

LIPSCOMB UNIVERSITY
AMENDED AND RESTATED
SEXUAL HARASSMENT
AND
SEXUAL MISCONDUCT POLICY

August 14, 2020

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INTRODUCTION

Lipscomb University (the “Institution”) was founded with a commitment to biblical faith and Christian principles and is 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, but does not require, all members of the Institution Community to report promptly any and all alleged acts of Sexual Misconduct. 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. Confidential resources referenced in this policy (e.g., health center medical staff and clinical counseling staff) may not report any alleged acts of Sexual Misconduct to the Title IX Coordinator.

Retaliation or reprisal against any person, including a Complainant, a Respondent or any Third Party (each, as hereinafter defined), for making a report or complaint, testifying, assisting, participating or refusing to participate in any manner in any investigation, proceeding or hearing under this policy is strictly prohibited.

PURPOSE AND SCOPE OF POLICY

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 in the United States (i) on Institution property, (ii) at an event, location or circumstance that does not take place on Institution property, where the Institution exercised substantial control over both the Respondent and the context in which the Sexual Misconduct occurred, and (iii) off-campus if the off-campus event occurs in a building that is owned or controlled by a student group that is officially recognized by the Institution. The Institution reserves the right to address other conduct that may pose a threat of danger to any member of the Institution Community through its Student Handbook and its Employee Handbook. For purposes of clarification, this policy generally does not govern Sexual Misconduct that occurs on Lipscomb Academy property or involves students and/or employees of Lipscomb Academy. Lipscomb Academy has a separate policy that generally governs such Sexual Misconduct. For Sexual Misconduct allegations that involve a student or employee of Lipscomb Academy and a student or employee of Lipscomb University, the Institution’s Title IX Coordinator will determine which policy applies.

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 alleged Sexual Misconduct did not occur on Institution property, or the alleged Sexual Misconduct occurred outside the United States, 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 is required not to discriminate and does not discriminate on the basis of sex in its education programs and activities, including in admissions and employment. 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 offer and carry out the level of supportive measures, remedies, and discipline appropriate for the specific facts and circumstances. The Institution will respond to any complaint in a manner that protects the parties' equal access to education. 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 also is responsible for the implementation of Supportive Measures and for remedies imposed after a finding of responsibility.

The Title IX Coordinator can be contacted in person, by mail, by telephone, and by electronic mail 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:

Assistant Secretary for Civil Rights
U.S. Department of Education
Office for Civil Rights
400 Maryland Avenue, SW
Washington, D.C. 20202-1100

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 activity that could constitute Sexual Misconduct (including, as applicable, such victim's parents for minors under the age 18). At the time of filing a Formal Complaint, a Complainant must be a current student or employee of the Institution, or attempting to become a student or employee of the Institution or otherwise participating or attempting to participate in the educational program or activities of the Institution. A parent or guardian of a person under the age of 18 may file a Formal Complaint on behalf of such person.

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 who 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.

Formal Complaint: A document describing an alleged violation of this policy by any member of the Institution Community filed by a Complainant or signed by the Title IX Coordinator requesting that the Institution investigate an alleged violation of this policy.

Institution Community: Students (and, as applicable, parents of students under the age of 18), faculty, administrators, staff, trustees, and applicants for admission or employment 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, , 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.

Medical Records: Records that are made or maintained by a physician, psychiatrist, psychologist, or other recognized professional acting in the professional's or paraprofessional's capacity, or assisting in that capacity, and which are made and maintained in connection with the provision of treatment to the party.

Respondent: Any individual (including, as applicable, such individual's parents for minors under age 18) who has been reported to have allegedly violated this policy.

Responsible Employee: Any employee:

- Who has the authority to take action to redress Sexual Misconduct, which the Institution has designated as including the Provost, the Vice President of Student Life and the Vice President of Human Resources;
- Who works in the Institution's Office of Security and Safety;
- Who has significant responsibility for student campus activities, which the Institution has designated as Resident Assistants, Residence Hall Directors and the Dean of Housing and Residence Life; or
- Who has been designated as a Title IX Coordinator.

Although all employees of the Institution are encouraged to report possible Sexual Misconduct, only the employees designated above are 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, hearing or resolution of an alleged violation of this policy. Retaliation can take many forms, including threats, intimidation, coercion, or discrimination.

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.. 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 for the purpose of sexual gratification with the clothed or unclothed intimate parts of another person, and (c) "intimate parts" includes breasts, genitals, buttocks and groin.

Sexual Harassment: Conduct on the basis of sex that satisfies one or more of the following:

- An employee of the Institution conditioning the provision of an aid, benefit, or service of the Institution on an individual's participation in unwelcome sexual conduct; or
- Unwelcome conduct determined by a reasonable person to be so severe, pervasive and objectively offensive that it effectively denies a person equal access to the Institution's education program or activity.

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

Stalking: A course of conduct directed at a specific individual that would cause a reasonable person to fear for his or her safety or the safety of others or suffer substantial emotional distress. 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.

Supportive Measures: Non-disciplinary, non-punitive individualized services that are offered as appropriate, as reasonably available and without fee or charge to a Complainant or Respondent before or after the filing of a Formal Complaint or where no Formal Complaint has been filed. The Institution will employ such measures to restore or preserve equal access to the Institution’s education programs and activities without unreasonably burdening the other party. The Institution will also employ such measures as appropriate to protect the safety of all parties, or the Institution’s educational environment or to deter Sexual Misconduct.

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 law and with the need for a thorough review of the allegations.

The Institution will keep confidential the identity of any individual who has made a report or complaint of sexual discrimination, including any individual who has made a report or filed a Formal Complaint of Sexual Misconduct alleging a violation of this policy, any Complainant, any individual who has been reported to be the perpetrator of sex discrimination, any Respondent, and any witness, except as may be permitted or required by applicable law or to carry out the provisions of this policy. Information related to a report or complaint 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 of the matter. Moreover, all Institution employees who are involved in the Title IX response will receive specific training and guidelines about safeguarding confidential information. Where a Formal Complaint is filed alleging a violation of this policy, however, identifying information of the Complainant and Respondent and witnesses will be shared with the parties and their advisors, if any. In addition, Complainants and Respondents are not restricted from discussing the allegations under investigation in a Formal Complaint.

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 and campus ministers in Lipscomb University’s Office of Spiritual Formation. 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 a Responsible Employee as defined in this policy must be shared with and reported to the Title IX Coordinator promptly.

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 and its implementing regulations. 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 or complaint, or testifying, assisting, or participating or refusing to participate in any manner in an investigation, proceeding, informal resolution, or hearing under this policy 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 or hearing conducted under this policy are entitled to protection from any form of Retaliation. Charging an individual with a code of conduct violation for making a materially false statement in bad faith in the course of a proceeding under this policy shall not constitute Retaliation; provided, however, that a determination regarding responsibility alone is not sufficient to conclude that any party made a materially false statement in bad faith. Complaints alleging Retaliation may be filed pursuant to the procedures described in this policy. 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. Every member of the Institution Community is encouraged 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 or other violation of this policy 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 Counseling Resources
615-966-1781

Lipscomb University Health Center Resources
615-966-6304

Lipscomb University Spiritual Formation Resources
615-966-6280

Lipscomb Family Therapy Center
615-966-5300

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)

CONFLICTS OF INTEREST

No person shall serve as Title IX Coordinator, investigator, hearing officer, appellate officer, or person to convene an informal resolution process who has a bias or conflict of interest for or against Complainants or Respondents generally or an individual Complainant or Respondent. Before assigning an investigator, hearing officer, appellate officer, or person to convene an informal resolution process for any matter under this policy, the Title IX Coordinator and/or his or her designees shall determine whether such person has a relationship with either the Complainants or the Respondents that would create a conflict of interest or bias. If such a conflict of interest or bias exists, the Title IX Coordinator and/or his or her designees shall assign a different qualified person who does not have such a conflict of interest or bias.

TRAINING

The Institution will provide training for the Title IX Coordinator, investigators, hearing officers, appellate officers and any person who convenes an informal resolution process on:

- The definition of Sexual Misconduct under this policy;
- The scope of the Institution's education program or activity;
- How to conduct an investigation and grievance process as applicable (i.e., investigators will be trained on investigations, hearing officers will be trained on hearing processes, appellate officers will be trained on appellate processes and those convening informal resolution processes will be trained on informal resolution processes); and
- How to serve impartially, including by avoiding prejudgment of the facts at issue, conflicts of interest, and bias.

The Title IX Coordinator and/or his or her designee will also provide training for hearing officers on any technology to be used at a live hearing and on issues of relevance of questions and evidence, including when questions and evidence about a Complainant's sexual predisposition or prior sexual

behavior are not relevant. The Title IX Coordinator and/or his or her designee will also provide training to investigators on issues of relevance so they are equipped to create investigative reports that fairly summarize the relevant evidence. Materials used to train the Title IX Coordinator, investigators, hearing officers, appellate officers and any person who convenes an informal resolution process shall be maintained by the Title IX Coordinator for seven (7) years and shall also be posted on the Institution's website.

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. The Institution will take action if a Responsible Employee has notice of Sexual Misconduct in an education program or activity of the Institution against a person in the United States. Any person may report or file a complaint of sex discrimination or report or file a Formal Complaint of Sexual Misconduct (whether or not the person reporting is the person alleged to be the victim of the conduct that could constitute sex discrimination or Sexual Misconduct) to the Title IX Coordinator (including during non-business hours). All Responsible Employees must promptly share any report of Sexual Misconduct with the Title IX Coordinator. The Institution cannot take appropriate action unless an incident is reported. All reports must be shared with the Title IX Coordinator promptly. Any Responsible Employee who becomes aware of any alleged act of Sexual Misconduct and fails to report promptly such alleged act to the Title IX Coordinator 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 Complainant 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 or not 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 materially false charges alleging a violation of this policy in bad faith may be subject to appropriate disciplinary action.

Anonymous Reporting

Any individual may make an anonymous report concerning an alleged violation of this policy at any time to the Title IX Coordinator through the contact information provided above, or the anonymous reporting resource identified in this paragraph. Such a report should identify an alleged victim, if possible, so that the Title IX Coordinator may offer the alleged victim Supportive Measures and discuss options for filing a Formal Complaint. If an alleged victim is not identified, the reporter should disclose his or her name and any requested 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 Supportive Measures, filing a Formal Complaint and, in consultation with the Executive Director of Security and Safety (or equivalent position), 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

Reports

Upon receipt of a report of an alleged violation of this policy, the Title IX Coordinator and/or his or her designee(s) will promptly contact the Complainant to discuss the availability of Supportive Measures, inform the Complainant of the availability of Supportive Measures with or without the filing of a Formal Complaint, and explain to the Complainant the process for filing a Formal Complaint.

In communicating with the Complainant about Supportive Measures, the Title IX Coordinator and/or his or her designee(s) may also make a prompt assessment of any imminent risk of harm to the Complainant(s) or to the Institution Community to determine any steps that may be necessary to address those risks. These steps may include removal of a Respondent from the Institution's educational programs or activities on an emergency basis if the Institution undertakes an individualized safety and risk analysis and determines that an immediate threat to the physical health or safety of any student or other individual arising from the allegations of Sexual Misconduct justifies removal. The Institution will provide written notice to any Respondent who is subject to emergency removal. A student Respondent who is subject to emergency removal may challenge that removal by providing the Title IX Coordinator with a written opposition to such emergency removal within five (5) days of notification of removal. The Title IX Coordinator will identify a senior administrator to decide any such challenge. The senior administrator need not meet with the student Respondent and may decide the challenge based on the written record. The senior administrator's decision will be final. The Institution may place a non-student employee Respondent on administrative leave during the pendency of a Formal Complaint.

At the time a report is made, a Complainant need not decide whether to file a Formal 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. Supportive Measures are available to any Complainant whether or not a Formal Complaint is ever filed.

The Title IX Coordinator may, however, proceed with the filing of a Formal Complaint in the absence of a Complainant filing a Formal Complaint where the Title IX Coordinator determines that proceeding with a Formal Complaint is necessary to appropriately respond to a report of Sexual Misconduct. The Title IX Coordinator will consider a variety of factors in making this determination, such as whether there are multiple allegations of misconduct against an individual, the reasons why the Complainant does not want the Institution to investigate, the risk posed to any individual or the Institution Community by not proceeding, the nature of the allegations, and the ability of the Institution to successfully proceed with a hearing in the absence of cooperation by the Complainant.

Supportive Measures, Remedies and Accommodations

Upon receipt of a report or complaint, the Title IX Coordinator and/or his or her designee will promptly contact the Complainant to discuss the availability of Supportive Measures. The Title IX Coordinator and/or his or her designee will consider the Complainant's wishes with regard to Supportive Measures and will promptly impose reasonable and appropriate Supportive Measures designed to restore or preserve the Complainant's equal access to the Institution's education programs and activities. The Institution will also employ such measures as appropriate to protect the safety of all parties, the Institution's educational environment, or to deter Sexual Misconduct. The Title IX Coordinator and/or his or her designee shall document the reasons why any determination not to provide Supportive Measures was not clearly unreasonable in light of the known circumstances, including, but not limited to, a circumstance where the Complainant does not request Supportive Measures. The Title IX Coordinator will maintain records of any Supportive Measures taken in response to a report or Formal Complaint of Sexual Misconduct for seven (7) years.

A Complainant or Respondent may request Supportive Measures, or the Institution may choose to implement Supportive Measures at its discretion to ensure the safety of all parties and/or the broader Institution Community. Supportive Measures may be implemented regardless of whether a Formal Complaint is filed. The Title IX Coordinator is responsible for coordinating the effective implementation of Supportive Measures.

All individuals are encouraged to report concerns about failure of any person to abide by any restrictions imposed as a Supportive Measure. The Institution will take prompt and responsive action to enforce any previously implemented Supportive Measure. The Title IX Coordinator may implement Supportive Measures at any time after receipt of an alleged violation of this policy. The Institution will maintain the confidentiality of any Supportive Measures provided to the Complainant or Respondent, to the extent that maintaining such confidentiality would not impair the ability of the Institution to provide the Supportive Measure. Supportive Measures that may be provided 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 or mutual restrictions on contact between the parties;
- Extension of deadlines or other course-related adjustments, including 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;
- Increasing security and monitoring of certain areas of the campus; and
- Any other remedy that can be tailored to the involved individuals to achieve the goal of this policy without unreasonably burdening the other party.

Optional, Informal Resolution

Any time after filing a Formal Complaint but prior to the commencement of a grievance hearing, either the Complainant or Respondent may request a meeting seeking optional informal resolution. If such a meeting is requested by a party, the Title IX Coordinator will provide both parties a written notice disclosing: the allegations; a copy of this policy which details the requirements of this optional, informal resolution process, including the circumstances under which it precludes the parties from resuming a Formal Complaint arising from the same allegations; that prior to reaching a resolution any party has the right to withdraw from the optional informal resolution process and resume the grievance process with respect to the Formal Complaint; and any consequences that may result from participating in the optional informal resolution process, including the records that will be maintained or could be shared. If both parties provide written consent to proceeding with optional informal resolution, the Title IX Coordinator shall proceed with facilitating optional informal resolution. Optional informal resolution is not available where a student Complainant alleges Sexual Misconduct by an employee of the Institution.

The Title IX Coordinator and/or his or her designee shall appoint an appropriate administrator to serve as the informal resolution facilitator and convene an informal resolution meeting. The Title IX Coordinator, in his or her discretion, may serve as the informal resolution facilitator. An outside third party may be designated by the Title IX Coordinator, as appropriate, to convene such a meeting.

The purpose of an informal resolution meeting will be for the Complainant or Respondent 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 only be held if both the Complainant and the Respondent voluntarily agree in writing 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 the Title IX Coordinator deems the matter to be appropriate for informal resolution, in addition to both parties agreeing to the meeting. Participation in an informal resolution meeting is voluntary, and any party may request to end the process at any time. If either party asks to end the optional informal resolution process, the Institution shall proceed with the Formal Complaint. If the Title IX Coordinator acted as the informal resolution facilitator for a matter that returns to the Formal Complaint process, the Title IX Coordinator shall not serve as the investigator on that matter or otherwise supervise the investigation.

The outcome under optional, informal resolution may include disciplinary sanctions to which both parties and the Institution agree, up to and including expulsion for a student and termination of employment for an employee. If the parties reach agreement through informal resolution to terms agreeable to both parties, the Title IX Coordinator shall document that the Formal Complaint was resolved through optional informal resolution and include any other terms agreed to by the parties. If disciplinary measures or

continuing Supportive Measures are included in a resolution agreement, the Institution must also approve those terms. The written resolution agreement shall be signed by both parties. Once an informal resolution agreement has been signed by both parties, neither party may resume or commence a Formal Complaint arising from the same factual circumstances.

The Title IX Coordinator will maintain records of any informal resolution meeting for seven (7) years. Records from an optional informal resolution process that is started but ended by either party prior to reaching an informal resolution agreement may not be used by either party in a later grievance hearing under this policy. Neither party may call the Title IX Coordinator or the administrator or third party who facilitated the informal resolution process to provide testimony as to what was disclosed or what occurred during the optional, informal resolution process at a grievance hearing under this policy.

Formal Complaint

Any Complainant may submit a Formal Complaint requesting that the Institution investigate an allegation of Sexual Misconduct with the Title IX Coordinator by mail, email or by clicking “Report an Incident” at the bottom of the Institution’s website, www.lipscomb.edu, and submitting a report. If for any reason the Complainant is not able to submit a Formal Complaint in writing, the Title IX Coordinator and/or his or her designee(s) may prepare the Formal Complaint based on verbal conversations with the Complainant, and the Complainant shall review such Formal Complaint, and when accurate and complete, sign a copy of such Formal Complaint. The Title IX Coordinator may also file a Formal Complaint regarding allegations of Sexual Misconduct against any member of the Institution Community. The Formal 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 Formal Complaint should also provide the names, addresses and phone numbers of any witnesses or potential witnesses. All Formal Complaints should be signed and dated. Where the Title IX Coordinator files a Formal Complaint, he or she is not a Complainant or otherwise a party.

After the Title IX Coordinator files a Formal Complaint or receives a Formal Complaint, the Title IX Coordinator and/or his or her designee(s) shall provide a written notice to the parties who are identified in the Formal Complaint that includes:

- Notice of the Institution’s grievance process, including any informal resolution process, by providing a copy of this policy;
- The allegations of Sexual Misconduct as known at the time, including, if known, the identities of the parties, the Sexual Misconduct alleged and the date, time and location of the incident;
- A statement that the Respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility is made at the conclusion of the grievance process;
- Notice that the parties may have an advisor of their choice accompany them to all proceedings and meetings that are part of the process, in accordance with the terms of this policy; and
- Notice that parties may be disciplined for knowingly making false statements or knowingly submitting false charges alleging a violation of this policy.

The Title IX Coordinator may consolidate, for purposes of investigation and determination, Formal Complaints made against more than one Respondent, or by more than one Complainant against one or more Respondents, or by one party against the other party, where the allegations arise out of the same facts or circumstances.

Dismissal of a Formal Complaint

If the Institution determines at any time that the conduct alleged in a Formal Complaint would not constitute Sexual Misconduct as defined in this policy even if proved, did not occur in the Institution's education program or activity, or did not occur against a person in the United States, the Institution shall dismiss the Formal Complaint ("Mandatory Dismissal"). The Title IX Coordinator may dismiss a Formal Complaint at any time ("Discretionary Dismissal") if:

- A Complainant notifies the Title IX Coordinator in writing that he or she would like to withdraw the Formal Complaint or any allegations in the Formal Complaint;
- The Respondent is no longer enrolled or employed by the Institution; or
- Specific circumstances prevent the Institution from gathering evidence sufficient to reach a determination as to the Formal Complaint or allegations herein.

In the case of a Discretionary Dismissal, before dismissing the Formal Complaint, the Title IX Coordinator shall consider whether a dismissal of the Formal Complaint is consistent with the Institution's obligations under Title IX to respond to allegations of Sexual Misconduct in a way that is not clearly unreasonable.

If the Institution dismisses a Formal Complaint, it will promptly send written notice of the dismissal and reasons for the dismissal to the parties simultaneously, with notice that the parties may appeal the Institution's dismissal of the Formal Complaint or of allegations within the Formal Complaint. A Mandatory Dismissal does not preclude a Complainant from filing an amended Formal Complaint that includes additional factual details that clarify that the conduct alleged would constitute Sexual Misconduct as defined in this policy or that the conduct did occur in the Institution's program or activity.

Investigation

The Title IX Coordinator will oversee an investigation of all Formal Complaints alleging a violation of this policy. Any such investigation will be designed to provide a fair and reliable gathering of the facts. The burden of gathering evidence sufficient to reach a determination regarding responsibility rests at all times with the Institution, and not with the Complainant or the Respondent. All individuals in the investigation, including the Complainant, the Respondent and any Third-Party witnesses, will be treated with appropriate sensitivity and respect.

The Institution will inform all Complainants of their right to pursue criminal charges. If the Complainant seeks criminal charges, local law enforcement may also conduct an 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 and Respondent (as appropriate) regarding their rights under this policy, procedural options and the implementation of Supportive 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.

The Title IX Coordinator will oversee the investigation, and designate one or more individual(s) to conduct the investigation. The Title IX Coordinator, in his or her discretion, may serve as the investigator. 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.

The investigator(s) will provide the parties with written notice of the date, time, location, and participants for all investigative interviews or other meetings with the parties, with sufficient time for the party to prepare to participate. Two (2) days advance notice shall generally be deemed sufficient time to prepare for an investigative interview or meeting. Absent an emergency removal by the Institution, or other exigent circumstances, an initial investigative interview with either Complainant or Respondent shall not be held earlier than two (2) days after the Complainant and Respondent have received the Formal Complaint and accompanying materials.

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 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. 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 investigator(s), however, shall not access, consider, disclose, or otherwise use a party's Medical Records unless the Institution receives that party's voluntary, written consent to do so for a proceeding under this policy. 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 prior sexual behavior or sexual predisposition of the Complainant are not relevant and shall not be considered unless offered to prove that someone other than the Respondent committed the conduct alleged by the Complainant, or if it concerns specific incidents of the Complainant's prior sexual behavior with respect to the Respondent and are offered to prove Consent. The prior sexual behavior or sexual predisposition of the Respondent may be considered only if it establishes a pattern of complaints or behavior.

Prior to completing the investigation, the investigator(s) may meet again with the Complainant and/or 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. After completing the investigation, and prior to completing the investigative report, the investigator(s) will provide to each party, and to each party's respective advisor, all evidence obtained as part of the investigation that is directly related to the allegations raised in the Formal Complaint, in an electronic format or a hard copy, including all interview memoranda, and all other documentary or other evidence directly related to the allegations raised in the Formal Complaint, regardless of whether the investigator intends to rely on such evidence in the investigative report. The parties shall have ten (10) calendar days to submit a written response to the evidence, which the investigator(s) shall consider prior to completion of the investigative report. If additional evidence, including additional witness testimony, is gathered by the investigator(s) after the evidence has been shared with the parties, the investigator(s) will promptly share such additional evidence with the parties and provide the parties with ten (10) calendar days to provide written comments on such additional evidence prior to completing the investigative report.

Investigative Report

After considering the parties' written comments, if any, on the evidence, the investigator(s) will complete an investigative report that:

- Identifies the allegations potentially constituting a violation of this policy;
- Describes the procedural steps taken from the receipt of the Formal Complaint through the date of the draft report, including any notifications to the parties, interviews with parties and witnesses, site visits, methods used to gather other evidence, and hearings held, if any; and
- Fairly summarizes the relevant evidence.

The content of such report may be modified subject to the limitations of FERPA and other applicable privacy laws or legal privileges. The Title IX Coordinator will review all draft investigative reports prior to their submission to the parties and may request that the investigator(s) revise the report, or gather additional evidence.

The investigative report will be shared with the parties and their respective advisors, if any, in an electronic format or hard copy. Unless specified otherwise by the investigator(s), the parties will have ten (10) days to review the investigative report and provide any comments or additional information in connection with the investigative report. After considering information and/or comments, if any, provided by a party by the deadline in response to the investigative report, the investigator(s) may revise the investigative report, if those comments require substantial revisions to the investigatory report, as deemed appropriate in the discretion of the investigator(s), and in consultation with the Title IX Coordinator.

If no written comments are received by deadline in response to the investigative report, or if the investigator(s) determine that no revisions to the investigative report are necessary, then the investigative report will become final. If a revised investigative report is prepared, it shall be provided to both parties and their respective advisors, if any, in an electronic format or hard copy, and the parties shall again have ten (10) days to provide written comments and additional evidence in response to the final investigative report.

The final investigative report will be shared with the parties and their respective advisors, if any, in an electronic format or hard copy at least ten (10) days prior to the grievance hearing detailed below.

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 willing 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, interviews and hearings at which the party is entitled to be present, including intake, interviews, and meetings. Advisors may 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. Except as detailed below during the grievance hearing, 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 meeting or hearing if they have a question for 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 or hearings 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 or hearing under the resolution process will be warned at least one time. 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, other than a grievance hearing as detailed below, 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, or whether the party may obtain or request a different advisor.

If a party does not have an advisor present for a grievance hearing, the Institution will provide an advisor of the Institution's choice for the party. Where the Institution provides an advisor for a party, the role and responsibility of the advisor is limited to posing cross-examination questions to the other party and witnesses at the grievance hearing. The Institution-provided advisor will only pose such cross-examination questions as are provided to the advisor by the party the advisor is advising. The advisor provided by the Institution may, or may not, be an attorney, even if the other party has an attorney as an advisor at the hearing.

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 any purpose other than assisting the Complainant or Respondent with proceedings concerning a Formal Complaint under this policy. The Institution may seek to discontinue or 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, meetings or hearings 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 (2) business days before the date of their first meeting or interview under this policy. The parties must provide subsequent timely notice to the Title IX Coordinator if they change advisors at any time. In addition, parties must inform the Title IX Coordinator at least seven (7) days before any grievance hearing as to whether they will be accompanied by an advisor and the identity of such advisor.

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.

Grievance Hearing

Scheduling of Hearing and Appointment of Hearing Officer

The Title IX Coordinator or his or her designee shall schedule a grievance hearing to be held no sooner than ten (10) days after the parties receive the investigative report. At least ten (10) days prior to the hearing, the Title IX Coordinator and/or his or her designee shall inform the parties and their advisors, if any, of the scheduled date and time of the hearing and where the hearing will be conducted. All hearings will be conducted live and in private. The only people who may attend the hearing shall be the Complainant and any advisor, the Respondent and any advisor, the hearing officer, any witnesses (each of whom shall attend only for the duration of their personal testimony), the Title IX Coordinator, any officials or employees from the Institution at the discretion of the Title IX Coordinator, and any interpreters necessary

for participants or witnesses to provide testimony and/or participate. Hearings may be conducted with the parties in the same physical location or in different physical locations with technology that allows the participants simultaneously to see and hear each other. If the hearing is scheduled for the parties to be in the same physical location, either party may request that the hearing occur with the parties located in separate rooms with technology enabling the hearing officer and parties to simultaneously see and hear the party or the witness answering questions. A party shall make any such request in writing to the Title IX Coordinator or his or her designee within two (2) days of receiving notice that the hearing is scheduled to be in-person with the parties in the same room.

Upon scheduling the hearing, the Title IX Coordinator and/or his or her designee will appoint a hearing officer to conduct the hearing. The hearing officer will be a senior administrator of the Institution, or may be, in the discretion of the Title IX Coordinator and/or his or her designee, a third party specially appointed for this purpose. The Title IX Coordinator and/or his or her designee shall provide the hearing officer, as much in advance of the hearing as possible, with the evidence directly related to the allegations that has been shared with the parties by the investigator(s); any written responses provided by the parties to the evidence; the final investigative report, and any written responses provided by the parties to the final investigative report.

The Title IX Coordinator and/or his or her designee shall provide the parties with the name of the hearing officer in advance of the hearing. The parties shall have two (2) calendar days after receiving such notice to object to the hearing officer on the basis that the party believes that the hearing officer has a conflict of interest or bias. If either party objects to the hearing officer, the Title IX Officer and/or his or her designee shall determine whether to appoint a different hearing officer. If a replacement hearing officer is appointed, the parties shall have two (2) calendar days after receiving notice of any replacement hearing officer to object on the basis that the replacement hearing officer has a conflict of interest or bias. If a replacement hearing officer is appointed, the hearing date may be postponed at the discretion of the Institution.

Identification of Witnesses for the Hearing

No later than five (5) days prior to the hearing, the Title IX Coordinator and/or his or her designee will inform the parties of the names of witnesses who the Institution has invited to attend the hearing. If a party wishes to invite any additional witness to the hearing, the party may do so if that witness has been interviewed by the investigator(s) and the party believes that the witness has information that is relevant to the matter. No later than three (3) days prior to the hearing, the party shall inform the Title IX Coordinator and/or his or her designee of the name of any such witness and the Title IX Coordinator and/or his or her designee shall inform the other party of the identity of any such additional witness and will invite any such additional witness to the hearing using contact information provided by the party who wishes to invite such witness.

Conducting the Hearing

At the hearing, the parties will be limited to evidence and witnesses that have been provided to the investigator(s) prior to preparation of the investigative report. The Institution will make all such evidence subject to the parties' inspection and review available at the hearing so each party has an equal opportunity to refer to such evidence during the hearing, including for purposes of cross-examination. The rules of evidence applicable to court proceedings do not apply to the hearing. Information that is relevant will be considered by the hearing officer; information that is irrelevant will be excluded by the hearing officer. Evidence is relevant if it (1) makes a fact that is of consequence in determining the matter more or less likely than it would be without the evidence; or (2) it reflects on the credibility of a testifying party or witness in a material way. Questions and evidence about the Complainant's sexual predisposition or prior

sexual behavior are not relevant, unless such questions and evidence about the Complainant's prior sexual behavior are offered to prove that someone other than the Respondent committed the conduct alleged by the Complainant, or if the questions and evidence concern specific incidents of the Complainant's prior sexual behavior with respect to the Respondent and are offered to prove consent. The hearing officer may deem a cross-examination question or evidence irrelevant if it is duplicative or redundant.

The hearing will proceed as follows: reading of the charges; Respondent's statement denying or admitting responsibility; any opening comments from the Complainant; any opening comments from the Respondent; questioning of the Complainant; questioning of the Respondent; questioning of any other witnesses; any closing statement by the Complainant; and any closing statement by the Respondent.

All parties, advisors, and the hearing officer should be familiar with statements of parties and witnesses included in the investigative file. The purpose of questioning at the hearing shall be to ask questions that will clarify the party or witnesses' statement from the investigative file and that will help the hearing officer determine the credibility of the parties and witnesses so as to reach an accurate determination. In questioning of the parties and other witnesses, the hearing officer shall first pose any relevant clarifying questions that the hearing officer may have based on the hearing officer's review of the statement of that party or witness taken by the investigator(s). After the hearing officer has completed questioning of a party, then the advisor for the other party may ask relevant cross-examination questions of the testifying party. In questioning witnesses, the advisor for the complainant shall conduct any cross-examination before the advisor for the respondent conducts cross-examination. Before the testifying party or any testifying witness answers any cross-examination question posed by a party's advisor, the hearing officer will first determine whether the question is relevant and will provide an explanation for any decision to exclude a question as irrelevant. The hearing officer may instruct a testifying party or witness not to answer any question that the hearing officer deems irrelevant. Neither party shall be allowed to challenge the determinations of relevancy made by the hearing officer during the hearing.

Advisors may cross-examine the other party and witnesses but shall not otherwise participate in the hearing aside from quietly advising a party. Opening and closing statements, if any, shall be delivered personally by the Complainant and the Respondent. The hearing officer may set reasonable time limits for testimony and opening and closing statements that are equally applied to both parties.

At the hearing and in particular in conducting cross-examination, advisors shall treat all parties, witnesses, advisors and the hearing officer with respect and ask questions in a respectful, non-adversarial manner. The hearing officer may dismiss an advisor who refuses to conduct cross-examination in a respectful, non-adversarial manner after providing the advisor with one warning. If a party's advisor is dismissed from the hearing by the hearing officer, the hearing may be postponed to allow the party to obtain another advisor, or, at the hearing officer's discretion, the hearing may proceed after a brief recess to allow the Institution to provide the party with an alternate advisor. Whether to appoint an alternate advisor and whom to appoint are solely within the discretion of the Institution.

The Institution will create an audio or audiovisual recording, or a transcript, of the live hearing and make it available to the parties for inspection and review. The Title IX Coordinator will maintain any audio or audiovisual recording or transcript for seven (7) years.

In determining responsibility, the hearing officer will not rely on any statement of a party or a witness who does not submit to cross-examination at the hearing; provided, however, that the hearing officer cannot draw an inference about the determination regarding responsibility based solely on a party's or witness's absence from the live hearing or refusal to answer cross-examination or other questions. A hearing may proceed in the absence of either party or any witness. If either party is absent from the hearing, that party's advisor may attend the hearing and pose cross-examination questions of the other party and of

witnesses. If a party is absent from the hearing and no advisor for the party attends the hearing, the Institution will provide an advisor for that party. The advisor's role in that circumstance will be limited to posing any cross-examination questions for the other party or for witnesses that the absent party has provided to the Title IX Coordinator or the hearing officer in advance of the hearing.

Written Determination Regarding Responsibility

After the hearing, the hearing officer will issue a written determination regarding responsibility, using a preponderance of the evidence standard (i.e., whether it is more likely than not that Sexual Misconduct occurred). The hearing officer will make an objective evaluation of all relevant evidence presented, including both inculpatory and exculpatory evidence, with the exception noted above of party and witness statements where the party or witness has not submitted to cross-examination. The hearing officer may not base credibility determinations on a person's status as a Complainant, Respondent, or witness. The written determination will include:

- Identification of the allegations potentially constituting a violation of this policy;
- A description of the procedural steps taken from the receipt of the Formal Complaint through the determination, including any notifications to the parties, interviews with parties and witnesses, site visits, methods used to gather other evidence, and hearings held;
- Findings of fact supporting the determination;
- Conclusions regarding the application of the Institution's policy to the facts;
- A statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility;
- Any disciplinary sanctions the Institution imposes on the Respondent;
- Whether remedies designed to restore or preserve equal access to the Institution's education program or activity will be provided to the Complainant; and
- The procedures and permissible bases for appeal.

The written determination will be provided to the parties simultaneously. The Title IX Coordinator is responsible for effective implementation of any remedies that may be imposed after a finding of responsibility.

Disciplinary Action

In the event the hearing officer determines that the Respondent is responsible for an act of Sexual Misconduct or other violation under this policy, he or she may impose any appropriate sanction that he or she determines to be fair. In determining any disciplinary action, the hearing officer may consider the following:

- Students – If a student is found to have committed a Sexual Assault, the appropriate presumptive discipline is expulsion.
- Staff – If a staff member is found to have committed a Sexual Assault, then the appropriate presumptive action is to 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 hearing officer will recommend sanctions to the Provost of the Institution. In cases where the faculty member is found to have committed a Sexual Assault, the presumptive action is discharge or termination of employment, 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 dismissal of a Formal Complaint or a final determination by submitting a written objection to the Title IX Coordinator within five (5) calendar days of receipt of the notice of dismissal or final determination. Any grounds for appeal shall be based solely on:

- The emergence of new evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made, that could affect the outcome of the matter; or
- A claim that some procedural aspect of this policy was not properly followed and that irregularity affected the outcome of the matter; or
- The Title IX Coordinator, investigator(s) or hearing officer had a conflict of interest or bias for or against Complainants or Respondents generally or the individual Complainant or Respondent that affected the outcome of the matter.

The Title IX Coordinator has sole authority to determine if any appeal is timely submitted. If the Title IX Coordinator determines that an appeal is not timely submitted, 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 timely submitted, the Title IX Coordinator will designate the appropriate senior administrator of the Institution to consider the appeal. Such senior administrator shall not be the same person as the investigator(s), the Title IX Coordinator, or the hearing officer who determined responsibility or dismissal. The Title IX Coordinator shall provide the appeal to the other party, who shall have five (5) calendar days to provide a written statement in response to the appeal. The senior administrator will consider the objections presented in the appeal and the written response to the appeal, review and evaluate the final determination report, if applicable, and reach his or her conclusion. The senior administrator will issue a written decision related to the appeal to the Complainant and Respondent and provide it to them simultaneously within thirty (30) days of receiving all written responses. All documentation regarding an appeal will be communicated with and forwarded to the Title IX Coordinator. The determination regarding responsibility becomes final either on the date that the Institution provides the parties with the written determination of the result of the appeal, if an appeal is filed, or if an appeal is not filed, the date on which an appeal would no longer be considered timely.

Records

The Title IX Coordinator will maintain for a period of seven (7) years records of each investigation of Sexual Misconduct, including any determination regarding responsibility, any disciplinary sanctions imposed on the Respondent, any remedies provided to the Complainant designed to restore or preserve equal access to the Institution's education program or activity, and any appeal and the result therefrom.

Timelines and Extensions

When a Formal Complaint is filed, the Institution shall endeavor to complete the grievance process, from the filing of a Formal Complaint, through a written determination by the hearing officer, within 140

calendar days. The Institution shall endeavor to render a decision on any appeal within 30 calendar days of receiving all written submissions by the parties. The Institution shall endeavor to complete an informal resolution process within 90 calendar days. If parties begin an informal resolution process that is stopped at the request of a party or concludes without resolution, requiring the Formal Complaint process to start again, the investigator(s) will provide the parties with a new time period for completion of the grievance process, which shall be less than 140 calendar days from the stoppage or conclusion of the informal resolution process.

The Institution may impose a temporary delay of the grievance process or extend these time frames for good cause with written notice to the Complainant and the Respondent of the delay or extension and the reasons for the action. Good cause may include, but is not limited to, considerations such as the absence or illness of a party, a party's advisor or witness, concurrent law enforcement activity, the late identification of additional witnesses or evidence, or the need for language assistance or accommodation of disabilities.

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This Amended and Restated Sexual Harassment and Sexual Misconduct Policy was adopted as of August 14, 2020 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.