

## I. Introduction

LMU Loyola Law School (“Law School”) recognizes the significant, unacceptable and nationwide existence of sexual and interpersonal misconduct on college and graduate school campuses. The Law School is dedicated to the prevention of such misconduct and to providing a caring, supportive and effective response when such misconduct occurs. Accordingly, the Law School encourages Students and Law School Community members to report such misconduct so that the the Law School can take appropriate responsive action.

Title IX of the Education Amendments of 1972 (“Title IX”) is a federal civil rights law that prohibits discrimination on the basis of sex in education programs and activities, including conduct it defines as Title IX Sexual Harassment. Conduct that falls under Title IX must be either Sexual Assault, Dating Violence, Domestic Violence, Stalking or be conduct that is so severe, pervasive and objectively offensive that it effectively denies a person equal access to the Law School’s education program or activity. Conduct that falls under Title IX must also occur in the United States, on campus or a campus-controlled premises or at a campus sponsored event. For more information regarding Title IX, and the Law School policy regarding Title IX Sexual Harassment, please see the [Student Title IX Sexual Harassment Policy](#).

The Student Sexual and Interpersonal Misconduct Policy (“the Policy” or “SIM Policy”) prohibits and addresses Sexual Misconduct that falls outside Title IX. The SIM Policy includes all forms of Sexual Misconduct not prohibited by Title IX including Sexual Assault, Sexual Battery and Sexual Exploitation and other interpersonal misconduct such as Dating Violence, Domestic Violence and Stalking.

The Law School has established this SIM Policy to respond to non-Title IX complaints of sexual and interpersonal misconduct in a way that upholds the mission of the Law School, which seeks to maintain the Law School’s academic environment by educating and upholding community standards.

**A.** The Law School strongly encourages all Students to report sexual or interpersonal misconduct regardless of the amount of time that has passed since the alleged misconduct occurred.

Once a report is received, the Title IX Coordinator, or designee, will discuss with the Complainant the availability of Supportive Measures (regardless of whether the Complainant agrees to be interviewed by the Department of Public Safety (“DPS”), or designee, or participates in the conduct process).

If you believe you have experienced sexual or interpersonal misconduct, you are encouraged to file a report with DPS either in person (Security Office), by phone (213.736.1121), or by contacting Sara Trivedi, LMU’s Title IX Coordinator or Matthew D. Riojas, Deputy Title IX Coordinator:

Sara Trivedi  
310.568.6105

[Sara.Trivedi@lmu.edu](mailto:Sara.Trivedi@lmu.edu);

By mail: One LMU Drive, Suite 1900, Los Angeles, CA, 90045 (“Westchester Campus”)

Or in person: University Hall 1900

Matthew Riojas  
213.736.8152;  
[Matthew.riojas@lls.edu](mailto:Matthew.riojas@lls.edu)  
By mail: 919 Albany Street, LA, CA 90015  
Or in person: Founders Hall 106

Reports may be made at any time to DPS, the Title IX Coordinator, or the Deputy Title IX Coordinator, including during non-business hours, by using the telephone number or e-mail address, or by mail to the office address listed above.

Students who are unsure whether what they experienced, witnessed or what has been reported to them constitutes sexual or interpersonal misconduct, should contact the Deputy Title IX Coordinator or Title IX Coordinator and report the incident. The Law School will take appropriate responsive action based on the information provided.

**B.** It is a violation of this policy to file a false complaint against anyone for the purpose of injuring the reputation of or harassing another. Any person found to have filed a false complaint against another in bad faith or for the purpose of injuring the reputation of or harassing another will be subject to appropriate discipline. This proscription is in no way intended to discourage the filing of good faith complaints of sexual or interpersonal misconduct, even if those complaints do not result in a finding of misconduct or sanction under Law School policies.

**C.** Allegations of sexual or interpersonal misconduct that are not covered under the Student Title IX Sexual Harassment Policy will be initiated and adjudicated under the relevant provisions of this policy. Some instances of alleged sexual and interpersonal misconduct may be eligible to be addressed by an informal resolution process (see Section XI) if both parties provide written authorization of their willingness to participate in such a process. Eligibility of an allegation to be addressed through an informal resolution process will be determined by the Title IX Coordinator, or designee.

## II. General Guidelines

### A. Definitions

As used in the SIM Policy, the following terms shall have the following meanings (all terms defined below shall be capitalized throughout the SIM Policy).

1. **“Advisor”** means anyone selected by a Student to appear with the Student at scheduled conduct proceedings, regardless of affiliation to the Law School.
2. **“Complainant”** means the individual(s) who file(s) a SIM Policy complaint with the Law School.
3. **“Consent”** means the unambiguous and willing participation or cooperation in act, behavior or attitude that is commonly understood to be consistent with the exercise of free will. It is the responsibility of each person involved in the sexual activity to ensure that they have the affirmative Consent of the other(s) to engage in the sexual activity. Consent requires participants who are lawful adults, fully conscious, equally free and legally competent to act, have clearly communicated their

willingness, cooperation or permission to participate in the specific sexual activity engaged in, are positive and clear about their desires and are able to cease ongoing consensual activity at any time. Refusal to Consent does not have to be verbal; it can be expressed with clear gestures, body language or attitude. Lack of protest or resistance does not mean Consent, nor does silence mean Consent. Prior sexual history between the Complainant and Respondent, by itself, does not constitute Consent, nor does consenting to sexual activity with one person imply Consent to sexual activity with another person.

a. Consent is not freely given if:

i. It is obtained through the use of force, through the fear of or the threat of force, through the abuse of a power position over another (such as employment status or position within an organization) or by kidnap; or

ii. A reasonable person, in the position of the alleged perpetrator at the time the alleged conduct occurred, should have known that the other person was unable to give Consent for any of the following reasons:

(a). The individual is unable to make an informed decision as a result of the use of alcohol, drugs or other substances (including, but not limited to, predatory drugs or prescribed medications); or

(b). The individual is unable to consciously respond for whatever reason including lack of consciousness, sleep, illness or shock; or

(c). The individual is under the age of 18 and therefore legally incapable of giving Consent; or

(d). The individual is known by reason of impairment, mental condition or developmental or physical disability to be reasonably unable to Consent.

iii. The individual has acted or spoken in a manner that expresses a lack of Consent or a refusal to Consent.

b. The following are invalid excuses for failing to obtain affirmative Consent from the Complainant:

i. The Respondent's belief in affirmative Consent arose from the intoxication or recklessness of the Respondent; or

ii. The Respondent did not take reasonable steps, in the circumstances known to the Respondent at the time, to ascertain whether the Complainant affirmatively consented.

4. **"Dating Violence"** means violence committed by a person:

a. Who is or has been in a social relationship of a romantic or intimate nature with the victim; and

b. Where the existence of such a relationship shall be determined based on the Complainant's statement and with consideration of the following factors:

i. The length of the relationship;

ii. The type of the relationship;

iii. The frequency of interaction between the persons involved in the relationship.

Dating Violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse, however it does not include acts covered under the definition of Domestic Violence.

5. **“Day”** means a regular Law School business Day. It shall not include Saturdays, Sundays or administrative holidays.

6. **“Domestic Violence”** means violence committed by a current or former spouse or intimate partner of the victim under the family or domestic violence laws of California and, in the case of victim services, includes 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 or technological abuse that may or may not constitute criminal behavior, by a person who is a current or former spouse or intimate partner of the victim, or person similarly situated to a spouse of the victim; is cohabitating or has cohabited with the victim as a spouse or intimate partner, shares a child in common with the victim; or commits acts against an adult or youth victim who is protected from those acts under California law.

7. **“Institution”** and **“Law School”** mean Loyola Law School.

8. **“Preponderance of the Evidence”** means such evidence as when weighed with that opposed to it has more convincing force and the greater probability of truth.

9. **“Respondent”** means the individual(s) against whom a SIM Policy complaint is made.

10. **“Retaliation”** means adverse, non-permitted action taken by an individual or a third party against a person who reports a violation of this policy, assists someone with a report of a violation of this policy or participates in any manner in an investigation or resolution of a report of a violation of this policy. Retaliation may, among other non-permitted conduct or behaviors, include threats, intimidation, coercion, Harassment, spreading defamatory information about an individual, exclusions from academic and non-academic programs and/or adverse actions related to employment or academic achievement.

11. **“Sexual Assault”** means engaging in sexual intercourse, or any of the sexual activities listed below, with another person without that person’s consent. Sexual Assault includes, but is not limited to, vaginal/anal intercourse, Sexual Battery (including, but not limited to, masturbation, oral copulation or penetration of a body cavity by a foreign object). Sexual intercourse includes the penetration, however slight, of the vagina or anus with any object or body part and of the mouth with a body part and/or object in a sexual manner.

12. **“Sexual Battery”** means the intentional touching of another person’s intimate parts without Consent, intentionally causing a person to touch the intimate parts of another without Consent, or using a person’s own intimate part to intentionally touch another person’s body without Consent.

13. **“Sexual Exploitation”** means Sexual Misconduct that occurs when a person takes unjust or abusive sexual advantage of another for their benefit or for the benefit of anyone other than the exploited party without that person’s Consent. Examples of Sexual Exploitation include, but are not limited to, invasion of sexual privacy, audio or video recording or photographing of a sexual nature utilizing webcam, camera, Internet exposure, etc., without knowledge and consent of all persons, going beyond the

boundaries of consent (such as letting another person hide and watch you have consensual sex without the knowledge of the other party), engaging in unconsented voyeurism

14. **“Sexual Misconduct”** means unwelcome conduct of a sexual nature including, but not limited to, unwelcome sexual advances, unsolicited requests for sexual favors or Sexual Battery without that person’s Consent, including as a result of sexual coercion, and other verbal, visual, or physical conduct where:

a. Submission to the conduct is explicitly or implicitly made a term or a condition of employment, academic status, or progress; or

b. Submission to, or rejection of, the conduct is used as the basis of employment or academic decisions affecting the person or as the basis for any decision affecting the benefits and services, honors, programs, or activities available at or through the educational institution; or

c. The conduct has the purpose or effect of having a negative impact upon the person’s work or academic performance, or of creating an intimidating, hostile, or offensive work or educational environment.

15. **“Stalking”** means engaging in a course of conduct directed at a specific person(s) that would cause a reasonable person under similar circumstances and with similar identities to the Complainant to fear for their safety or the safety of others; or suffer substantial emotional distress.

For the purposes of this definition “course of conduct” means two or more acts, including, but not limited to, acts in which the stalker directly, indirectly or through third parties, by any action, method, device or means, follows, monitors, observes, surveils, threatens or communicates to or about a person or interferes with a person’s property.

For the purposes of this definition “substantial emotional distress” means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling.

16. **“Student”** means a person currently enrolled or eligible and matriculating in any Law School program or class during the fall or spring semesters, recess period between semesters or summer period, on or off Law School campus, and includes all persons taking courses at the Law School, full-time or part-time, pursuing graduate or professional studies or are non-degree seeking. Student includes one who has been enrolled at the Law School for the immediately preceding fall, spring or summer term and/or is eligible for continuing enrollment or graduation.

17. **“Supportive Measures”** means non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available and without fee or charge to the Complainant or Respondent before or after a report has been received by the Law School. Such measures are designed to restore or preserve equal access to the Law School’s education program or activity without unreasonably burdening the other party, including measures designed to protect the safety of all parties, Loyola Law School’s educational environment and/or deter sexual or interpersonal misconduct.

18. **“Title IX Sexual Harassment”** means unwelcome conduct by an employee conditioning the provision of a Law School educational aid, benefit or service on an individual’s participation in unwelcome sexual conduct; or unwelcome conduct on the basis of sex against a person in the United States determined by

a reasonable person to be severe, pervasive and objectively offensive that it effectively denies a person equal access to the Law School's education program or activity, or "Sexual Assault" as defined in 20 U.S.C. 1092(f)(6)(A)(v), "Dating Violence" as defined in 34 U.S.C. 12291(a)(10), "Domestic Violence" as defined in 34 U.S.C. 12291(a)(8), or "Stalking" as defined in 34 U.S.C. 12291(a)(30). Title IX Sexual Harassment must occur in a Law School education program or activity against a person in the United States.

19. "**Law School Community**" means Students, staff, faculty, administration and religious community members of the Law School.

20. "**Law School-approved Activity**" means any activity on or off campus that is initiated, authorized or supervised by the Law School or a Registered Student Organization.

21. "**Weapon**" means any object or substance designed or utilized to inflict a wound, cause injury or a nuisance or incapacitate including, but not limited to, all firearms, ammunition, chukka sticks, explosives, laser pointers, pellet guns, knives, projectile launchers and chemicals, such as mace or tear gas. This definition also includes decorative, replica and look-alike Weapons that are not functional, but reasonably appear to others to be real Weapons.

22. "**Witness**" means any person, excluding experts called upon to furnish relevant knowledge or information relating to an incident who is not a Complainant or Respondent.

23. The terms "**will**" or "**shall**" are used in the imperative sense. The term "**may**" is used in the permissive sense.

## **B. Jurisdiction of the Law School**

Jurisdiction extends to conduct that occurs on Law School Premises, in Study Abroad programs and/or at on and off campus Law School events, programs or activities. Jurisdiction also extends to other off-campus misconduct that adversely affects the Law School, Students, the Law School's reputation or goodwill and/or the pursuit of the Law School's mission, goals and objectives.

## **C. Inherent Authority**

The Law School reserves the right to take necessary and appropriate action to protect the health, safety and well-being of the Law School, including its reputation and good will, and the Law School Community. This includes, but is not limited to, incidents off campus that may adversely affect the health, safety, well-being, reputation or good will of the Law School, Law School Community, Law School Community members and/or the pursuit of the Law School's mission, goals or objectives.

## **D. Focus of the Proceedings**

The primary focus of the inquiry in all Student sexual and interpersonal misconduct proceedings shall be to determine if the subject Student is responsible for the alleged violation of the SIM Policy and, if the Student is found to be responsible for a violation, to provide the appropriate remedy. The Law School shall make every effort to investigate and adjudicate these matters promptly, usually within 120 Days, assuming timely cooperation of all parties.

In keeping with the mission of the Law School and the purpose of the Policy, SIM Policy proceedings (including those that provide for cross-examination) are not intended to materially emulate judicial processes or proceedings in the criminal justice system. This is because SIM Policy proceedings are intended to be educational, less formal, less adversarial and less complex than criminal justice processes and procedures, while still seeking the truth in a fundamentally fair manner. Formal rules of evidence shall not be applicable nor shall deviations from prescribed procedures necessarily invalidate a SIM Policy decision or proceeding. SIM Policy proceedings shall be prompt, fair and impartial and adjudicated by Conduct Administrators that have received regular training regarding incidents of this nature.

#### **E. Violations of Law and the SIM Policy**

Students may be subject to criminal, civil and Law School proceedings for acts that constitute violations of federal, state or local law and of the SIM Policy. Because of the need to efficiently, effectively and promptly protect the academic environment, Law School life and operations, SIM Policy proceedings are independent and will normally proceed without regard to the pendency or potential pendency of criminal or civil proceedings.

Students subject to potential or actual criminal charges relating to conduct alleged in pending SIM Policy proceedings may assert their Fifth Amendment privilege against self-incrimination during SIM Policy proceedings. While no inference of responsibility for SIM Policy violations will be drawn because of the assertion of the Fifth Amendment privilege, the Conduct Administrator(s) will nonetheless evaluate all available information, testimony and evidence in making their determination.

#### **F. Burden of Proof**

In cases alleging sexual or interpersonal misconduct, the burden of proof is on the Law School. Determinations under this policy will be made utilizing the Preponderance of Evidence standard. The Complainant does not have the burden to prove, nor does the Respondent have the burden to disprove, the underlying allegation(s) of misconduct.

#### **G. Limitations Period**

Reports under this policy should be brought in the period of time during which the putative Respondent is a Student and subject to the SIM Policy. The Law School reserves the right to take disciplinary action regarding allegations involving current Law School Students irrespective of the length of time since the alleged misconduct occurred.

#### **H. Time Frame for SIM Policy Investigation and Conduct Process**

Alleged incidents of sexual and interpersonal misconduct will be investigated and adjudicated in a timely manner. This timeframe takes into account the time necessary for the Investigator(s) to schedule and conduct the relevant and necessary interviews, so as to put together a comprehensive investigative report that includes all relevant evidence; to schedule and conduct the hearing prep session if necessary; to schedule and conduct the hearing and any additional meetings; to write the final decision letters and complete the appeal process, if applicable. In normal circumstances, assuming timely cooperation from the parties and witnesses, staff will use their best efforts to complete the process within 120 Days.

While the Law School strives to complete the investigation, adjudication and appeals process within 120 Days, there may be instances beyond the control of the Law School where a good cause delay extends the Law School's timeline. Good cause delays include, but are not limited to, absence of a party, a party's Advisor or a Witness, concurrent law enforcement activity, the need for language assistance or accommodation of disabilities, examinations or school closures. The Law School will communicate in writing to the Complainant, Respondent and relevant participants if a good cause delay occurs.

### **I. Communication**

The Law School's primary method of communication will be through the Student's official Law School e-mail account. The Law School may also, at its discretion, communicate to Students via any one or more of the following methods: electronic communication, U.S. Mail or parcel delivery (e.g. FedEx) to the Student's permanent address on file, and/or personal hand delivery. Students are held responsible and accountable for retrieving communications from their official Law School e-mail account on a daily basis. Failure to do so is not an acceptable excuse for avoiding or delaying the SIM Policy process.

### **J. Scheduling Student Hearings**

In scheduling hearings, hearing preparation meetings and other proceedings, the Law School will reasonably attempt to avoid conflicts with class and academic schedules for those involved but may not be able to do so. Individuals involved in the SIM Policy processes are required to attend scheduled hearings notwithstanding class or academic conflicts. Failure to attend a hearing preparation meeting will not prevent the scheduling of a hearing.

### **K. Non-student Incidents**

This policy applies to incidents in which the Respondent is a Student. Sexual or interpersonal misconduct involving a Student and any non-student Respondent in the Law School Community is handled under the [LMU Discriminatory Harassment, Retaliation and Sexual and Interpersonal Misconduct Complaint Process](#) policy.

### **L. Reporting Party**

Complainants of sexual and interpersonal misconduct are not required to be members of the Loyola Law School community; they may be third parties or others unaffiliated with the Law School so long as the conduct occurred on campus or campus-controlled premises or a Law School-approved Activity. If a Complainant chooses not to participate in the Law School conduct process, the Law School reserves the right to initiate the conduct process if, following review by the Law School, sufficient evidence exists without the participation of the Complainant to present the case to the Conduct Administrators and obtain a determination of a violation by the putative Respondent utilizing the Preponderance of the Evidence standard. If a Respondent is not a Student of the Law School at the time of the alleged misconduct, no SIM Policy conduct process will be commenced.

### **M. Prior Sexual History**

Prior sexual history of Complainant or Respondent with people outside of each other will not be considered in these disciplinary proceedings, and as between each other only as provided for by law, including as set forth in California Education Code section 66281.8.

## **N. No Contact Orders**

No Contact Orders (NCO) may be utilized by DPS both during the investigation and through the completion of the hearing process. An NCO may be extended beyond the completion of the hearing process. Failure or refusal to sign an NCO by either party does not impact the enforcement of the NCO.

## **O. Supportive Measures**

In cases alleging sexual and interpersonal misconduct the Dean of Students, or designee, may institute Supportive Measures at the request of the Complainant and/or Respondent or as deemed appropriate by the Law School to protect the investigatory process and/or the Law School community while the complaint is being investigated and prior to the determination on the charge(s). Supportive Measures include, but are not limited to, academic, residential, transportation and/or employment accommodations, intended to protect [or preserve] the Complainant's and/or the Respondent's access to the Law School's education program or activity. Supportive Measures may be extended through the pendency of conduct proceedings and potentially beyond as necessary.

A Complainant does not need to agree to be interviewed by DPS, or designee, or participate in the conduct process in order to receive Supportive Measures.

Any such Supportive Measure shall be designed and implemented in a manner intended to achieve their purpose while at the same time limiting, to the extent practicable, any adverse effect to the Complainant's and/or Respondent's educational program. Supportive Measures provided to either the Complainant or Respondent are kept private, to the extent that maintaining privacy does not impair the Law School's ability to provide Supportive Measures. Both Complainant and Respondent will receive written notification of their access to Supportive Measures. Any such Supportive Measure shall not be referred to or offered as evidence at the hearing on the underlying charge(s).

## **P. Good Samaritan and Self-Reporting Policy**

Violations of the Law School's [Drug-Free School and Campus Policy](#) will not be utilized to commence disciplinary proceedings against a Complainant if the information is divulged through the process of reporting sexual or interpersonal misconduct. The Law School reserves the right to refuse to grant amnesty to reporters under certain extenuating circumstances. Criminal investigations and other police action may still occur at the discretion of the law enforcement agency responding to the incident.

## **Q. Education**

For additional information on sexual and interpersonal misconduct awareness, prevention and training, including bystander intervention, programming and events on campus intended to bring awareness to these issues and opportunities for you to get involved, please contact the Title IX Coordinator at Sara.Trivedi@lmu.edu or call 310.568.6105.

## **III. Responsible Employee and Requests for Privacy**

**A.** Responsible employees are obligated to report all details of an incident of sexual or interpersonal misconduct, including the identities of those involved, to DPS whenever that information is brought forward to the responsible employee. The Student or reporting party will have the choice whether or

not they wish to speak with DPS, however Students should be aware that if they request for their information to remain private, the Law School's ability to effectively investigate and adjudicate the instance(s) of sexual and interpersonal misconduct may be impaired. DPS will notify the Title IX Coordinator or Deputy Title IX Coordinator when a report has been filed.

The Title IX Coordinator, in consultation with the Dean of Students, or designee, is responsible for determining whether the request of the Complainant to have information kept private can be honored. If the decision is made that privacy cannot be honored, then the Law School will only inform the necessary individuals and entities on campus required to perform a thorough investigation and adjudication of the complaint. In the event the Complainant requests that the Law School inform the Respondent that the Complainant asked the Law School not to investigate or pursue the conduct process, the Law School will honor this request.

Should a Student report sexual or interpersonal misconduct that occurred to the Student when they were a child, under the legal age of 18, the Law School is required to contact local law enforcement to report the conduct.

**B. Responsible employees include faculty and staff. Responsible employees do not include the following:**

1. Professional, licensed counselors, such as the psychologists at the On Campus Psychological Counseling Center, 213.736.1122.
2. Pastoral counselors, such as rabbis, Catholic priests and women religious, are not required to report any information regarding alleged sexual or interpersonal misconduct, to DPS, the Title IX Coordinator or any other reporting body, without Consent from the Student provided they receive the information in performance of their pastoral duties.
3. Student Health Services (SHS) Staff, 310.338.2881 or LMUhealth@lmu.edu, are not required to report any information regarding alleged sexual or interpersonal misconduct, to DPS, the Title IX Coordinator or any other reporting body on campus, without Consent from the Student. The SHS Staff will be required to report signs of physical or sexual abuse to law enforcement.
4. The Law School Community Resource Advisors (CRAs), whose identities and contact information can be found on the [Student Affairs](#) website, may speak with Students regarding incidents of sexual and interpersonal misconduct without automatically triggering a Law School investigation into the matter. These individuals do have time and place reporting responsibilities under the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (Clery Act) but are not obligated to report identifying information of the Complainant. If the Respondent's name is presented to a Loyola Law School CRA, they will be obligated to report that information to the Title IX Coordinator. Reports by a Loyola Law School CRA will not trigger a Law School investigation unless the Title IX Coordinator, in consultation with the Dean of Students, or designee, determines that an investigation is necessary because of the existence of one or more of the factors described in Section III(C) below.

**C.** The Law School cannot guarantee privacy in all instances, and the following factors will be considered by the Title IX Coordinator in consultation with the Dean of Students, or designee, in determining whether the privacy request can be honored or if an investigation is necessary:

1. The Respondent has known multiple or prior allegations of sexual or interpersonal misconduct and a potential for a campus safety risk exists; or
2. The location in which the alleged incident occurred is a location where previous complaints of sexual or interpersonal misconduct occurred creating the potential for an unsafe environment for the Law School community; or
3. A threat to the campus community at large or a particular community member has been identified; or
4. The sexual or interpersonal misconduct was perpetrated with a weapon, physical restraints, or where the Respondent used force or violence; or
5. The victim is a minor (under the legal age of 18) at the time of the alleged incident; or
6. The Law School is able to conduct a thorough investigation and obtain relevant evidence in the absence of the Complainant's cooperation; or
7. Some combination of the above factors exists.

## **IV. Complainant/Respondent Rights**

**A.** The Law School's conduct process is intended to be fair and equitable to both the Complainant and Respondent. In observance of that goal of equity, both Complainants and Respondents in sexual or interpersonal misconduct cases have the right to:

1. An Advisor of their choice (see Section V for more details) to assist with the conduct process;
2. Receive written notification of available on-and off-campus counseling, health, mental health, victim advocacy, legal assistance, visa and immigration assistance, Student financial aid and other services available;
3. Receive written notification of the procedures for institutional disciplinary action and their rights and options as defined in sexual and interpersonal misconduct cases;
4. Request Supportive Measures as approved by the Dean of Students, or designee in collaboration with the Title IX Coordinator;
5. Make a complaint to DPS;
6. File a police report and take legal action separate from and/or in addition to filing a complaint under this policy seeking disciplinary action;

7. Identify material Witnesses to the alleged incident;
8. Receive written notification of the alleged charges based on the information available to the Law School;
9. Review submitted evidence that will be utilized by the Conduct Administrators in consideration of whether a violation of the SIM Policy occurred, and provide a written response;
10. In cases with the potential for severe sanctioning, the opportunity to submit questions for cross-examination of the opposing party and any Witnesses to determine credibility of information;
11. If, in the course of the investigation, the Law School decides to investigate allegations about the Complainant or Respondent that are not included in the initial notice of allegations, the Law School will provide notice of the additional allegations in writing to all parties whose identities are known at the time.
12. Be informed of the disciplinary finding (responsible or not responsible) as well as any sanctions, as applicable, in writing;
13. Appeal rights as outlined in Section XI of this Policy;
14. Not unreasonably deny a Student's request for a reasonable extension of time due to examination periods or school closures;
15. Refuse any/all of the above.

## V. Advisor

Complainants and Respondents may choose an Advisor of their choice. The Advisor may be anyone, regardless of familial relationship or lack of affiliation with the Law School; however, the Advisor must not serve in any other capacity in the conduct process (i.e., Witness or Conduct Officer). Complainants or Respondents are required to have an Advisor for the hearing to perform cross-examination. If a Complainant or Respondent does not have an Advisor, they will be provided one by the Law School.

Advisors will assist Students during the conduct process, but will not serve as representation for Students in SIM Policy proceedings. Advisors may not address the Hearing Panel members during conduct proceedings. All communication involving Advisors must be between the Advisor and Student. An Advisor may not appear in lieu of a Student.

## VI. Roles and Responsibilities

### A. The Roles and Responsibilities of the Conduct Administrators.

1. Hearings or other proceedings as provided in this Policy may be held before Conduct Administrators, and may utilize videoconferencing.

2. The Associate Dean for Faculty, or designee, shall appoint Conduct Administrators.
3. The Conduct Administrators adhere to procedures consistent with provisions in this Policy. All procedures are approved by the Associate Dean for Faculty, or designee.
4. In the event of a vacancy or disqualification of a Conduct Administrator, the conduct matter shall be assigned to another Conduct Administrator by the Associate Dean for Faculty, or designee.
5. Conduct Administrators shall complete annual training provided by the Law School.
6. Conduct Administrators may be called upon to participate in the annual review of the the Law School SIM Policy.

#### **B. The Roles and Responsibilities of the Appeal Committee.**

1. Appeals, as provided in this Policy, are held before the Appeal Committee.
2. The Appeal Committee shall adhere to procedures consistent with provisions in this Policy..
3. The Appeal Committee members is comprised of the Associate Dean for Clinical Programs and the Associate Dean for Student Services.
4. One member of the Appeal Committee will be designated as Chair of the Committee.
5. Prior to participating in Appeal Committee deliberations, new members of the Appeal Committee will participate in an orientation session offered at least once each academic year by the Law School.
6. In the event of a vacancy, suspension or disqualification of an Appeal Committee member, the Associate Dean for Faculty shall fill the vacancy.

## **VII. Prohibited Conduct**

The following is a non-exhaustive list of conduct that is considered to be in violation of SIM Policy. Participation in any of the below mentioned conduct may result in the initiation of SIM Policy proceedings.

- A.** Participating in Sexual Misconduct, Sexual Assault, Sexual Battery or Sexual Exploitation that does not meet the definition of Title IX Sexual Harassment.
- B.** Participating in Dating Violence, Domestic Violence or Stalking that does not meet the definition of Title IX Sexual Harassment.

## **VIII. California Law**

The following excerpts are only partially explanatory of certain California laws pertaining to sexual and interpersonal misconduct. These excerpts are not intended to be an exhaustive description or list of

California laws pertaining to sexual misconduct, inappropriate or criminal sexual behavior or interpersonal misconduct.

**A.** Excerpts from Section 11165.1 of the California Penal Code: Sexual Assault includes rape, statutory rape, rape in concert, incest, sodomy, oral copulation, lewd or lascivious acts upon a child, sexual penetration, child molestation and the following:

1. Penetration, however slight, of the vagina or anal opening of one person by the penis of another person, whether or not there is emission of semen;
2. Sexual contact between the genitals or anal opening of one person and the mouth or tongue of another person;
3. Intrusion by one person into the genitals or anal opening of another person, including the use of an object for this purpose, except that, it does not include acts performed for a valid medical purpose;
4. The intentional touching of the genitals or intimate parts, including the breasts, genital area, groin, inner thighs and buttocks or the clothing covering them, of a child, or of the perpetrator by a child, for purposes of sexual arousal or gratification, except that it does not include acts which may reasonably be construed to be normal caretaker responsibilities; interactions with, or demonstrations of affection for, the child; or acts performed for a valid medical purpose;
5. The intentional masturbation of the perpetrator's genitals in the presence of a child.

**B.** Excerpts from Section 261 of the California Penal Code: Rape is an act of sexual intercourse accomplished under any of the following circumstances:

1. If a person who is not the spouse of the person committing the act is incapable, because of a mental disorder or developmental or physical disability, of giving legal Consent, and this is known or reasonably should be known to the person committing the act;
2. If it is accomplished against a person's will by means of force, violence, duress, menace or fear of immediate and unlawful bodily injury on the person or another;
3. If a person is prevented from resisting by any intoxicating or anesthetic substance, or a controlled substance, and this condition was known, or reasonably should have been known by the accused;
4. If a person is at the time unconscious of the nature of the act, and this is known to the accused. As used in this paragraph, "unconscious of the nature of the act" means incapable of resisting because the victim meets one of the following conditions:
  - a. Was unconscious or asleep;
  - b. Was not aware, knowing, perceiving or cognizant that the act occurred;

c. Was not aware, knowing, perceiving or cognizant of the essential characteristics of the act due to the perpetrator's fraud in fact;

d. Was not aware, knowing, perceiving or cognizant of the essential characteristics of the act due to the perpetrator's fraudulent representation that the sexual penetration served a professional purpose when it served no professional purpose.

5. If a person submits under the belief that the person committing the act is someone known to the victim other than the accused, and this belief is induced by any artifice, pretense or concealment practiced by the accused, with the intent to induce the belief;

6. If the act is accomplished against the victim's will by threatening to retaliate in the future against the victim or any other person, and there is a reasonable possibility that the perpetrator will execute the threat. As used in this paragraph, "threatening to retaliate" means a threat to kidnap or falsely imprison, or to inflict extreme pain, serious bodily injury or death;

7. If the act is accomplished against the victim's will by threatening to use the authority of a public official to incarcerate, arrest or deport the victim or another, and the victim has a reasonable belief that the perpetrator is a public official. The perpetrator does not actually have to be a public official.

California law also states that "The essential guilt of rape consists in the outrage to the person and feelings of the victim of the rape. Any sexual penetration, however slight, is sufficient to complete the crime" (Penal Code section 263). California law further defines "statutory rape" in Penal Code section 261.5.

Though laws vary from state to state, intercourse in which Consent was not obtained or was obtained under coercive conditions will usually be considered rape.

**C. Excerpt from Section 67386 of the California Education Code:**

The governing boards of independent postsecondary institutions shall adopt a policy concerning Sexual Assault, Domestic Violence, Dating Violence and Stalking, as defined in the federal Higher Education Act of 1965 involving a Student, both on and off campus. This policy shall include an affirmative Consent standard in the determination of whether Consent was given by both parties to sexual activity.

"Affirmative Consent" means affirmative, conscious and voluntary agreement to engage in sexual activity. It is the responsibility of each person involved in the sexual activity to ensure that the person has the affirmative Consent of the other or others to engage in the sexual activity. Lack of protest or resistance does not mean Consent, nor does silence mean Consent. Affirmative Consent must be ongoing throughout a sexual activity and can be revoked at any time. The existence of a dating relationship between the persons involved, or the fact of past sexual relations between them, should never by itself be assumed to be an indicator of Consent.

**D. Excerpts from Section 261.6 and 261.7 of the California Penal Code:**

In prosecutions under Section 261, 286, 287 or 289, in which Consent is at issue, "Consent" means positive cooperation in act or attitude pursuant to an exercise of free will. The person must act freely and voluntarily and have knowledge of the nature of the act or transaction involved.

A current or previous dating or marital relationship shall not be sufficient to constitute Consent where Consent is at issue in a prosecution under Section 261, 286, 287 or 289.

**E. Excerpts from Section 646.9 of the California Penal Code:**

Any person who willfully, maliciously and repeatedly follows or willfully and maliciously harasses another person and who makes a credible threat with the intent to place that person in reasonable fear for their safety, or the safety of their immediate family is guilty of the crime of Stalking, punishable by:

1. Imprisonment in a county jail for not more than one year; or
2. By a fine of not more than \$1,000; or
3. By both that fine and imprisonment, or by imprisonment in the state prison.

For the purposes of this section, "harasses" means engages in a knowing and willful course of conduct directed at a specific person that seriously alarms, annoys, torments or terrorizes the person, and that serves no legitimate purpose. For the purposes of this section, "course of conduct" means two or more acts occurring over a period of time, however short, evidencing a continuity of purpose. Constitutionally protected activity is not included within the meaning of "course of conduct."

**F. Excerpts from Section 13700 of the California Penal Code and 6211 of the California Family Code:**

"Domestic Violence" means abuse committed against an adult or a minor who is a spouse, former spouse, cohabitant, former cohabitant or person with whom the suspect has had a child or is having or has had a dating or engagement relationship, a child of a party or a child who is the subject of an action under the Uniform Parentage Act, where the presumption applies that the male parent is the father of the child to be protected or any other person related by consanguinity or affinity within the second degree.

For purposes of this subdivision, "cohabitant" means two unrelated adult persons living together for a substantial period of time, resulting in some permanency of relationship. Factors that may determine whether persons are cohabiting include, but are not limited to:

1. Sexual relations between the parties while sharing the same living quarters;
2. Sharing of income or expenses;
3. Joint use or ownership of property;
4. Whether the parties hold themselves out as spouses;
5. The continuity of the relationship; and
6. The length of the relationship.

## IX. SIM Policy - Conduct Process

**A.** Once a report of alleged sexual or interpersonal misconduct is received and the investigation process has been initiated by either the Complainant or the Law School, the Law School will provide written notice to both the Complainant and Respondent. The written notice shall include, among other information, notice of the Law School's conduct process, as well as notice of the allegations of the alleged sexual or interpersonal misconduct and sufficient details known at the time.

### **B. Referrals**

Suspected violations of this Policy, including those discovered during the adjudication and/or investigation of Standards of Conduct proceedings, shall be submitted to the Associate Dean for Faculty. Persons making such referrals are required to provide information pertinent to the case and may be asked to appear before Conduct Administrators. Anonymous reports will be referred to DPS, or designee, who will investigate. If enough independent information is corroborated, then SIM Policy proceedings may be initiated when sufficient evidence exists outside of statements by the reporting party, to support the potential for a preponderance of the evidence decision.

### **C. Sexual and Interpersonal Misconduct Policy Hearings**

The Associate Dean for Faculty, in consultation with the Title IX Coordinator, or designee, shall review referrals to determine whether or not there is sufficient evidence to charge a Student with a violation of this Policy and whether to hold a SIM Policy hearing.

There are two potential processes to adjudicate allegations of sexual and interpersonal misconduct. The type of process utilized will be dependent on the potential for severe sanctioning should the Respondent be found responsible of all alleged charges.

### **D. SIM Policy – Procedural Protections for Non-Severe Sanctioning**

*Students charged with Policy violations of misconduct that do not present the potential for severe sanctioning (suspension or dismissal from the Law School) are accorded the following procedural protections:*

1. Complaints will be promptly investigated and adjudicated following the procedures herein outlined;
2. A written or electronic notice of alleged facts underlying the misconduct charge(s), the location of the SIM Policy, a scheduled hearing with a Hearing Panel (or instructions on how to schedule the hearing) and timely notice of that hearing. Hearing Panels shall be comprised of Conduct Administrators trained specifically to adjudicate matters of sexual and interpersonal misconduct. If a Student fails to appear after receiving timely notice, a determination of the charged misconduct will be made based upon the facts and evidence submitted in support of the alleged misconduct. Failure to check one's Law School e-mail account is not sufficient justification for not attending a scheduled hearing.

Complainants in these incidents will also receive written or electronic notice of the location of the SIM Policy and a scheduled hearing with a Hearing Panel (or instructions on how to schedule the meeting). If a Complainant fails to appear after receiving timely notice, proceedings may be discontinued and charges dismissed. Failure to check one's e-mail account is not sufficient justification for not attending a scheduled meeting;

3. Reasonable access to the evidence supporting the charge will be made available to both the Complainant and the Respondent prior to a hearing;

4. Students who wish to have an Advisor must inform the Associate Dean for Faculty in writing or via e-mail at least two Days prior to the scheduled date of the hearing. The Advisor's role is to support Students during the conduct process, however they may not address the Hearing Panel or play any other role during hearings (including appear as a Witness). All communication involving Advisors (unless otherwise provided for in this Policy) must be between the Advisor and Student. An Advisor may not appear in lieu of the Student. Scheduling of hearings will be in accordance with a Student's academic schedule, but are not subject to delay to accommodate an Advisor's availability;

5. Complainants and Respondents, may provide fact (non-expert) Witnesses. These Witnesses must have relevant knowledge and information pertaining to the case. Expert Witnesses are not allowed and character Witnesses are disfavored. The Associate Dean for Faculty must be notified in writing at least two Days prior to the scheduled date of the hearing that the Respondent or Complainant plans to provide Witnesses;

6. If a further hearing is necessary with the Respondent, Complainant or a Witness, a supplemental proceeding will be scheduled;

7. A Student's conduct history will be considered when levying sanctions for subsequent violations. Increased sanctions may therefore be levied based on previous violations of all types, including violations of the Standards of Conduct or Student Title IX Sexual Harassment Policy, not just those of a similar type;

8. Unless required by law, privacy laws prevent notification or disclosure to Student Complainants about the prior conduct history, if any, of the Respondent;

9. For compliance with Clery Act record retention requirements, all official conduct-related correspondence will be retained for a minimum of seven years.

#### **E. SIM Policy – Hearing Process for Non-Severe Sanctioning.**

1. The Hearing Panel has the right to request the presence of and interview fact (non-expert) Witnesses;

2. Hearings will generally be private except for Hearing Panel, Students and Advisors. Recording devices (audio and/or video) of any kind are not permitted for use by the Students, Witnesses or Advisors;

3. Prior to a hearing, Respondents and/or Complainants may challenge a Hearing Panel member on the grounds of conflict of interest. Any such challenge must be made in writing to the Associate Dean for Faculty, or designee, not less than two Days prior to the hearing. The disqualification challenge of a Hearing Panel member shall be determined by the Associate Dean for Faculty, or designee. If a challenge is sustained, a new Hearing Panel member will be assigned;
4. A separate hearing for both parties during which the Hearing Panel shall again specify the facts underlying the alleged misconduct and provide the Respondent and Complainant the opportunity to review the information gathered by the Law School, including time, date and place where the behavior is alleged to have occurred, that makes up the basis for the charge(s). Both parties shall have the opportunity to present evidence relevant to the alleged misconduct and to respond to the information gathered by the Law School in support of or opposition to the charge(s), including the right to offer counter or explanatory information;
5. During hearings, the Hearing Panel shall explain the Law School's conduct system and Student rights and make available the SIM Policy. The Hearing Panel shall also explain the private nature of the conduct process (Students' statements remain private except in the event of multiple involved Respondents, Complainants and/or Witnesses in which case newly presented information may be mutually shared) and the fact that the hearing may become a part of the file relating to the case;
6. The Hearing Panel shall exercise control over the procedures to avoid needless consumption of time. Any person, including the Advisor, who is disruptive during a hearing, refuses to follow the rules or procedures and/or who fails to adhere to the admonitions and rulings of the Hearing Panel may be excluded from the proceedings;
7. All participants in a conduct hearing shall be asked to affirm that their testimony is truthful and may be subject to charges of providing false information pursuant to Section 11.1.10 of the Standards of Conduct;
8. The decision of the Hearing Panel shall include a summary of the testimony, findings, decision and applicable sanction(s). The decision shall be sufficiently detailed to permit review pursuant to the appeal procedures (Section XII) and will be sent to the Respondent and the Complainant. The decision will not be sent to either the Respondent's Advisor or Complainant's Advisor;
9. Except as provided herein, formal rules of evidence and discovery shall not be applicable in proceedings conducted pursuant to this Policy. The Hearing Panel shall give effect to recognized rules of privacy (including the Family Educational Rights and Privacy Act [FERPA]) and privilege, but may otherwise admit matters into evidence that a reasonable person would accept as having probative value in the conduct of their affairs. Unduly repetitious or irrelevant evidence may be excluded, may not be considered in the decision making process or may be afforded less weight than other evidence presented;
10. Written statements shall not be admitted into evidence unless signed by the affiant and witnessed by a person designated by the Dean of Faculty, or designee

11. Sanctions shall be levied if it is determined that the Student is responsible for the alleged violation(s) by a Preponderance of the Evidence. If not, the charge(s) will be dismissed. Final decisions may be reviewed by the Dean, or designee. The reviewing administrator may reduce, defer or suspend the decision and sanction, or impose conditions with any change, deferral or suspension.

#### **F. SIM Policy – Procedural Protections for Severe Sanctioning**

Students charged with violations that may result in severe sanctioning (suspension or dismissal from the Law School), and the Complainants who brought allegations are accorded the following procedural protections:

1. Complaints will be promptly investigated and adjudicated following the procedures herein outlined;
2. A written or electronic notice of misconduct charges and the location of the SIM Policy;
3. The Respondent and Complainant who wish to have an Advisor should inform Associate Dean for Faculty in writing at least two Days prior to the scheduled date of the hearing preparation meeting. The Advisor's role is to support Students during the conduct process, which may include the hearing preparation meetings as well as the hearings. During hearings Advisors may not address the Hearing Panelists or play any other role during hearings. All communication involving Advisors during hearings must be between the Advisor and Student. An Advisor may not appear in lieu of the Student to either the hearing preparation meeting or the hearing.
4. A scheduled hearing preparation meeting with the Associate Dean for Faculty, or designee separately for both parties at which:
  - a. The Respondent and the Complainant may review all the information gathered by the Law School that makes up the basis for the charge(s);
  - b. The Respondent and the Complainant may ask the Associate Dean for Faculty questions regarding the conduct process;
  - c. In the event a Respondent or a Complainant provides new Witnesses during the hearing preparation meeting, then the names of those Witnesses will be provided to DPS, or designee, for formal interview, and the investigation report will be supplemented with their statements. Once the investigation report is updated with any additional Witness interviews and information, the Respondent and the Complainant will be permitted another opportunity to review the updated report, evidence and information;
  - d. The Associate Dean for Faculty shall explain the cross-examination processes and procedures and Student rights and make available the SIM Policy. The Associate Dean for Faculty shall also explain the private nature of the conduct process (Student statements during the hearing shall remain private except in the event of multiple involved parties, in which case newly presented information related to another Respondent may be mutually shared) and the fact that the hearing may become part of the file relating to the case;

e. The Complainant is informed that no conduct record will be generated in regards to the Complainant, however the Complainant may be permitted future access to the conduct case file;

5. The Respondent will be permitted the opportunity to provide questions to be asked of a Complainant, and any Witnesses that appear either at the request of the Respondent, the Complainant or the Law School, in order to assess the credibility of the information offered. The Respondent will be asked to provide their questions in advance of the hearing, and the Conduct Administrators on the Hearing Panel will be permitted to disallow a question asked by the Respondent if the Respondent is unable to provide sufficient rationale for the relevance of the question. Respondents will be granted the opportunity to submit additional questions in response to statements made during the hearing, which the Conduct Administrators will review for relevance when proffered and ask if appropriate;

The Complainant will be permitted the opportunity to provide questions to be asked of the Respondent, and any Witnesses that appear either at the request of the Complainant, the Respondent or the Law School, in order to assess the credibility of the information offered. The Complainant will be asked to provide their questions in advance of the hearing, and the Conduct Administrators on the Hearing Panel will be permitted to disallow a question asked by the Complainant if the Complainant is unable to provide sufficient rationale for the relevance of the question. Complainants will be granted the opportunity to submit additional questions in response to statements made during the hearing, which the Conduct Administrators will review for relevance when proffered and ask if appropriate;

6. Both the Respondent and the Complainant are permitted to note an objection to a question posed by the other party during the hearing. If the Conduct Administrators still elect to allow the question to be asked, the objection will be noted and made part of the conduct record.

7. Both the Respondent and the Complainant will be permitted the opportunity to make a closing statement at the conclusion of the evidentiary portion of the hearing;

8. If a further hearing is necessary, a supplemental proceeding will be scheduled

9. A Student's conduct history will be considered when assigning sanctions for subsequent violations. Increased sanctions may therefore be assigned based on previous violations of all types, including violations of the Standards of Conduct and the Student Title IX Sexual Harassment Policy, not just those of a similar type;

10. Unless required by law, privacy laws prevent notification or disclosure to Student Complainants about the prior conduct history, if any, of the Respondent.

11. For compliance with Clery Act record retention requirements, all official conduct-related correspondence will be retained for a minimum of seven years.

## **G. SIM Policy - Hearing Process for Severe Sanctioning**

The following procedural guidelines shall be applicable in conduct proceedings with potential severe sanctioning (suspension or dismissal from the Law School):

1. The Conduct Administrators on the Hearing Panel may request that the investigator interview fact (non-expert) Witnesses;
2. The Law School reserves the right to copy the Respondent's and the Complainant's Advisors on communication regarding scheduling of hearing preparation meetings, review of reports and scheduling of the hearing;
3. A hearing with cross-examination (conducted via videoconferencing) during which the Hearing Panel shall specify the nature of the alleged misconduct and provide the Respondent and Complainant the opportunity to again review the information and evidence gathered by the Law School that make up the basis for the charge(s). Respondents and Complainants shall have the opportunity to present evidence relevant to the alleged misconduct and to respond to the information gathered by the Law School, including the right to offer counter information. The Law School reserves the right to postpone the hearing if new information is presented that had not been made previously available to all parties, and a supplemental hearing will be scheduled.

The Hearing Process will proceed where a Respondent fails to appear after timely notice and a determination of the charged misconduct made based upon the facts and evidence submitted in support of the alleged misconduct at that hearing (failure to check one's e-mail is not sufficient justification for not attending a scheduled hearing). A Complainant who fails to appear after timely notice will be deemed to have abandoned their complaint and the charges will be dismissed unless the case and the facts and evidence presented in support of the charged misconduct independent of the Complainant warrants the continuation of the conduct process;

4. Hearings will generally be private except for the Hearing Panel, parties and Advisors. Hearings may be recorded via videoconferencing software utilized by the Hearing Panel only. Recording devices (audio and/or video) of any kind are not permitted for use by the Students, Witnesses or Advisors. Respondents and Complainants are expected to be visible to the Conduct Administrators and each other throughout the hearing (with the exception of requested breaks). The recording of the hearing will be part of the conduct file and may be accessible to the Respondent and Complainant by contacting the Associate Dean for Faculty. Transcriptions of hearings will not be made available;
5. Prior to the hearing, a Respondent or Complainant may challenge a Hearing Panel member on the grounds of a conflict of interest. Any such challenge must be made in writing to the Associate Dean for Faculty, or designee, not less than two Days prior to the hearing. The disqualification challenge of a Hearing Panel member shall be determined by the Associate Dean for Faculty, or designee. If a challenge is sustained, a new Conduct Administrator will be assigned, which may not impact the date and time of any scheduled hearing;

6. The Conduct Administrators on the Hearing Panel shall exercise control over the procedures to avoid needless consumption of time. Any person, including an Advisor, who is disruptive during the hearing, refuses to follow the rules or procedures and/or fails to adhere to the admonitions and rulings of the Hearing Panel may be excluded from the proceedings;

7. The decision of the Conduct Administrators on the Hearing Panel shall include a summary of the testimony and evidence in support of the findings, the findings, decision and applicable sanction(s). The decision shall be sufficiently detailed to permit review pursuant to the appeal procedures (Section XII) and will be sent to the Respondent and the Complainant. The decision will not be sent to either the Respondent's Advisor or Complainant's Advisor;

8. All participants in a conduct hearing shall be required to affirm that their testimony is truthful and may be subject to charges of providing false information pursuant to 11.1.10 of the Standards of Conduct;

9. Except as provided herein, formal rules of evidence and discovery shall not be applicable in proceedings conducted pursuant to this Policy. The Hearing Panel shall give effect to recognized rules of privacy (including FERPA) and privilege, but may otherwise admit matters into evidence that a reasonable person would accept as having probative value in the conduct of their affairs. Unduly repetitious or irrelevant evidence may be excluded.

10. Sanctions shall be levied if it is determined that the Student is responsible for the violation(s) by a preponderance of the evidence. If not, the charge(s) will be dismissed. Final decisions may be reviewed by the Dean, or designee. The reviewing administrator may reduce, defer or suspend the decision and sanction, or impose conditions with any change, deferral or suspension.

## X. Sanctions

Violations of the provisions of Section VII (Prohibited Conduct) of this Policy will result in the imposition of sanctions in service of the mission of this Policy. Factors to be considered in the determination of sanctions include, but are not limited to, the nature and severity of the violation, the present demeanor, contrition and past disciplinary record of the Respondent, including the willingness to accept responsibility for their behavior, the nature of the offense and the severity of any damage, injury or harm resulting from it, as well as the ability to potentially repair that harm and any and all health and safety considerations of the Law School Community and/or those involved.

### A. Conduct Probation

The Student is no longer in "good conduct standing" with the Law School for duration of probation. The Student is given written notice that further infractions of the Standards of Conduct or Law School policies may result in further, increased sanctions. The Student may also be restricted from eligibility for or participation in present and future Student and Law School activities, including, but not limited to, co-curricular and organizational activities, SBA positions and activities, Study Abroad programs, orientation leadership positions and other Student leadership positions.

## **B. Dismissal from the Law School**

Permanent separation of the Student from the Law School. Permanent notification may appear on the Student's Law School transcript. The Student will also be banned from campus and Law School Premises. The sanction of dismissal requires the review and approval by the Dean, who may alter, defer or suspend this recommended sanction. Any alteration, deferral or suspension of this sanction may be subject to specified conditions. Notification of dismissal may be sent to the appropriate Law School offices and officials.

## **C. Educational Programs**

The Student is assigned to attend educational programming either in person or online to increase awareness of the effects and issues related to their behaviors.

## **D. Ineligibility for Participation in Graduation Ceremonies**

Prohibition from participation in graduation ceremonies.

## **E. Meetings**

Meetings with a Law School staff or faculty member may be assigned as an educational sanction to provide the Student with an opportunity to discuss strategies to prevent future violations. Students may be asked to meet with an individual more than once.

## **F. No Contact Orders**

The Student is given written notice not to have verbal, written or electronic contact with another the Law School community member for a specified period of time, which may include their remaining tenure at the Law School. This order includes all interpersonal communication, including, but not limited to, social interaction, telephone correspondence, email, text message and/or social networking website.

## **G. Restriction from Campus, Law School Premises, Facilities or Events**

Excluding a Student from campus, Law School Premises, Law School facilities or events means that the Student is not allowed to be on the campus, Law School Premises, at Law School facilities or in attendance of an event for or during specific time periods. Restrictions may include authorizing access to limited Law School Premises or facilities for specific purposes (e.g. to attend class) or being required to fulfill academic requirements via online educational tools.

## **H. Suspension from the Law School**

Separation of the Student from the Law School for a stated period with an opportunity for reinstatement consideration. Permanent notification of the suspension may appear on the Student's Law School transcript. While suspended, the Student is ineligible for and shall not participate in any Law School-approved Activities and may be excluded from campus and Law School Premises. Suspended

time will not count against any time limits of graduate schools or programs for completion of a graduate degree. The sanction of suspension requires the review and approval of the Dean, who may alter, defer or suspend this recommended sanction. Any alteration, deferral or suspension of this sanction may be subject to specified conditions. Notification of suspension may be sent to the appropriate Law School offices and officials.

### **I. Warning**

The Student is given verbal and/or written warning that future misconduct may result in more severe disciplinary action.

### **J. Other Sanctions**

The Law School and its Conduct Administrators and Hearing Panels retain the right to impose additional and/or different sanctions according to the specific circumstances and needs of a situation.

## **XI. Appeal Procedures**

A. Decisions by the Hearing Panel or, in some instances, conduct sanctions levied may be appealed by the Respondent or the Complainant to the Appeal Committee. Appeals to the Appeal Committee are limited to one or more of the following grounds:

1. The sanction is inappropriate;
2. The procedures provided for in this Policy were not materially followed resulting in significant prejudice to the Appellant that effectively denied Appellant a fair hearing;
3. New relevant evidence is available, which in the exercise of reasonable diligence could not have been produced at the time of the hearing;
4. The decision is not supported by substantial evidence.

B. All petitions for appeals shall be submitted to:

The Appeal Committee  
c/o Associate Dean for Faculty, Room B200, Burns Building.

**C. Appeal petitions must be submitted by the Respondent or Complainant via written statement and received by the Appeal Committee c/o the Associate Dean for Faculty within five (5) Days from the date of the imposition of the original decision.** Appeal petitions may not be submitted by Advisors or third parties on behalf of the involved Student party. Failure to file the appeal petition within the limitations period results in the decision becoming final and conclusive. The Law School reserves the right to extend the limitations period (in extenuating circumstances).

Failure to comply with these procedures may result in the rejection of an appeal petition.

**D.** The appeal petition must be accompanied by a written statement in support of the appeal. Upon notification of the receipt of a proper and timely appeal petition, the Appeal Committee shall be convened. The non-appealing party (either Complainant or Respondent) will receive access to the submitted appeal petition, and the grounds cited by the appealing party, and be afforded the opportunity to submit a timely written statement in opposition to the appeal.

**E.** In appeals of decisions in conduct cases without the potential for severe sanctioning (suspension or dismissal from the Law School), the Appeal Committee will review the investigation report or documentation of alleged behavior, the Hearing Panel's summary of the testimony, findings and decision and the recommended sanction, the Student's disciplinary history and the written statements of the Respondent and the Complainant filed with the appeal petition or in response to the appeal petition.

**F.** In appeals of decisions in conduct cases involving the potential for severe sanctioning (suspension or dismissal from the Law School), the Appeal Committee will review the investigation report, the video and audio recording of the hearing, the findings, decision and recommended sanctions (if applicable), the Respondent's disciplinary history and the written statements of the Respondent and of the Complainant filed with the appeal petition or in response to the appeal petition.

**G.** Both parties shall have the opportunity to submit an appeal and absent an appeal by both parties, the non-appealing party shall have the opportunity to submit a written statement in either support or opposition to the extant appeal petition. Both parties will be notified of the results of the appeal.

**H.** Concurrent with the filing of an appeal petition, Respondents or Complainants may challenge a member of the Appeal Committee on the grounds of a conflict of interest. All disqualification challenges of Appeal Committee members shall be determined by the Associate Dean for Faculty, or designee. If a challenge is sustained, the proceedings will continue without the participation of the disqualified member and the Associate Dean for Faculty will appoint a new Appeal Committee member.

**I.** The Appeal Committee may, but is not required to, request the Hearing Panel or the involved Student parties to submit additional information in writing. If the Hearing Panel or any Student parties is/are requested to submit additional information, the Student parties not so requested shall be entitled to reply in writing to the additional written information supplied to the Appeal Committee.

**J.** So long as supported by the evidentiary record, the Appeal Committee shall give deference to the determinations of the Hearing Panel. The Appeal Committee shall not alter the underlying decision of the Hearing Panel if supported by substantial evidence and reasonable inferences arising therefrom. If the appeal submitted by the Respondent or Complainant is granted, the Committee may make one of the following recommendations to the Associate Dean for Faculty, or designee:

1. The case may be referred back to the Hearing Panel who made the original decision for reconsideration of the appropriateness of the sanctions assigned;

2. The case may be referred back to the Hearing panel who made the original decision to consider new evidence that had been brought forward in appeal which could not have been discovered by a properly diligent Student before or during the original hearing;

3. The case may be referred back to the Associate Dean for Faculty, or designee, for reassignment to a new Hearing Panel if specified procedural errors in interpretation of the Policy were so substantial as to effectively deny the Student a fair hearing;

4. The determination may be reversed, if the decision is not supported by substantial evidence.

**K.** Except as provided herein, formal rules of evidence and discovery shall not be applicable in these proceedings conducted pursuant to the Policy. The Appeal Committee shall give effect to the recognized rules of privacy (including FERPA) and privilege but shall otherwise admit matters into evidence that reasonable persons would accept as having probative value in the conduct of their affairs. Unduly repetitious or irrelevant evidence may not be considered in the decision.

**L.** The Appeal Committee may take presumptive notice of matters that would be of general knowledge to other Law School Students.

**M.** The Appeal Committee shall be provided copies of the Student's disciplinary record when reference to the Student's disciplinary history is included in the decision made by the Hearing Panel.

**N.** Unless otherwise determined by the Associate Dean for Faculty, or designee, the imposition of sanctions will be deferred during the appeal process.

**O.** A quorum for the Appeal Committee shall be three members with a minimum of one Student and one faculty member.

**P.** A tie vote in an appeal proceeding will result in affirmation of the original decision. Procedural or evidentiary issues in Appeal Committee proceedings shall be determined by the Committee's presiding chair in accordance with the Policy.

### **XIII. Exceptional Procedures**

**A.** Final decisions of the Hearing Panel recommending a suspension or dismissal from the Law School shall be reviewed and approved by the Dean.

**B.** Unless otherwise determined by the Dean, or designee, the imposition of sanctions will be deferred during the appeal process.

**C.** A conduct hold may be placed on a Student's file/account and a notation may be entered on the Student's Law School transcript when the Student has been dismissed or suspended from the Law School or has officially or unofficially withdrawn, taken a leave of absence or has been academically disqualified while SIM proceedings are pending. In addition, when the Student has incomplete sanctions

or open conduct cases and leaves the Law School for any reason, including, but not limited to, leave of absence, withdrawal or academic disqualification, a conduct hold may be placed on the Student's file/account and the Student may also be prohibited from entering campus during the period of the conduct hold. This conduct hold must be cleared before a Student will be allowed to return to the Law School.

**D.** A notation may be entered on the Respondent's Law School transcript at the discretion of the Law School if the Student is found responsible for an incident of sexual or interpersonal misconduct.

**E.** Prior to graduation, Students charged with an alleged Policy violation in which the charges have not yet been adjudicated, may in the Law School's discretion be prohibited from participating in graduation ceremonies until the proceedings have been adjudicated and, if found responsible, sanctions completed.

## XIV. Retaliation

All persons, including Law School faculty and staff, are prohibited from taking any retaliatory action against any other member of the Law School Community including, but not limited to, the Complainant, Respondent or Witnesses to an alleged incident of sexual or interpersonal misconduct. Any Student engaging in any retaliatory action(s) will be subject to discipline under the Standards of Conduct and appropriate sanctions for determined violations may include dismissal from the Law School.

The Law School will respond to any accusations of Retaliation against the Complainant, Respondent or Witnesses because of participation in the investigation or adjudication of a report of alleged incident of sexual or interpersonal misconduct. Any person(s) engaging in any retaliatory action(s) will be subject to discipline under the Standards of Conduct and appropriate sanctions for determined violations may include dismissal from the Law School.

Retaliation by non-students will be adjudicated and determined in accordance with the LMU Discriminatory Harassment, Retaliation and Sexual and Interpersonal Misconduct Complaint Process policy. Any Student who believes that they have been retaliated against for filing or being named in a complaint for an alleged incident of sexual or interpersonal misconduct or having participated in the investigation of such a complaint, should promptly notify the Title IX Coordinator at 310.568.6105 or [Sara.Trivedi@lmu.edu](mailto:Sara.Trivedi@lmu.edu), or designee. Any person who believes that they have been retaliated against for the above-mentioned reasons by a faculty or staff member as an individual or on behalf of the Law School should contact the Title IX Coordinator at 310.568.6105 or [Sara.Trivedi@lmu.edu](mailto:Sara.Trivedi@lmu.edu), or designee.

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## **What Should You Do if You Experience Sexual Assault, Sexual Violence, Domestic Violence, Dating Violence or Stalking?**

A. Go to a safe place as soon as you can

B. Preserve all physical evidence

Do not wash your face or hands, bathe, brush your teeth, drink or eat, douche or change clothes. If you do change your clothes, put all clothing you were wearing at the time of the assault in individual paper bags (not plastic). It is important to preserve as much evidence as possible for investigation and processing of criminal and/or disciplinary charges.

C. Contact Loyola Law School's Department of Public Safety at 213-736-1121 (x1121). DPS can assist you in reporting a crime that occurred off-campus to the appropriate authorities. You may decline to report your experience to such authorities.

D. Seek immediate or prompt medical treatment (typically within 72 hours)

It is important to seek immediate or prompt and necessary follow-up medical attention for several reasons:

1. To assess and treat any physical injuries you may have sustained.
2. To determine the risk of sexually transmitted diseases or pregnancy and take appropriate medical measures.
3. If you choose, you may have evidence collected and preserved to aid in the investigation and processing of criminal and/or disciplinary prosecution.

It is best for any physical evidence to be collected within the first 24 hours following the incident. (The quality and quantity of evidence collected later than this may be substantially diminished.)

E. Visit the Rape Treatment Center at Santa Monica-UCLA Medical Center – (310) 319-4000 and/or utilize the other resources in closer proximity to Loyola Law School, as listed on our website.

The Rape Treatment Center can provide general medical treatment and, if you choose, collection of evidence. A medical exam could include treatment of any physical problems; evaluation of risks; various lab tests for sexually transmitted diseases and pregnancy; appropriate treatment; identification and collection of physical evidence of any Sexual Assault.

A specially trained nurse will perform the evidence collection exam. A Sexual Assault advocate or a support person of your choice may be present throughout the procedure.

The Rape Treatment Center hospital emergency department follows national standards for victim care, Sexual Assault exams and evidence collection procedures. If the decision is made to conduct an evidence collection exam, the anonymous evidence may be held for six months or longer. This means you do not have to decide immediately whether or not you want to press charges.

The Rape Treatment Center also provides long term counseling support for victims of Sexual Assault and Sexual Violence, as well as advocacy and accompanying services.

F. Schedule non-emergency medical treatment

Even if you choose not to go to the hospital or to seek immediate medical attention, it is still important to get medical attention to treat any physical problems and to conduct various lab tests for sexually transmitted diseases and pregnancy. Please consult the list of local resources on the website.

G. Utilize counseling services

Loyola Law School's Counseling Office (Dr. Michael Douglas or Dr. Angela Liu, 213-736-1122, 502 Casassa) is available for students in crisis. The Counseling Office will quickly make an appointment to see you if you have an emergency.

H. For additional Resources please visit: <https://studentaffairs.lls.edu/sexual-interpersonal-misconduct> to access:

Loyola Law School and Community Sexual Assault and Interpersonal Misconduct Resource Contact List