

Student Respondent Sexual and Gender Based Misconduct Policy

The following is copied from the Loyola University Maryland Community Standards section I.D.6. Sexual and Gender Based Misconduct Policy

6. Sexual and Gender Based Misconduct Policy

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Prevents sexual misconduct, the process for reporting sexual
procedures for adjudicating sexual and gender
includes the Student Respondent Sexual and Gender
procedures. The process for addressing harassment and
in University Policy J. Harassment and Discrimination Policy
this policy based on any judicial orders or outcomes and
regarding the implementation of the 2020 Title IX regulations from
Rights or any updated guidance or laws from the state of the Maryland regarding
sexual and gender based policies.

Scope of Sexual and Gender Based Misconduct Policy

The Sexual and Gender Based Misconduct Policy prohibits discrimination on the basis of sex, in
accordance with Title IX, Maryland state law, and in accordance with the University's values and
standards of conduct. This policy prohibits sexual harassment, domestic violence, dating violence,
stalking and sexual assault of student i2.82.4 ()-5.5 (wm2.42(r)-5 (t)-1.8 ()1 (st)y.5 (i) (d)2.4an)2.4 (n)-3.1 ()1.3

“under Title IX.”

intervention, and information on risk reduction to recognize warning signs of abusive behavior and how to avoid potential sexual violence.

Title IX Independence and Conflict of Interest

The Title IX Coordinator oversees the implementation of the Title IX process and acts with independence and authority free from bias and conflicts of interest. The Title IX Deputy Coordinator for Students oversees all resolutions under this policy and these procedures related to complaints where the student is the respondent. The Title IX Deputy Coordinator for Faculty, Staff, and Administrators oversees all resolutions under this policy and these procedures related to complaints where an employee is the respondent. The Title IX Coordinator and Deputies receive annual training and are trained to ensure

Office for Civil Rights (OCR)
U.S. Department of Education
400 Maryland Avenue, SW
Washington, D.C. 20202-1000
Customer Service Hotline #: (800) 421-8181
Facsimile: (202) 456-0112
TDD#: (877) 521-2172
Email:OCR@ed.gov
Web:<http://www.ed.gov/ocr>

Reports about the Title IX Coordinator violating the Sexual and Gender-Based Misconduct Policy should be made to the Title IX Deputy Coordinator for Faculty, Staff, and Administrators. Upon a report regarding an allegation about the Title IX coordinator on

noted that the University's ability to investigate or act upon anonymous reports may be limited.

Additional reporting methods:

- Anonymous Information Form, found [https://www.loyola.edu/department/public safety/anonymousinformation-form](https://www.loyola.edu/department/public%20safety/anonymousinformation-form)
- EthicsPoint found at <https://secure.ethicspoint.com/domain/media/en/gui/18799/index.html>
- Bias Related Behaviors Report, found at www.loyola.edu/reportbias
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University Maryland without your expressed consent unless imminent threat exists or a child sex offense is disclosed.

- TurnAround (Off Campus):
443-279-0379
24-hour counseling and support for sexual assault and domestic violence
- House of Ruth (Off Campus):
410-889-7884
24-hour domestic violence resource
- Hopework- (e) (3) (D) (f) - 2 (c) (w) - 5 (0) (f) - 2 (c) - 6 (a) - 2 (mp) - 6 (u) - 6 (s) - 4 - (:) [T] T T T f C C w d () T j T T C f C - 2 4 our domestic violence resourc, vHR wrd County
 - xuamsaCut (m) 2 (es) - 5 (2) (e) - 6 (1) - 2 (f) 4 2 () - 5 (w) - 9 (a) 2 (O) 2 (mf) 4 2 (e) - 6 (a) 2 (C) - 9 (n) 2 (C) - 1 (a) C - 2 (o) 2 (m) - 4

remain anonymous, they can have the exam listed as a Jane Doe/John Doe for confidentiality. IPV exams are not free of charge and can be billed to insurance. If the person who experienced interpersonal violence is uninsured, Mercy Medical Center can discuss options for financial assistance. IPV exams cannot be listed anonymously in the same way SAFE's can. Having a forensic exam is an important step to preserve evidence for a criminal offense if criminal charges are filed. The contact information for the hospital in Baltimore City is:

- **Mercy Medical Center**
300 St. Paul Street
Baltimore, MD
410-332-9477

Preserving evidence.

The preservation of evidence in incidents of sexual assault and stalking is critical to potential criminal prosecution and to obtaining restraining/protective orders and is particularly time sensitive. The following actions are recommended steps to preserve evidence.

- Sexual assault:
 - It is recommended that the complainant not take a shower or wash or discard clothing they were wearing at the time of the assault.
 - All clothing (including underwear) should be put into a paper bag and brought to the hospital.
 - Preservation of any related or electronic communications (e.g., pictures, videos, texts, social media posts, etc.) is recommended.
- Dating or Domestic Violence
 - Log any incident of abuse (verbal, physical, emotional, or otherwise). Suggested steps for logging incidents can be found below in the section on preserving evidence in stalking incidents.
 - Take timestamped photos of injuries or damage to property.
 - If you are injured during an incident, seeking medical attention may be needed.
- Stalking
 - It is recommended the complainant preserve evidence of contact or attempted contact by the respondent. Evidence in the form of text and voice messages will be lost in most cases if the Complainant changes their phone number. Complainant should:
 - Make a secondary recording of any voice messages and/or save the audio files to a cloud server
 - Take screenshots and/or a video recording of any text messages or electronic messages (e.g., Instagram, Snapchat, Facebook)
 - Save copies of e-mail and social media correspondence, including notifications related to account access alerts.
 - Take timestamped photographs of any physical evidence including notes, gift etc. in place when possible.
 - Save copies of any messages, to include those showing any request for no further contact.
 - Obtain copies of call logs showing the specific phone number being used rather than a saved contact name if possible.

- Resources such as a stalking log, which can be accessed on the Title IX website can be useful to track contacts and attempted contacts.

Supportive Measures

Upon receiving notice or a complaint, the appropriate Title IX Coordinator (or designee) will promptly offer supportive measures to the parties designed to restore or preserve access to the University's education program, activity, or work environment. Supportive measures are non

complaint on behalf of the complainant if the person alleged to have engaged in conduct prohibited by this policy is an employee.

The appropriate Title IX Coordinator must also consider the effect that participation by the complainant may have on the availability of evidence and the University's ability to pursue a formal grievance process fairly and effectively. The University will dismiss complaints as outlined in section Dismissal of a formal complaint (Mandatory and Discretionary).

When the appropriate Title IX Coordinator executes the written complaint, they do not become the complainant. The complainant is the individual who is alleged to be the victim of conduct that could constitute a violation of this policy.

When the University proceeds, the complainant (or their advisor) may have as much or as little involvement in the process as they wish. The complainant retains all rights of a under this policy irrespective of their level of participation.

In cases in which the complainant requests confidentiality or no formal action and the circumstances allow the University to honor that request, the University will offer supportive measures and remedies to the complainant and the community but will not otherwise pursue formal action.

If the complainant elects to take no action, they can change that decision if they decide to pursue a formal complaint at a later date. However, delays in filing a formal complaint may cause limitations on access to evidence, or present issues with respect to the status of the parties. Upon making a formal complaint, a complainant has the right, and can expect, to have allegations taken seriously by University,

a violation of the student/employee code of conduct. Any incidents of retaliation by a student should be reported immediately to Residence Life & Housing, Student Conduct, or the appropriate Title IX Coordinator (or designee) and for incidents by employees, they should be reported to the appropriate Title IX Coordinator. Incidents of retaliation are considered a serious violation. Allegations of retaliation are handled in accordance with the normal rules and procedures of the student conduct process, and students alleged to have violated this policy may be charged with 17. Retaliation. Any employee who is alleged to have violated this provision may be subject to disciplinary action under section 1.28 Discipline under Staff and Administrator Policy Manual.

It is prohibited for the University or any member of the University's community to take materially adverse action by intimidating, threatening, coercing, harassing, or discriminating against an individual for the purpose of interfering with any right or privilege secured by law or policy, or because the individual has made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under this policy and procedure.

Charging an individual under the appropriate disciplinary process under the student code of conduct for students and the Staff and Administrator Policy Manual for employees and the Faculty Handbook for faculty for making a materially false statement in bad faith in the course of a grievance proceeding under this policy and procedure does not constitute retaliation, provided that a determination regarding responsibility, alone, is not sufficient to conclude that any party has made a materially false statement in bad faith.

Recordkeeping

The University will maintain for a period of seven years records of its Title IX Grievance Process, including:

1. Each sexual harassment investigation including any determination regarding responsibility and any audio or audiovisual recording or transcript required det(i)-1.i1iov4ID 9 >>

Complaint Process Applicable to Title IX Grievance Procedures and General Sexual Misconduct Procedures

The University's procedures provide for a prompt, f

Fondlings defined as the touching of the private body parts, including but not limited to breasts, buttocks, or groin of another person, for the purpose of sexual gratification, without the consent of the complainant, including instances where the complainant is incapable of giving consent because of their age or because of their temporary or permanent mental incapacity.

Incestis defined as nonforcible sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.

Statutory Rape is defined as nonforcible sexual intercourse with a person who is under the statutory age of consent which is 16 years of age in the state of Maryland (which means the victim must be under 16); however, 14 and 15 year-olds may consent if the offender is less than four years older than the victim.

Dating Violence encompasses a wide range of behaviors including sexual assault, physical abuse and other forms of violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the complainant. The existence of such a relationship shall be determined based on the complainant's statement and with consideration of the length of the relationship, the type of relationship, and the frequency of interaction between persons involved in the relationship. For the purposes of this definition, dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse. Dating violence does not include acts covered under the definition of domestic violence.

Domestic Violence encompasses a wide range of behaviors including sexual assault, physical abuse and other forms of violence committed by a current or former spouse or intimate partner of the complainant; by a person with whom the complainant shares a child in common; by a person who is cohabitating with or has cohabitated with, the complainant as a spouse or intimate partner; by a person similarly situated to a spouse of the complainant, or by any other

² This would include someone (person A) making another person (person B) touch their (person A) private body parts sexually without their (person B) consent.

³ Violence under dating violence and domestic violence includes but is not limited to the use or attempted use of physical abuse or sexual abuse, or a pattern of any other coercive behavior committed, enabled, or solicited to gain or maintain power and control over a victim, including verbal, psychological, economic, technological abuse. Economic abuse means behavior that is coercive, deceptive, or unreasonably controls or restricts a person's ability to acquire, use, or maintain economic resources to which they are entitled, including using coercion, fraud, or manipulation to restrict a person's access to money, assets, credit, financial information, unfairly use a person's personal economic resources, including money, assets, and credit, for one's own advantage or exert undue influence over a person's financial and economic behavior or decisions, including forcing a default on joint or other financial obligations, exploiting powers of attorney, guardianship, or conservatorship failing or neglecting to act in the best interests of a person to whom one has a fiduciary duty. Technological Abuse means an act or pattern of behavior that is intended to harm, threaten, intimidate, control, stalk, harass, impersonate, exploit, extort, or monitor, except as otherwise permitted by law, another person, that occurs using any form of technology, including but not limited to: internet enabled devices, online spaces and platforms, computers, mobile devices, cameras and imaging programs, apps, location

Training of Grievance Process Officials

or circumstances.

Initial assessment

Once a formal complaint is filed, the appropriate Title IX Coordinator will initiate a prompt review of the formal complaint to determine the next steps in the grievance process. The assessment typically takes one to five business days.

The steps in an initial assessment can include:

- If a formal complaint is received, the appropriate Title IX Coordinator assesses its sufficiency and works with the complainant to make sure it is correctly completed.
- The appropriate Title IX Coordinator or Title IX Intake Officer reaches out to the complainant to offer supportive measures if this has not already occurred.
- The appropriate Title IX Coordinator works with t th.7 (o)-4.1 (r)-1.7 (w)-1.8 (o)-4.1 (r)-1.7 (ks)-3.

Advisors

Except as noted below, the complainant and respondent may each have no more than two people, defined as advisors, present throughout the entire process. The advisor may be a personal supporter of the party's choice, a licensed attorney, an advocate, or an advocate supervised by an attorney. The advisor of choice can also include parents or others who are not full-time members of the University community. Advisors are not permitted for witnesses during hearings, meetings, or proceedings.

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complainant's access to educational, extra-curricular, and/or employment activities at the University; and/or to address the effects of the respondent's alleged conduct on the larger University community. Any combination of interventions and remedies may be utilized, including but not limited to:

- Increased monitoring, supervision, and/or security at locations or activities where the alleged conduct occurred or is likely to recur;
- Targeted or broad-based educational programming or training for relevant individuals or groups;
-

dismissal does not preclude action under another provision of the University's code of conduct or other policies, including the University's Sexual and Gender-Based Misconduct Policy (provided the complaint will not be considered "under Title IX" and the General Sexual Misconduct Procedures will be applied). The University must dismiss a formal complaint under Title IX or any allegations therein if, at any time during the investigation or hearing, it is determined that:

1. The conduct alleged in the formal complaint would not constitute sexual harassment as defined in the Prohibited Conduct under the Title IX Grievance Process section of this policy; and/or
2. The conduct did not occur in an educational program or activity controlled by the University (including buildings or property controlled by recognized student organizations), and/or the University does not have control of the respondent; and/or
3. The conduct did not occur against a person in the United States; and/or
4. At the time of filing a formal complaint, a complainant is not participating in or attempting to participate in the education program or activity of the University, and it would not be unreasonable in light of the known circumstances to allow the dismissal and it would not be unreasonable in light of the known circumstances to allow the dismissal.

The University may dismiss a formal complaint or any allegations therein if, at any time during the investigation or hearing:

1. a complainant notifies the appropriate Title IX Coordinator in writing that they would like to withdraw the formal complaint; or
2. when the respondent is no longer enrolled or employed by the University; or
3. Specific circumstances prevent the University from gathering evidence sufficient to reach a determination as to the formal complaint or allegations therein.

In the case a student respondent requests a leave or withdrawal from the University after a formal complaint has been filed under 6. Sexual and Gender-Based Misconduct Policy, the University may not prohibit a student from taking a leave or withdrawing as it could be considered retaliation under the 2020 Title IX regulations. However, should a student request a leave or withdraw after a formal complaint has been filed under 6. Sexual and Gender-Based Misconduct Policy, the University reserves the right to complete the Title IX Grievance Procedure or General Sexual Misconduct Process or require that the process be completed prior to the student being permitted to enroll.

Upon any dismissal, the University will promptly send written notice of the dismissal and the rationale for doing so simultaneously to the parties.

The dismissal determination of a formal complaint or any included allegations may be appealed to the Vice President for Student Development or designee, in the case of students; or to the Title IX Coordinator or designee, in the case of employees. The appeal must be submitted within five University business days of receipt of the dismissal letter, indicating the grounds for appeal. If a party does not appeal the decision within this period, they have waived a right to appeal. A complainant or respondent may appeal on one of the following grounds:

- The party alleges that there were procedural irregularities that affected the outcome of the dismissal;
- The party alleges new evidence that was not reasonably available at the time of the determination of

- dismissal of the complaint was made that could affect the outcome of the dismissal;
- The party alleges the Title IX Coordinator or Deputies, investigators, or hearing panel 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 dismissal.
 - The party alleges the Title IX Coordinator or designee who dismissed the complaint did not appropriately apply the criteria of this section when deciding the dismissal.

When an appeal letter is accepted, the other party will be given notice of the appeal, a copy of the appeal letter, and the opportunity to submit a written response within five University business days.

An independent decision maker, who may be a university administrator, a hearing panel member, or an external party, will be appointed to decide the appeal.

A complainant who decides to withdraw a complaint may later request to reinstate it or refile it.

Student Respondent Sexual and Gender-Based Misconduct Investigation and Hearing Procedures

The following sections outline the investigation and hearing procedures for complaints involving a student respondent under Title IX or not under Title IX.

Investigation

[Applicable to Both Title IX Grievance Procedure and General Sexual Misconduct Process]

Following notice to the parties, the appropriate Title IX Coordinator (or designee) will designate an impartial investigator(s) and coordinate the logistics of the investigation process. All investigations will be conducted with fairness, equity, impartiality, and under a reasonably prompt timeframe, generally within 60 business days. Investigations involve interviews with all relevant parties and witnesses; obtaining available, relevant evidence; and identifying sources of expert information, as necessary. Any unauthorized audio or video recording of any kind is permitted during investigation meetings. The appropriate Title IX Coordinator (or designee) will provide regular status updates to the parties

parties' time to inspect and review evidence begins. See, 85 Fed. Reg. 30026, 30307 (May 19, 2020).

Prior to the conclusion of the investigation, the investigator shall prepare a draft written report summarizing and analyzing the evidence, including both evidence indicating the alleged behavior occurred or did not occur. Evidence obtained in the investigation that is determined in the reasoned judgment of the investigator(s) to not be directly related to the allegations in the formal complaint will be included in the appendices to the investigation report.

The parties and their advisors must sign an agreement not to disseminate any of the evidence subject to inspection and review or use such evidence for any purpose unrelated to the Student Respondent Title IX Grievance Procedures or General Sexual Misconduct Process. See, 85 Fed. Reg. 30026, 30435 (May 19, 2020). The parties and their advisors agree not to photograph or otherwise copy the evidence. See, 85 Fed. Reg. 30026, 30435 (May 19, 2020). The complainant and respondent and their advisors will receive the draft investigation report and may submit a written response to the appropriate Title IX Coordinator (or designee) within 10 days. The parties may elect to waive the full 10 days. If a written response has been submitted, the investigator(s) will evaluate the information from the parties and may need to conduct further interviews to gather relevant evidence in the case. The investigator(s) will incorporate relevant elements of the parties' written responses into the final investigation report, include any additional relevant evidence, make any necessary revisions, and finalize the report. The investigator(s) should document all rationales for any changes made after the review and comment period.

same geographic location, or at the request of either party or the University, the party may be located in separate rooms with technology enabling the hearing panel and parties to simultaneously see and hear the party or the witness answering questions. All hearings are closed to the public. The University shall create an audio recording of the hearing, but all other recordings are prohibited. In recognition of the unique nature of sexual misconduct cases, the procedures specified in this section supersede any conflicting provisions of any other policies and procedures at the University.

At the hearing, the hearing panel has the authority to hear and make determinations on all allegations of prohibited conduct under the Sexual and Gender-Based Misconduct Policy and may also hear and make determinations on any additional alleged policy violations that have occurred in concert with the sexual and gender-based misconduct, even though those collateral allegations may not specifically fall within the policy. The Chair will answer all questions of procedure and will be responsible for maintaining an orderly, fair, impartial, and respectful hearing. Anyone appearing at the hearing to provide information will respond to questions on their own behalf. Both the respondent and complainant have a right to similar and timely access to information that will be used at the hearing.

holding a privilege has waived the privilege. This includes evidence regarding a party's medical history, including mental health counseling, treatment or diagnosis. While character witnesses are not prohibited under the Title IX Grievance Procedure, the hearing panel will objectively evaluate whether that evidence is relevant and, if so, what level of weight or credibility the evidence should receive.

- B. Advisor role at hearing** **Applicable to Title IX Grievance Procedure Only**]- The complainant and respondent may each have no more than two people, defined as advisors, present throughout the entire process. The advisor may consult privately with the complainant or respondent during the hearings, except when such consultations ~~or~~ questioning of the party they are advising at a hearing are deemed disruptive by the Chair, and assist the party that they are advising with the exercise of any right during the proceedings. The advisors are not allowed to address the hearing panel ~~at~~ during the hearing except for the purpose of cross examination. Disruptive advisors will be removed from the process, and the process will continue. The parties should notify the Chair as soon as they have identified their advisors, but in any event, at least ~~one~~ the University business day in advance of the hearing date if a party plans to bring advisors. Advisors can request an outline of their role and expectations, including the Decorum Policy for Sexual and Gender-Based Misconduct Hearings Involving a Student Respondent, for their participation in the grievance process.

Only one of the advisors is permitted to ask relevant questions to the other party and any witnesses during the live hearing. The advisor responsible for all ~~cross~~ examination must be designated by the party to the Chair prior to beginning cross examination.

- C. Order of the hearing** **Applicable to Title IX Grievance Procedure Only**]- The order described in this section is the order typically followed at a hearing but may be adjusted for good cause. The hearing will begin with the Chair reviewing the rights and responsibilities for the parties, and then reading the charges against the respondent and asking if they believe they are responsible or not responsible for the charges.

The investigator(s) will then present a summary of the final ~~2.5 (e)-2.9 (mi)-1.5 (n6s)-3.4 (5 (t)0.6 (e)~~

recommendations for more appropriate phrasing. The Chair will share their rationale for exclusion or inclusion at this pre-hearing conference.

Hearing Procedures [Applicable to General Sexual Misconduct Process Only]. All hearings will be conducted in a live hearing format which means all parties and the hearing panel may be physically present in the same geographic location, or at the request of either party or the University, the parties

choose. The panel will then call witnesses and may recall the parties and any witness for

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;

- findings of fact supporting the determination;
- conclusions regarding the application of the University's conduct code to the facts;
- a statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility, any disciplinary sanctions imposed on the respondent, and whether remedies designed to restore or preserve equal access to the University's education program or activity will be provided by the University to the complainant and procedures and permissible bases for the complainant and respondent appeal.

Appeals

[Applicable to Both Title IX Grievance Procedure and General Sexual Misconduct Process]

Each party may appeal (1) the dismissal determination of a formal complaint or any included allegations and/or (2) a determination regarding responsibility and/or the sanction under either the Title IX Grievance Procedures or the General Sexual Misconduct Process. Appeals based on the dismissal determination of a formal complaint, or any included allegations will follow the process outlined in section Dismissal of a Formal Complaint (Mandatory and Discretionary). In cases where the respondent is found not responsible for violation of sexual and gender-related misconduct policies after a hearing conducted through the Title IX Grievance Procedure or General Sexual Misconduct Process, the appeal process described in this section will still apply.

In cases where appeals are submitted by both parties, both appeals will be considered together by the same appellate body. Unless indicated otherwise in the original decision letter, the typewritten appeal should be submitted via email to the Vice President for Student Development (or designee). The appeal

sufficient support for the asserted grounds will result in determining that only certain asserted grounds should be submitted for review by appellate body or that the appeal should be dismissed without further proceedings.

When an appeal letter is accepted, the other party will be given notice of the appeal, a copy of the appeal letter, and the opportunity to submit a written response within five days.

Appeals will be decided by a panel selected from the University Board of Discipline who are free from conflict of interest and bias, and did not serve as investigator(s), Title IX Coordinator, or hearing panel members in the original hearing. The University Board on Discipline appeal panel is comprised of three panel members.

Policy Manual section 8.8.17.9 of the Sexual and Gender-Based Misconduct Policy. Employee