes that deciding whether or not to make a report or choosing how to proceed can be a difficult decision. The Institution encourages any individual who has questions or concerns to seek support of Institution and community resources. These resources can provide guidance in making decisions, information about available resources and assistance to either party in the event that a report or resolution under this policy is pursued. Individuals are encouraged to use all available resources, regardless of when or where the incident occurred.

### **Confidential Resources**

There are several confidential resources available within the Institution Community. These confidential resources will not disclose shared information without the individual's Consent unless there is imminent risk of harm to self or any member of the Institution Community. The confidential resources are as follows:

**Lipscomb University Health Center Resources**  
615-966-6304

**Lipscomb Academy Spiritual Formation Resources**  
615-966-5198

**Lipscomb University Counseling Resources**  
615-966-1781

**Lipscomb Academy Counseling Resources**  
615-966-5198

**Lipscomb University Spiritual Formation Resources**  
615-966-6280

### **Outside Community Resources**

External community resources, such as the following, can also assist individuals who have been affected by Sexual Misconduct:

**Metro Police Department Dispatch Center**  
200 James Robertson Parkway  
Nashville, Tennessee 37201  
615-862-7400

**Nashville General Hospital at Meharry**  
1818 Albion Street  
Nashville, Tennessee 37208  
615-341-4000

**Tennessee Coalition to End Domestic & Sexual Violence**  
2 International Plaza Drive, Suite 425  
Nashville, Tennessee 37217  
800-289-9018

**Sexual Assault Center**  
101 French Landing Drive  
Nashville, Tennessee 37228  
615-259-9055  
*www.sacenter.org*  
Crisis & Support Line 800-879-1999

**National Domestic Violence Hotline**  
800-799-SAFE (7233)

## **REPORTING**

The Institution is committed to providing a variety of welcoming and accessible ways for members of the Institution Community to report instances of alleged Sexual Misconduct. In accordance with Title IX, the Institution is required to take immediate and corrective action if a Responsible Employee knows or, in the exercise of reasonable care, should have known about Sexual Misconduct. All Responsible Employees must promptly share any report of Sexual Misconduct with the Title IX Coordinator or a member of the Title IX team. The Institution cannot take appropriate action unless an incident is reported. All reports must be shared with the Title IX Coordinator within 24 hours of being reported. Any Responsible Employee who becomes aware of any alleged act of Sexual Misconduct and fails to report promptly such alleged act may be subject to disciplinary action, including termination of employment.

All individuals are strongly encouraged to report alleged incidents of Sexual Misconduct immediately to the Institution's Office of Security and Safety and/or to local law enforcement. The Institution's Office of Security and Safety personnel will assist and advise regarding the importance of preserving evidence for the proof of a criminal offense and advise to whom the alleged offense should be reported. Each victim has the sole discretion, however, to decide whether or not to file a police report or to pursue civil action against the alleged perpetrator. All individuals will have access to Institution and community resources regardless of whether or not they decide to report an incident to local law enforcement. Except where the Complainant is younger than 13 years old, the Institution will generally

respect a Complainant's choice to report an incident to local law enforcement, unless the Institution determines that there is an overriding issue with respect to the safety or welfare of the Institution Community.

### **False Reports**

Any Complainant or Third Party who knowingly makes false charges alleging a violation of this policy may be subject to appropriate disciplinary action.

### **Anonymous Reporting**

Any individual may make an anonymous report concerning an alleged violation of this policy by disclosing his or her name, identifying the Respondent or requesting any action. Depending on the extent of information available about the incident or the individuals involved, however, the Institution's ability to respond to an anonymous report may be limited. The Institution's anonymous reporting resource can be found by clicking "Report an Incident" at the bottom of the Institution's website, *www.lipscomb.edu*.

When any alleged violation of this policy is reported anonymously, the Title IX Coordinator will receive the anonymous report and will determine any appropriate steps, including individual or community remedies and, in consultation with the Executive Director of Security, comply with all reporting obligations under the Clery Act.

### **Reporting Incidents Involving Minors or Suspected Child Abuse**

Under Tennessee law, all persons must report any suspected case of child abuse or neglect. Any person who knowingly fails to make a report of suspected child abuse commits a crime and may be subject to a fine not to exceed \$2,500.

All Institution employees must immediately report any suspected child abuse or neglect to the Tennessee Department of Children's Services ("DCS"). The source of abuse does not need to be known in order to make a report.

Any individual must make a direct report regarding suspected child abuse or neglect as follows:

- If a child is in immediate danger, call 911
- If a child is not in immediate danger, call DCS at 877-237-0004 or report online at <https://apps.tn.gov/carat/>

## **RESOLUTION OF ALLEGED VIOLATIONS**

### **Report and Initial Assessment**

Upon receipt of a report of an alleged violation of this policy, the Title IX Coordinator and/or his or her designee(s) will make a prompt assessment of any imminent risk of harm to the victim(s) or to the Institution Community and will take prompt steps necessary to address those risks.

The initial review of any report will proceed to the point where a reasonable assessment of the safety of the victim(s) and the Institution Community can be made. Furthermore, an investigation may be initiated depending on a variety of factors, such as the age of the parties involved, the Complainant's desire to pursue disciplinary action, the risk posed to any individual or the Institution Community by not

proceeding, and the nature of the allegation. If, after the initial review, the Title IX Coordinator and/or his or her designee(s) determine that there has been a violation of this policy, then an appropriate investigation will be initiated. If it is determined that no violation of this policy has occurred, then no investigation will be initiated and, if appropriate, the Complainant will be notified of such determination.

At the time a report is made, a Complainant need not decide whether to file a formal, written complaint under this policy. Choosing to make a report and deciding how to proceed after making the report can be a process that unfolds over time. To the extent possible, the Institution will respect an individual's autonomy in making these important decisions and will provide support to assist each individual in making an appropriate determination regarding how to proceed.

### **Interim Measures, Remedies and Accommodations**

Upon receipt of a report and after the initial assessment, the Title IX Coordinator and/or his or her designee(s) may promptly impose reasonable and appropriate interim measures designated to protect the parties involved and the Institution Community. A Complainant or Respondent may request separation or other protection, or the Institution may choose to impose interim measures at its discretion to ensure the safety of all parties and/or the broader Institution Community. Interim measures may be imposed regardless of whether informal resolution, formal resolution or corrective action is sought by the Complainant or the Institution.

All individuals are encouraged to report concerns about failure of any person to abide by any restrictions imposed as an interim measure. The Institution will take prompt and responsive action to enforce any previously implemented measure. The Title IX Coordinator may implement interim measures at any time after receipt of an alleged violation of this policy. Potential remedies and accommodations that may be applied to a Complainant or Respondent include:

- Access to counseling services and assistance in setting up initial appointments, both on or off campus;
- Imposition of a campus no-contact order;
- Rescheduling of exams and assignments;
- Providing alternative course completion options;
- A change in class schedule or transferring sections, including the ability to drop a course without penalty;
- A change in work schedule or job assignment;
- A change in a student's Institution-owned residence;
- Assistance from Institution staff in completing residence relocation;
- Relocation of office space;
- Limiting an individual or organization's access to certain Institution facilities or activities pending resolution of the matter;
- A voluntary leave of absence;
- Providing an escort to ensure safe movement between classes, buildings or activities;
- Providing medical services through health center resources;
- Providing academic support services;
- An interim suspension pending the outcome of an investigation or a hearing; and
- Any other remedy that can be tailored to the involved individuals to achieve the goal of this policy.

### **Optional, Informal Resolution**

After notifying the Title IX Coordinator of an alleged violation of this policy, but prior to the submission of a formal complaint, the Complainant may request a meeting with the Respondent alleged to be directly responsible for the violation or with the person having immediate supervisory authority related to the violation. Such meeting shall be coordinated through and in the presence of the Title IX Coordinator and/or his or her designee(s) and, in the Title IX Coordinator's discretion, the appropriate members of the Title IX team and/or appropriate senior administrator(s). In addition, the persons who are alleged to be directly or indirectly responsible for the violation of this policy may discuss the allegations of the Complainant with the Title IX Coordinator and/or his or her designee(s).

The purpose of an informal resolution meeting will be for the Complainant to request a proposed course of action in order to resolve the matter in a manner consistent with biblical principles of dispute resolution. Any such informal resolution meeting shall be solely at the option of the Complainant and will only be held if both the Complainant and the Respondent must voluntarily agree to participate. At no time will either party be required to confront or meet with the other party. In cases involving Sexual Assault, such a meeting shall not occur unless both the Respondent and the Complainant voluntarily agree to participate and the Title IX Coordinator deems the matter to be appropriate for informal resolution. Such meeting is not a condition for the submission of a written complaint to the Title IX Coordinator. If the matter cannot be resolved through an informal resolution meeting, then the Complainant may submit to the Title IX Coordinator a formal, written complaint. Participation in an informal resolution meeting is voluntary, and any party may request to end the process at any time.

The Title IX Coordinator will maintain records of any informal resolution meeting and will hold any information resolution meeting after receipt of the initial report in a timely manner.

### **Formal, Written Complaint**

If an informal resolution meeting is not possible, not appropriate or fails to satisfactorily resolve an alleged violation of this policy, the Complainant should submit a formal, written complaint with the Title IX Coordinator. If for any reason the Complainant is not able to submit a written complaint, the Title IX Coordinator and/or his or her designee(s) may prepare the complaint based on verbal conversations with the Complainant, and the Complainant shall review such complaint, and when accurate and complete, sign a copy of such complaint. The complaint should include the names(s) of the individual(s) involved, the date(s), time(s) and location(s) of the event(s) and a detailed description of the actions constituting the alleged violation. The complaint should also provide the names, addresses and phone numbers of any witnesses or potential witnesses. All written complaints should be signed and dated.

After receipt of a formal, written complaint, the Title IX Coordinator and/or his or her designee(s) will review the complaint. If the complaint does not sufficiently describe the facts such that a determination can be made regarding the alleged violation, the complaint will be returned and the Complainant will be invited to submit an amended complaint providing enough actual detail to allow a determination to be made.

The Title IX Coordinator and/or his or her designee(s) will generally meet with the Complainant to review the complaint and identify the scope and nature of any additional investigation, if necessary, above and beyond that conducted in connection with the initial report. In addition, the Title IX Coordinator and/or his or her designee(s) will provide the Respondent with a written notice of the allegations constituting a potential violation of this policy that includes the identities of the parties involved, together with a copy of this policy. The Title IX Coordinator and/or his or her designee(s) will then meet with the Respondent regarding the allegations, and review with the Respondent the scope and nature of the investigation.

## **Investigation**

The Title IX Coordinator will oversee any investigation of an alleged violation of this policy. Any such investigation will be designed to provide a fair and reliable gathering of the facts. All individuals in the investigation, including the Complainant, the Respondent and any Third-Party witnesses, will be treated with appropriate sensitivity and respect.

The Title IX Coordinator will commence and oversee the investigation, if deemed appropriate, and designate one or more member(s) of the Title IX team or other individual(s) to conduct the investigation. The Institution may engage the assistance of an external investigator to conduct or assist with the investigation, if deemed necessary and appropriate by the Title IX Coordinator. The investigator(s) will keep the Title IX Coordinator informed of the progress of the investigation during the entire process. The Title IX Coordinator may notify appropriate senior administrator(s), including the President of the Institution, that a report has been received and an investigation has begun. If, at any time during an investigation, it is determined that there is no reasonable cause to believe that Sexual Misconduct has occurred, the Title IX Coordinator may terminate the investigation and end any interim measures.

The investigator(s) will conduct the investigation based on the specific allegations. The investigator(s) will coordinate the gathering of information from the Complainant, the Respondent and any other individuals who may have information relevant to the investigation. The investigator(s) will also coordinate the gathering of any available physical or medical evidence, including documents, communications between the parties involved, and other electronic records, as appropriate. The investigator(s) have broad discretion in determining whether a proposed witness or documentary evidence would be relevant or helpful in making any determination under this policy. The Complainant and Respondent will have an equal opportunity to meet with the investigator(s), to submit evidence, to provide testimony and to identify witnesses who may have relevant information.

Prior to completing the investigation, the investigator(s) may meet again with the Complainant and Respondent separately to give an overview of the steps taken during the investigation, to ask the Complainant and the Respondent for names of any additional person(s) with whom the investigator(s) should speak, and to request any additional information relevant to the investigation. Moreover, the investigator(s) will provide a draft copy of the investigative report and corresponding evidence to each of the parties for their review, although the content of such report may be modified subject to the limitations of FERPA and other applicable privacy laws. Unless specified otherwise by the investigator(s), the parties will have two business days to review the draft report and provide any comments or additional information in connection with the draft report. If a party fails to provide any comments or additional information by the deadline, the investigator(s) will submit the final investigative report and corresponding evidence to the Title IX Coordinator for a final determination under the assumption that all information in the investigative report is accurate. If a party provides any comments or additional information by the deadline, the investigator(s) may revise the investigative report, as deemed appropriate in the sole discretion of the investigator(s), and submit the final investigative report and corresponding evidence to the Title IX Coordinator for a final determination.

Use of alcohol or drugs by the Complainant at the time of the incident will be considered for purposes of determining Consent or memory only and will not form the basis for independent proceedings or discipline. The sexual history or sexual character of the Complainant shall not be considered in any investigation and the sexual history or sexual character of the Respondent may be considered only if it establishes a pattern of complaints or behavior.

The Institution will investigate all Sexual Misconduct claims even if the Complainant does not wish to pursue disciplinary or legal action. Additionally, if the Complainant desires to press criminal charges, local law enforcement may also conduct a formal investigation.

In the event that law enforcement is involved and upon their request, the Institution may agree to defer its investigation under this policy until after the initial stages of any criminal investigation. The Institution will nevertheless communicate with the Complainant regarding his or her rights under this policy, procedural options and the implementation of interim measures to assure the safety and well-being of the Complainant and the Institution Community. The Institution will promptly resume its investigation under this policy as soon as practicable after law enforcement has completed its initial investigation.

Information gathered during any investigation will be used to evaluate the appropriate course of action, provide for the safety of the appropriate individuals and the Institution Community, and impose remedies as necessary to address the effects of the alleged conduct.

### **Advisors**

Both the Complainant and Respondent are entitled to one advisor of their choosing to guide and accompany them throughout the process under this policy. The advisor may be a friend, mentor, family member, attorney, or any other supporter a party chooses to advise the party and who is both eligible and available. An individual who may or will be called as a witness may not serve as an advisor.

Each party is entitled to be accompanied by his or her advisor in all meetings and interviews at which the party is entitled to be present, including intake, interviews, and meetings. Advisors should help their advisees prepare for each meeting, and are expected to advise ethically, with integrity, and in good faith. The Institution cannot guarantee equal advisory rights, meaning that if one party selects an advisor who is an attorney, but the other party does not, or cannot afford an attorney, the Institution is not obligated to provide an attorney for the other party.

Each advisor is subject to the terms of this policy and all other applicable Institutional policies, whether or not the advisor is an attorney. Advisors may not present any information on behalf of their advisees in a meeting or interview, and should request or wait for a break in the proceeding if they wish to interact with Institution officials. Advisors may confer quietly with their advisees as necessary, as long as they do not disrupt the process. For longer or more involved discussions, the parties and their advisors should ask for breaks or step out of meetings to allow for private conversation.

Advisors must refrain from interference with the Institution's investigation and resolution. Any advisor who steps out of the advisor role under this policy in any meeting under the resolution process will be warned once and only once. If the advisor continues to disrupt or otherwise fails to respect the limits of the advisor role, the advisor may be asked to leave the meeting. When an advisor is removed from a meeting, that meeting will typically continue without the advisor present. Subsequently, the Title IX Coordinator will determine, in the Title IX Coordinator's sole discretion, whether the advisor may be reinstated, may be replaced by a different advisor, or whether the party will forfeit the right to an advisor for the remainder of the process.

Advisors must maintain the privacy of any records or information shared with them by the Institution. These records and information may not be shared with third parties, disclosed publicly, or used for purposes not explicitly authorized by the Institution. The Institution may seek to restrict the role of any advisor who does not respect the sensitive nature of the process or who fails to abide by the Institution's privacy expectations.

All advisors must adjust their schedule to allow them to attend interviews or meetings when scheduled. The Institution does not typically change scheduled meetings to accommodate an advisor's inability to attend. The Institution might, however, make provisions to allow an advisor who cannot attend in person to attend a meeting by telephone, video, or virtual meeting technologies, as may be convenient and available.

Both parties must advise the Title IX Coordinators of the identity of their advisor at least two business days before the date of their first meeting or interview under this policy. The parties must provide subsequent timely notice to the investigators if they change advisors at any time.

Interviews conducted as part of an investigation under this policy may be recorded by the Institution. Recordings not expressly authorized by the Institution are prohibited.

## **Formal Resolution**

### *Final Determination*

After completion of the investigation, the investigator(s) will prepare a written report of the investigation findings and submit such report to the Title IX Coordinator for formal resolution. The Title IX Coordinator may request additional information from the investigator(s), or may ask for additional information directly from parties or witnesses. The Title IX Coordinator, in consultation with any designated member(s) of the Title IX team and senior administrator(s), will consider the allegations, review and evaluate the final investigative report and findings and issue a final determination. Alternatively, the Institution may engage the assistance of an external third party to consider the allegations, review and evaluate the investigative report and findings and issue a final determination, if deemed necessary and appropriate by the Title IX Coordinator.

At the conclusion of the investigation, the Title IX Coordinator and/or his or her designee(s) will weigh all evidence received through the course of the investigation and make a final determination about the allegations based on a preponderance of the evidence (i.e., whether it is more likely than not that Sexual Misconduct occurred). The Title IX Coordinator and/or his or her designee(s), in consultation with any designate member(s) of the Title IX team and/or senior administrator(s), will make such final determination. Then, in the event that the Respondent is deemed responsible for Sexual Misconduct, the Title IX Coordinator and/or his or her designee(s), in consultation with any member(s) of the Title IX team and senior administrator(s), will determine the sanction to be imposed. The Institution will conduct the investigation and render a final determination in a timely manner. The Title IX Coordinator or his or her designee(s) will issue the final report and determination, which will include the following:

- A summary of the investigative report;
- A written notice setting forth:
  - The findings of the investigator(s) regarding the alleged violation(s);
  - A description of the actions taken, if any, including, without limitation, disciplinary actions for any parties involved;
  - The Complainant's and Respondent's right to appeal the determination.

The Title IX Coordinator and/or his or her designee(s) will promptly communicate with and deliver to the Complainant and the Respondent a copy of such report, although the content of such report may be modified subject to the limitations of FERPA and other applicable privacy laws.



### *Disciplinary Action*

In the event the Title IX Coordinator and/or his or her designee(s) determines that the Respondent is responsible for an act of Sexual Misconduct or other violation under this policy, they may impose any appropriate sanction that they determine to be fair and proportionate to the violation. In determining any disciplinary action, the Title IX Coordinator and/or his or her designee(s) may consider the following:

- Students – If a student is found to have committed a Sexual Assault, the appropriate administrator may initiate expulsion proceedings pursuant to the terms of the Student Handbook.
- Staff – If a staff member is found to have committed a Sexual Assault, then the appropriate administrator may terminate the staff members' employment in accordance with the applicable handbook of the Institution.
- Faculty – If the Respondent is a faculty member and his or her conduct warrants discipline that is less severe than discharge or suspension, the Title IX Coordinator will recommend sanctions to the Provost of Lipscomb University or the Head of Lipscomb Academy, as appropriate. In cases where the faculty member is found to have committed a Sexual Assault or the faculty member's actions warrant discharge or termination of employment, the matter will proceed in accordance with the terms of the applicable handbook of the Institution providing for Dismissal for Cause.

Any Sexual Assault under this policy is strictly prohibited. The designated senior administrator(s) will oversee the application of any such disciplinary action.

### **Appeal Rights**

Any appeal of a final determination hereunder shall stay the imposition of disciplinary action under this policy, but only during the pendency of the appeal. If the disposition of the appeal does not alter the recommended sanction, disciplinary action pursuant to this policy shall proceed.

The Complainant and/or Respondent may appeal a final determination by submitting a written objection to the Title IX Coordinator within five calendar days of the receipt of the final determination. Any grounds for appeal shall be based solely on:

- The emergence of new evidence that was previously unavailable; or
- A claim that some procedural aspect of this policy was not properly followed.

The Title IX Coordinator has sole authority to determine if any appeal is properly submitted. If the Title IX Coordinator determines that an appeal is not timely submitted or is not based on appropriate grounds, then the Title IX Coordinator may dismiss the appeal and notify the appealing party of such dismissal.

If the Title IX Coordinator determines that an appeal is properly submitted, the Title IX Coordinator will designate the appropriate senior administrator of the Institution to consider the appeal. The senior administrator will consider the objections presented in the appeal, review and evaluate the investigative report and findings, and reach his or her conclusion. The senior administrator will issue a written decision related to the appeal to the Complainant and Respondent in a timely manner. The President of the Institution or his or her designee(s) may, in the President's sole discretion, consider any appeal from such senior administrator's decision, in which case the President or his or her designee(s) shall issue a decision in writing to the Complainant and Respondent, which shall be the final decision of the Institution on this

matter. If the President of the Institution or his or her designee(s) decide not to consider any appeal from such senior administrator's decision, then the decision of the senior administrator will be final. All documentation regarding an appeal will be communicated with and forwarded to the Title IX Coordinator.

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This Amended and Restated Sexual Harassment and Sexual Misconduct Policy was adopted as of October 1, 2019 and will be reviewed annually. The policies and procedures set forth in this Amended and Restated Sexual Harassment and Sexual Misconduct Policy are subject to amendment at any time by Lipscomb University without prior notice. Members of the Institution Community are encouraged to check the Institution's website for updated versions of this policy. If any applicable government regulations change in a way that impacts this policy, this policy will be interpreted and construed in a manner to comply with such government regulations then in effect.