

AUGUST 1, 2024

**LAGUNA COLLEGE OF ART + DESIGN**  
**TITLE IX: SEXUAL HARASSMENT,**  
**NONDISCRIMINATION, AND**  
**RETALIATION PREVENTION POLICY FOR**  
**ALL FACULTY, STUDENTS, EMPLOYEES,**  
**AND THIRD PARTIES**

THIS POLICY HAS BEEN VOTED ON AND APPROVED BY THE BOARD OF  
TRUSTEES OF LAGUNA COLLEGE OF ART + DESIGN

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**LAGUNA COLLEGE OF ART AND DESIGN, SEXUAL HARASSMENT, NON-DISCRIMINATION, AND RETALIATION PREVENTION POLICY FOR ALL FACULTY, STUDENTS, EMPLOYEES, AND THIRD PARTIES**  
**(Hereinafter, "The Policy")**

**I. Rationale for Policy**

**A. Policy Statement**

To affirm Laguna College of Art + Design's ("LCAD") the College's commitment to fairness and equity in employment and education, and to ensure compliance with federal and state laws and regulations, LCAD has established this **Equal Opportunity, Harassment, and Non-Discrimination Policy** ("Policy"). This Policy applies to all students, faculty, and staff and outlines the College's administrative procedures for addressing alleged sexual misconduct or alleged retaliation for reporting or supporting the reporting of sexual misconduct.

This Policy guarantees a prompt, fair, and impartial process, upholding the equal dignity of all LCAD community members and balancing the rights of all parties involved in either informal or formal grievance procedures. The process is designed to fulfill LCAD's legal obligations in accordance with Title IX of the Higher Education Amendments of 1972 ("Title IX"), which prohibits discrimination on the basis of sex in education programs and activities; Title VII of the Civil Rights Act of 1964 ("Title VII"), which prohibits sex discrimination in employment; and the Campus Sexual Violence Elimination Act ("SaVE Act"), Violence Against Women Act ("VAWA"), and the Clery Act. This policy prioritizes resolution over adversarial confrontation among the complainant, the respondent, and the witnesses. The complainant is not required to prove the allegations, nor is the respondent required to disprove them.

**B. LCAD Notice of Non-Discrimination Policy**

LCAD is an equal opportunity employer and educator. The college is committed to compliance with all applicable laws providing equal employment opportunities to all employees and applicants without regard to:

- Race (including traits historically associated with race, such as hair texture and protective hairstyles, including braids, locks, and twists)
- Ethnicity
- Religion or religious creed (including religious dress and grooming practices)
- Color
- Sex/gender (including childbirth, breastfeeding or related medical conditions), sex stereotype, gender identity/gender expression/transgender (including whether or not you are transitioning or have transitioned)
- Reproductive health decision-making
- Medical leave or other types of protective leave (requesting or approved for leave under the Family and Medical Leave Act or the California Family Rights Act)
- Domestic violence victim status
- Political affiliation
- National origin
- Ancestry
- Citizenship status
- Uniform service member status
- Physical or mental disability
- Protected medical condition (including cancer and genetic conditions)
- Genetic information/characteristics
- Marital status/registered domestic partner status

- Pregnancy
- Age (40 and over)
- Sexual orientation
- Military or veteran status
- In addition, for employees in California, use of cannabis off the job and away from the workplace
- Any other basis protected by federal, state, or local law or ordinance or regulation in the administration of its student admissions, employment, access to programs, or administration of educational policies as required by Title IX and its regulations

This commitment applies to all persons involved in College operations. The College prohibits unlawful discrimination against any job applicant, employee, or unpaid intern by any employee of the College, including supervisors and coworkers. This policy also applies to students, vendors, independent contractors as well as to unpaid interns and volunteers.

LCAD is committed to providing an environment free of harassment, discrimination, retaliation, and/or disrespectful conduct based on:

- Race (including traits historically associated with race, such as hair texture and protective hairstyles, including braids, locks, and twists)
- Ethnicity
- Religion or religious creed (including religious dress and grooming practices)
- Color
- Sex/gender (including childbirth, breastfeeding or related medical conditions), sex stereotype, gender identity/gender expression/transgender (including whether or not you are transitioning or have transitioned)
- Reproductive health decision-making
- Medical leave or other types of protective leave (requesting or approved for leave under the Family and Medical Leave Act or the California Family Rights Act)
- Domestic violence victim status
- Political affiliation
- National origin
- Ancestry
- Citizenship status
- Uniform service member status
- Physical or mental disability
- Protected medical condition (including cancer and genetic conditions)
- Genetic information/characteristics
- Marital status/registered domestic partner status
- Pregnancy
- Age (40 and over)
- Sexual orientation
- Military or veteran status
- In addition, for employees in California, use of cannabis off the job and away from the workplace
- Any other basis protected by federal, state, or local law or ordinance or regulation in the administration of its student admissions, employment, access to programs, or administration of educational policies as required by Title IX and its regulations

LCAD prohibits discrimination, harassment, disrespectful or unprofessional conduct based on the perception that anyone has any of the previously listed characteristics or is associated with a person who has or is perceived as having any of those characteristics. In addition, the College prohibits retaliation against individuals who raise complaints of discrimination or harassment or who participate in workplace investigations. All such conduct violated College policy.

Unlawful discrimination may include, but is not limited to, engaging in the following behavior:

- + Threatening the physical safety of any member of the LCAD community;
- + Creating and/or contributing to an educational culture that is hostile to any LCAD community member;
- + Discriminating against another person or persons; or
- + Inflicting physical, emotional, or mental injury to, or provoking a violent response from, a reasonable person.

### **Harassment Prevention**

The College's policy prohibiting harassment applies to all persons involved in the operation of the College. The College prohibits harassment or disrespectful conduct by an employee of the College, including supervisors, managers, and co-workers. The College's anti-harassment policy also applies to vendors, customers, students, independent contractors, unpaid interns, volunteers, persons providing services pursuant to a contract and other persons with whom you come into contact while on campus.

Prohibited harassment or disrespectful conduct includes, but is not limited to the following behavior:

- Verbal conduct such as epithets, derogatory jokes or comments; slurs or unwanted sexual advances, invitations, comments, posts or messages;
- Visual displays such as derogatory and/or sexually-oriented posters, photography, cartoons, drawings or gestures;
- Physical conduct including assault, unwanted touching, intentionally blocking normal movement or interfering with work because of sex, race or any other protected basis;
- Threats and demands to submit sexual requests or sexual advances as a condition of continued employment, or to avoid some other loss and offers of employment benefits in return for sexual favors;
- Retaliation for reporting or threatening to report harassment; and
- Communication via electronic media of any type that includes any conduct that is prohibited by state and/or federal law or by College policy

Sexual harassment does not need to be motivated by sexual desire to be unlawful or to violate this policy. For example, hostile acts toward an employee because of their gender can amount to sexual harassment, regardless of whether the treatment is motivated by sexual desire. Prohibited harassment is not just sexual harassment, but harassment based on any protected category.

Students with questions regarding this policy or believed instances of discrimination or harassment on the basis of any of these criteria should be brought to any of the following individuals: Dean of Student Affairs or designee, Title IX Coordinator, or file a formal student grievance at [Student Complaint Form](#).

This form is located on the myLCAD portal. The College will not retaliate against anyone for filing a complaint made in good faith and will not knowingly permit retaliation by management, faculty, staff, or students.

C. Resources

LCAD is committed to respecting the equal dignity of every community member and aims to offer resources and options that benefit the entire College community. This policy details both on-campus and off-campus confidential resources in [Section III A](#), supportive measures in [Section III B](#), and reporting procedures in [Section III](#) accessible to all members of the LCAD community.

II. **Title IX Team**

LCAD has appointed the Title IX Team, comprised of the following individual(s), to coordinate the Recipient's compliance with federal, state, and local civil rights laws and ordinances:

**Title IX Coordinator:**

Thomas Olson  
[tolson@lcad.edu](mailto:tolson@lcad.edu)  
949-376-6000 ext. 237

**For safety or security matters:**

Director of Safety + Security  
Jim Wooley  
[jwooley@lcad.edu](mailto:jwooley@lcad.edu)  
949-376-600 ext. 296

**For student-to-student matters:**

Dean of Student Affairs  
Omar Zuwayed  
[ozuwayed@lcad.edu](mailto:ozuwayed@lcad.edu)  
949-376-600 ext.

Director of Student Life + Conduct

Vivian Ortiz  
[vortiz@lcad.edu](mailto:vortiz@lcad.edu)  
949-376-600 ext. 261

Academic Success + Accessibility Coordinator

Lisa Villanueva  
[lvillanueva@lcad.edu](mailto:lvillanueva@lcad.edu)  
949-376-600 ext. 279

**For faculty matters:**

Dean of Academic Affairs  
Hope Railey  
[hrailey@lcad.edu](mailto:hrailey@lcad.edu)  
949-376-6000 ext 236

Chief People Officer

Agnes Sanchez  
[asanchez@lcad.edu](mailto:asanchez@lcad.edu)  
949-376-600 ext. 287

Collectively, these individuals are responsible for providing comprehensive nondiscrimination education and training; coordinating the College's timely, thorough, and fair response, investigation, and resolution of all alleged prohibited conduct under this Policy; and monitoring the effectiveness of this Policy and related procedures to ensure an education and employment environment free from discrimination, harassment, and retaliation.

LCAD recognizes that allegations under this Policy may include multiple forms of discrimination and harassment as well as violations of other College policies; may involve various combinations of students, employees, and other members of the College community; and may require the simultaneous attention of multiple College departments.

Accordingly, all LCAD departments will share information, combine efforts, and otherwise collaborate, to the maximum extent permitted by law and consistent with other applicable College policies, to provide uniform, consistent, efficient, and effective responses to alleged discrimination, harassment, or retaliation.

#### A. Title IX Coordinator

The Title IX Coordinator, who may also be referred to as the *Administrator*, oversees compliance with the College's Sexual Misconduct Policy. The Administrator duties may also be assigned to another member of the Title IX Team. Reporting to the Dean of Academic Affairs, the Title IX Coordinator operates from the Office of Academic Affairs, and is provided all information and authority or access necessary to enforce compliance requirements.

The Title IX Coordinator is responsible for ensuring College-wide adherence to the Title IX Misconduct Policy, which includes overseeing reporting, investigation, and resolution processes. They also manage educational initiatives and corrective actions to prevent and address harassment, discrimination, and retaliation. For any questions about this Policy, contact the Title IX Coordinator.

Any individual can report sex discrimination, sexual harassment, or other sexual misconduct to the Title IX Coordinator, regardless of their involvement in the incident.

Reports can be made at any time, including outside of business hours, to:

Thomas Olson  
**Title IX Coordinator**  
[tolson@lcad.edu](mailto:tolson@lcad.edu)  
949-376-6000 ext. 237

Anonymous reports can be made by using the [Title IX Complaint form](#) and omitting contact information. However, while these reports might prompt LCAD to take action, the College's ability to fully investigate may be limited without this information.

#### B. Independence, Bias, and Conflicts of Interest

Any individual materially involved in the administration of the Resolution Process, including the Administrator, Investigator(s), and Decision-maker(s), may neither have, nor demonstrate a conflict of interest or bias for a party generally, or for a specific Complainant or Respondent.



The Title IX Coordinator acts independently and without conflicts of interest or bias toward complainants or respondents. The Coordinator oversees all resolutions under this policy and ensures that all individuals involved in the processes perform their roles objectively and impartially. If you have a concern about bias or conflict of interest by the Title IX Coordinator during the sexual misconduct resolution process, contact the LCAD President. If the incident involves alleged misconduct by the Title IX Coordinator, report it directly to the Chief People Officer..

#### C. Oversight of Investigators, Decision-Makers, and Appeal Officers

The Title IX Team at LCAD comprises employees selected from across the College’s administration. This team is responsible for upholding the Title IX Policy and procedures. Team members may serve as investigators, decision-makers, hearing officers, appeal officers, or trained advisors.

The Title IX Coordinator ensures all team members are free from conflicts of interest or bias against complainants or respondents, whether generally or individually. In line with federal regulations, the Coordinator also ensures team members involved in informal and formal processes receive training on the definition of sexual harassment and conducting proceedings impartially, without relying on sex stereotypes. This oversight and training aim to protect the safety of the LCAD community, ensure a fair process, and promote accountability. Concerns about the objectivity or impartiality of any Title IX Team member should be directed to the Title IX Coordinator.

### III. **Mandated Reporting, Confidential Employees, Resources**

All LCAD faculty and employees (including student employees), other than those deemed Confidential Employees, are Mandated Reporters and are expected to promptly report all known details of actual or suspected discrimination, harassment, and/or retaliation to appropriate officials immediately, although there are some limited exceptions. Supportive measures may be offered as the result of such disclosures without formal College action.

Complainants may want to carefully consider whether they share personally identifiable details with Mandated Reporters, as those details must be shared with the Administrator.

If a Complainant expects formal action in response to their allegations, reporting to any Mandated Reporter can connect them with resources to report alleged crimes and/or Policy violations, and these employees will immediately pass Notice to the Administrator (and/or police, if desired by the Complainant or required by law), who will act when an incident is reported to them.

The following sections describe the College’s reporting options for a Complainant or third party (including parents/guardians when appropriate):

#### A. Confidential Employees

To allow Complainants to access support and resources without filing a Complaint, the College has designated certain employees as Confidential Resources. These employees are not required to report actual or suspected discrimination, harassment, or retaliation in a way that identifies the Parties. However, they will provide the Complainant with the Title IX Coordinator’s contact information and offer options and resources without any obligation to inform an outside agency or College official unless the Complainant requests it.

LCAD has one category of Confidential Employees:

1. Those with confidentiality protected by law or professional ethics, such as medical professionals, and counselors.

For category 1 employees to respect confidentiality, they must be in a confidential relationship with the person reporting and acting within the scope of their licensure, professional ethics, or confidential role at the time of receiving the Notice. They will maintain confidentiality except in cases of immediate threat or danger, abuse of a minor, elder, or disabled person, or when required to disclose by law or court order.

If a Complainant wants the details of an incident to be kept confidential, they may speak with the following Confidential Employees:

### **LCAD Confidential Employees**

Office of Student Success + Accessibility

Lisa Villanueva

lvillanueva@lcad.edu

Employees who have confidentiality as described above, and who receive Notice within the scope of their confidential roles will timely submit anonymous statistical information for Clery Act purposes.

Failure of a Mandated Reporter, as described above in this section, to report an incident of discrimination, harassment, or retaliation of which they become aware is a violation of College Policy and can be subject to disciplinary action for failure to comply/failure to report. This also includes situations when a harasser is a Mandated Reporter. Such individuals are obligated to report their own misconduct, and failure to do so is a chargeable offense under this Policy.

A Mandated Reporter who is themselves a target of harassment or other misconduct under this Policy is not required to report their own experience, though they are, of course, encouraged to do so.

### **B. Off-Campus Confidential Resources**

All members of the LCAD community interested in confidential support services are welcome to contact the following off-campus resources:

National Sexual Assault Hotline

1-800-656-4673

National Domestic Violence Hotline

1-800-799-7233

Peace Over Violence

[www.peaceoverviolence.org](http://www.peaceoverviolence.org)

Emergency Hotline: 626 793-3385 Confidential, nonjudgmental support, advocacy and referrals

LCAD employees interested in confidential support services have access to the 24 hours a day, 7 days a week. The Employee Assistance Program can be accessed at:

The Standard  
(888) 293-6948  
TTY Services: 711  
healthadvocate/standard3

#### C. External Reporting To Government Authorities

Concerns about the College's application of this Policy and compliance with certain federal civil rights laws may be addressed to:

Office for Civil Rights (OCR) U.S. Department of Education  
400 Maryland Avenue, SW  
Washington, D.C. 20202-1100  
Customer Service Hotline #: (800) 421-3481  
Facsimile: (202) 453-6012 TDD#: (877) 521-2172  
Email: [OCR@ed.gov](mailto:OCR@ed.gov) Web: <http://www.ed.gov/ocr>

Department of Fair Employment and Housing (DFEH)  
[contact.center@dfeh.ca.gov](mailto:contact.center@dfeh.ca.gov)  
[www.dfeh.ca.gov](http://www.dfeh.ca.gov)

For Complaints involving employee-on-employee conduct: [Equal Employment Opportunity Commission \(EEOC\)](#)<sup>1</sup>

#### IV. **Disability-based Grievances and Complaints**

Grievances related to disability status and/or provision of accommodations are addressed using the procedures in Student Code of Conduct. However, allegations of discrimination on the basis of an actual or perceived disability, including instances in which the provision of reasonable accommodations has a discriminatory effect, will be resolved under this Policy.

#### V. **Scope of Policy**

This Policy is only applicable to alleged incidents that occur after August 1, 2024. For alleged incidents of sexual harassment occurring prior to August 1, 2024, the policy and procedures in place at the time of the alleged incident apply. Applicable versions of those policies and procedures are available from the Administrator.

This Policy applies to all faculty, employees, students, and other individuals participating in or attempting to participate in the College's program or activities, including education and employment.

This Policy prohibits all forms of discrimination on the basis of the protected characteristic(s) listed in the Notice of Nondiscrimination. Harassment, Discrimination and Retaliation Prevention Procedures may be applied to incidents, to patterns, and/or to the institutional culture/climate, all of which may be addressed in accordance with this Policy.

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<sup>1</sup> EEOC has jurisdiction over Title IX employment claims.

For the purposes of this Policy, the "LCAD community" or "College" encompasses students, student organizations, faculty, administrators, staff, guests, visitors, volunteers, invitees, and Community Ed participants.

## **VI. Jurisdiction**

This Policy applies to LCAD's education programs and activities (defined as including locations, events, or circumstances in which the College exercises substantial control over both the Respondent and the context in which the conduct occurred), circumstances where the College has disciplinary authority, and to misconduct occurring within any building owned or controlled by a College-recognized student organization. A Complainant does not have to be a member of the LCAD community to file a Complaint, at the discretion of Administrator.

This Policy also applies to off-campus misconduct, including domestic and international study programs, that affects a person's access to Laguna College of Art + Design's programs or activities. The College extends jurisdiction to off-campus and online conduct when it affects a substantial College interest, including:

1. Criminal offenses as defined by local, state, or federal law.
2. Immediate threats to the physical health or safety of any student, employee, or individual.
3. Situations that significantly impinge on others' rights, property, or achievements, breach the peace, or cause social disorder.
4. Situations that substantially interfere with the College's educational interests or mission.

For disciplinary action under this policy, the Respondent must be a current faculty member, student, or employee at the time of the alleged incident. If the Respondent is unknown or not a member of the community, the Administrator will assist the Complainant by providing institutional and local resources, implementing supportive measures or remedial actions (e.g., campus trespassing orders), and aiding in contacting law enforcement to file a police report if desired.

Vendors working with the College are subject to their employer's policies and the College's policies, as agreed in their contracts.

If the Respondent is from another institution, the Administrator will help the Complainant contact the appropriate person at that institution to pursue action under their policies. Additionally, the Administrator can support students or employees facing discrimination in externships, study abroad programs, or other external environments. If external conduct impacts a student's or employee's educational or work environment, the Administrator can address these effects remedially if notified.

### **A. Third Parties**

Independent contractors, vendors, and other third parties associated with LCAD are required to comply with this Policy and other institutional non-discrimination policies. A third party includes anyone who is not a LCAD student, faculty, or staff member, and may encompass visitors, guests, independent contractors, vendors, and participants in LCAD-related programs or activities.

The Title IX Coordinator is responsible for determining the appropriate response to reported concerns about the behavior of third parties. Although LCAD's ability to control or engage with third parties may be limited, the Title IX Coordinator will support any student or employee alleging violations by a third party by providing

access to appropriate resources and support options. This support may involve referrals to law enforcement or restrictions on the third party's access to campus or LCAD activities.

When the respondent is affiliated with another educational institution, the Title IX Coordinator may assist the complainant by coordinating with the relevant individuals at that institution, facilitating allegations through their policies when applicable.

If an LCAD student or employee encounters sex discrimination in an internship, study abroad or exchange program, or another external environment, they are encouraged to report it to the Title IX Coordinator. The Coordinator will determine the applicability of this Policy and may coordinate with the other organization to navigate relevant policies and procedures.

#### **B. Online Harassment and Misconduct**

Any online posting or electronic communication by students, including but not limited to cyber-bullying, cyber-stalking, and cyber-harassment, occurring entirely outside of the College's control (e.g., not on LCAD networks, websites, or between the College email accounts) will be subject to this Policy only if it can be demonstrated that such conduct causes a substantial disruption within the College program or infringes on the rights of others. Otherwise, these communications are considered protected speech under the First Amendment.

Complaints about online postings or other electronic communications by students that are outside the College's control and do not cause substantial disruption on campus or in educational activities are considered protected speech. While support will be provided to Complainants, students' protected speech will not be subject to discipline. However, if employees make discriminatory or harassing statements off-campus, whether online or in person, the College may take action if the speech is made in an official or work-related capacity.

Though the College cannot control external websites or social media, it will address and attempt to mitigate the effects of any reported harassing communications. Students and employees are encouraged to practice good digital citizenship and avoid online misconduct that could harm the College community. Depending on the situation, such behavior may be addressed under this Policy, the Employee Handbook, and/or the Student Handbook.

### **VII. Inclusion Related to Gender Identity/Expression**

LCAD strives to ensure that all individuals are safe, included, and respected in their working and learning environments, regardless of their gender identity or expression, including intersex, nonbinary, transgender, agender, two-spirit, and gender-diverse students and employees.

Discrimination and harassment on the basis of gender identity or expression are not tolerated by LCAD. If a member of the College community believes they have been subjected to discrimination under this Policy, they should follow the appropriate reporting process described herein.

In upholding the principles of equity and inclusion, LCAD supports the full integration and healthy development of those who are transgender, transitioning, nonbinary, or gender-diverse, and seeks to eliminate any stigma related to gender identity and expression.

LCAD is committed to fostering a climate where all identities are valued, contributing to a more vibrant and diverse community. The purpose of this Policy is to have the College administratively address issues that some

students and employees, including those identifying as intersex, transgender, agender, nonbinary, and gender-diverse, may confront as they navigate systems originally designed around the assumption that gender is binary. As our society's understanding of gender evolves, so do LCAD's processes and policies.

Concepts like misgendering and deadnaming may not be familiar to all but understanding them is essential to LCAD's goal of being as welcoming and inclusive a community as possible.

*Misgendering or mispronouncing* is the intentional or unintentional use of pronouns or identifiers that are different from those used by an individual. Unintentional misgendering is usually resolved with a simple apology if someone clarifies their pronouns for you. Intentional misgendering is inconsistent with the type of community we hold ourselves out to be and may constitute a Policy violation if the effect is greater than *de minimis* harm. We each have a right to determine our own gender identity and expression, but we don't get to choose or negate someone else's.

*Deadnaming*, along with *misgendering*, can be very traumatic to a person who is transgender, transitioning, nonbinary, or gender-diverse. Deadnaming means using someone's birth-assigned (cisgender) name, rather than the name they have chosen.

To a person who is transgender, transitioning, nonbinary, or gender-diverse, their cisgender identity may be something that is in their past -- dead, buried, and behind them. To then revive their deadname could trigger issues, traumas, and experiences of the past that the individual has moved past, or is moving past, and can interfere with their health and well-being.

Again, unintentional deadnaming can be addressed by a simple apology and an effort to use the person's chosen name. Intentional deadnaming could be a form of bullying, outing, or otherwise harassing an individual, and thus should be avoided.

This Policy should be interpreted consistent with the goals of maximizing the inclusion of intersex, transgender, transitioning, agender, nonbinary, and gender-diverse students and employees, including:

- Maintaining the privacy of all individuals consistent with law
- Ensuring all students have equal access to educational programming, activities, and facilities, including restrooms and locker rooms
- Ensuring all employees have equal access to employment opportunities and work, service, or health-related facilities
- Providing professional development for employees and education for students on topics related to gender inclusion
- Encouraging all students and employees to respect the pronoun usage and identities of all members of the College community

LCAD uses a number of interventions to address concerns that are raised related to gender-based harassment or discrimination, including problem-solving, intervention, confrontation, investigation, and Policy enforcement. When conflicts arise between the right of members of the community to be free from gender-identity discrimination and those exercising their right to religious freedom, the College will try to balance rights and interests to find mutually agreeable outcomes or compromises. When that is not possible, LCAD will offer remedial solutions or enforce its Policies while also respecting the rights of all members of its community.

## **VIII. Supportive Measures**

LCAD will offer and implement appropriate and reasonable supportive measures to the Parties upon Notice of alleged discrimination, harassment, and/or retaliation. Supportive measures are non-disciplinary, non-punitive individualized services offered as appropriate and reasonably available. They are offered, without fee or charge to the Parties, to restore or preserve access to the College's education program or activity, including measures designed to protect the safety of all Parties and/or the College's educational environment and/or to deter discrimination, harassment, and/or retaliation.

The Administrator promptly makes supportive measures available to the Parties upon receiving Notice/Knowledge or a Complaint. At the time that supportive measures are offered, if a Complaint has not been filed, the College will inform the Complainant, in writing, that they may file a Complaint with the College either at that time or in the future. The Administrator will work with a party to ensure that their wishes are considered with respect to any planned and implemented supportive measures.

The College will maintain the confidentiality of the supportive measures, provided that confidentiality does not impair the College's ability to provide those supportive measures. LCAD will act to ensure as minimal an academic/occupational impact on the Parties as possible. LCAD will implement measures in a way that does not unreasonably burden any party.

These actions may include, but are not limited to:

- Referral to counseling, medical, and/or other healthcare services
- Referral to the Employee Assistance Program
- Referral to community-based service providers
- Visa and immigration assistance
- Student financial aid counseling
- Education to the institutional community or community subgroup(s)
- Altering campus housing assignment(s)
- Altering work arrangements for employees or student-employees
- Safety planning
- Providing campus safety escorts
- Providing transportation assistance
- Implementing contact limitations (no contact orders) between the Parties
- Academic support, extensions of deadlines, or other course/program-related adjustments
- Trespass, Persona Non Grata (PNG), or Be-On-the-Lookout (BOLO) orders
- Timely warnings
- Class schedule modifications, withdrawals, or leaves of absence
- Increased security and monitoring of certain areas of the campus
- Any other actions deemed appropriate by the Title IX Coordinator

Violations of no contact orders or other restrictions may be referred to appropriate student or employee conduct processes for enforcement or added as collateral misconduct allegations to an ongoing Complaint under this Policy.

The Parties are provided with a timely opportunity to seek modification or reversal of the College's decision to provide, deny, modify, or terminate supportive measures applicable to them. A request to do so should be made in writing to the Administrator. An impartial employee other than the employee who implemented the supportive measures, who has authority to modify or reverse the decision, will determine whether to provide,

deny, modify, or terminate the supportive measures if they are inconsistent with the definition of supportive measures in § 106.2 of the federal Title IX Regulations. The College will also provide the Parties with the opportunity to seek additional modification or termination of supportive measures applicable to them if circumstances change materially. The College typically renders decisions on supportive measures within seven (7) business days of receiving a request and provides a written determination to the impacted party(s) and the Administrator.

#### **IX. Definitions Related to Title IX**

1. **Advisor** – Any person chosen by a party, or appointed by the institution, who may accompany the party to all meetings related to the Resolution Process and advise the party on that process.
2. **Appeal Officer** – The person or panel who accepts or rejects a submitted appeal request, determines whether any of the grounds for appeal are met, and directs responsive action(s), accordingly.
3. **Day** – a business day, Monday through Friday, when LCAD administrative offices are in normal operation; excludes weekends, observed holidays and other days of full or partial LCAD office closure, including both planned closures and closures due to natural disaster, public health concerns, or other emergencies.
4. **Community or College** – "LCAD community" or "College" encompasses students, student organizations, faculty, administrators, staff, guests, visitors, volunteers, invitees, and Community Ed participants.
5. **Complaint** – is defined as an oral or written request that can objectively be understood to be a request to investigate and prepare a decision regarding discrimination based on sex, including harassment.
  - a. Comments shared at “campus hosted meetings example, Town Hall meetings” at the College do not constitute complaints.
6. **Complainant** – A student or employee who is alleged to have been subjected to conduct that could constitute discrimination, harassment, or retaliation under the Policy; or a person other than a student or employee who is alleged to have been subjected to conduct that could constitute discrimination or harassment under the Policy and who was participating or attempting to participate in the College’s education program or activity at the time of the alleged discrimination, harassment or retaliation.
7. **Confidential Employee** – An employee whose communications are privileged or confidential under federal or state law. The employee’s confidential status, for purposes of this definition, is only with respect to information received while the employee is functioning within the scope of their duties to which privilege or confidentiality applies; or  
An employee whom the College has designated as confidential under this Policy for the purpose of providing services to persons related to discrimination, harassment, or retaliation. If the employee also has a duty not associated with providing those services, the employee’s confidential status only applies with respect to information received about discrimination, harassment, or retaliation in connection with providing those services;



8. **Decision-maker** – any person(s) authorized by the Title IX Coordinator or designee to preside over an informal or formal process outlined in this Policy, including hearings. In presiding over informal processes, decision-makers may facilitate the process without rendering a final determination of responsibility. For the role of a decision-maker in a formal grievance process, see Hearing Officer.
9. **Disciplinary Sanction** – a consequence imposed by the College on a Respondent who is found to have violated the Policy.
10. **Education Program or Activity** – locations, events, or circumstances over which LCAD exercises substantial control over both the Respondent and the context in which alleged sexual misconduct is reported to have occurred; includes any building owned or controlled by LCAD, and officially recognized LCAD student organizations.
11. **Employee** – a person holding any position at LCAD for which compensation is received from LCAD, without regard to title, classification, or status. This term includes all staff, whether full-time, part-time, on-call, or temporary, including all faculty, who are full-time and part-time, including all professors, instructors, visiting artists and other employees teaching courses. Student workers fall into this category as well.
12. **Final Determination** – a conclusion by the preponderance of the evidence of whether alleged conduct did or did not violate policy; final determinations are reached only following a formal grievance process and the conclusion of any appeal process or the close of an appeal window, if neither party appeals the outcome.
13. **Finding** – A conclusion by the standard of proof that the conduct did or did not occur as alleged, and therefore whether it constitutes a violation of this Policy (as in a “finding of fact”).
14. **Formal Grievance Process** – the method outlined in this Policy in [Appendix A](#) for formal resolution of an allegation of sexual misconduct; the designated formal resolution process that complies with 34 CFR 106.45 of the Title IX regulations set forth by the Department of Education.
15. **Formal Complaint** – a document signed by a complainant or by the Title IX Coordinator that is both
  - a) alleging sexual harassment, discrimination, and/or another violation of this Policy against a respondent within the jurisdiction and scope of this Policy, and
  - b) requesting initiation of the procedures described in this Policy.
16. **Hearing Officer** (may also be referred to as a hearing committee or decision-maker(s) – any person(s) authorized by the Title IX Coordinator or designee to preside over the Sexual Misconduct Policy formal hearing process outlined in [Appendix A](#) of this Policy to determine whether an LCAD student, staff, or faculty member has violated this Policy by a preponderance of the evidence and, if applicable, assign sanctions when a policy violation is determined to have occurred. See also: *Decision-maker*.
17. **Hearing Chair** – an individual authorized by the Title IX Coordinator or designee to both fulfill the role of a hearing officer and to take leadership in organizing, administering and making decisions regarding the formal hearing process.

18. **Hostile Environment Harassment** – hostile environment harassment is defined as unwelcome sex-based conduct that, based on the totality of the circumstances, is subjectively and objectively offensive and is so severe or pervasive that it limits or denies a person’s ability to participate in or benefit from the College’s education program or activity. Whether a hostile environment has been created remains a fact- specific inquiry.
19. **Informal Resolution** - A resolution agreed to by the Parties and approved by the Administrator that occurs prior to a Final Determination in the Resolution Process.
20. **Investigator** – any person(s) appointed by the Title IX Coordinator or designee to gather relevant information related to an allegation of a violation of this Policy, assess relevance and compile the information into an investigation report; the information gathered by the investigator(s) will be considered in any future resolution process, whether formal or informal, as determined by the Title IX Coordinator.
21. **Mandated Reporter** – An LCAD employee who is obligated by Policy to share Knowledge, Notice, and/or reports of discrimination, harassment, and/or retaliation with the Administrator.<sup>2,3</sup>
22. **Notice** – When an employee, student, or third party informs the Administrator of the alleged occurrence of discriminatory, harassing, and/or retaliatory conduct.
23. **Parties or Party** – Complainant(s) and Respondent(s); while a parent or guardian with the legal right to act on behalf of a party may do so when appropriate, subject to the Family Educational Rights and Privacy Act (FERPA), the parent is not regarded as a Party.
24. **Pregnancy Related Conditions** – Pregnancy, childbirth, termination of pregnancy, or lactation, medical conditions related thereto, or recovery therefrom.
25. **Protected Characteristic** - Any characteristic for which a person is afforded protection against discrimination and harassment by law or College Policy.
26. **Relevant Evidence** – Evidence that may aid a Decision-maker in determining whether the alleged discrimination, harassment, or retaliation occurred, or in determining the credibility of the Parties or witnesses.
27. **Remedies** – Typically, post-resolution actions directed to the Complainant and/or the community as mechanisms to address safety, prevent recurrence, and restore or preserve equal access to the College’s Education Program and Activity.

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<sup>2</sup> Not to be confused with those mandated by state law to report child abuse, elder abuse, and/or abuse of persons with disabilities to appropriate officials, though these responsibilities may overlap with those who have mandated reporting responsibility under this Policy.

<sup>3</sup> The Administrator designated to receive information from Mandated Reporters may vary depending upon the type of alleged discrimination, harassment, or retaliation (e.g., on the basis of sex, on the basis of race, on the basis of disability).

28. **Respondent** – A person who is alleged to have engaged in conduct that could constitute discrimination based on a protected characteristic, harassment, or retaliation for engaging in a protected activity under this Policy.
29. **Sex** - Sex assigned at birth, sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, and gender identity.
30. **Sexual Misconduct** – An umbrella term used to categorize prohibited behavior that is sex- or gender-based and/or sexual in nature, as defined in Section X, which would be a violation of this Policy. Within the sexual misconduct umbrella is Title IX sexual harassment, as defined in Section X-C, which includes sexual harassment, sexual assault, stalking, dating violence and domestic violence.
31. **Single Investigator Model** – One person may be both the Investigator and Decision-maker, or the Title IX Coordinator and the Decision-maker. Note: If the Investigator and Decision-maker are different individuals, the entity must develop a process that allows the Decision-maker to question the parties and all witnesses for the purpose of determining credibility when credibility is in dispute and relevant.
32. **Student** – a student is defined as an individual who
- a) is an applicant for admission to LCAD or admitted to LCAD;
  - b) is enrolled in one or more classes in a degree or non-degree seeking capacity, including LCAD Community Ed and Pre-College programs;
  - c) completed the previous term and is enrolled for the next scheduled term or has completed coursework and is awaiting a degree;
  - d) was enrolled in coursework and is currently serving a suspension or interim suspension;
  - e) is officially representing the College during a period between regular academic terms;
  - f) was enrolled but withdraws or is withdrawn from the College while a disciplinary matter (including investigation) is pending; or
  - a. is not currently enrolled but has a continuing academic relationship with the College, such as being on a leave of absence or finishing incomplete coursework outside of a term.
33. **Support Measures**– non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to a complainant or a respondent during or outside of an investigation or resolution process in an effort to restore or preserve equal access to LCAD’s education program or activity without unreasonably burdening the other party. Supportive measures are further defined in Section VIII.
33. **Title IX** – Title IX of the Education Amendments of 1972 (“Title IX”), 20 U.S.C. §1681 *et seq.*, is a Federal civil rights law that prohibits discrimination on the basis of sex in education programs and activities. All public and private elementary and secondary schools, school districts, colleges, and universities (hereinafter “schools”) receiving any Federal funds must comply with Title IX. Under Title IX, discrimination on the basis of sex can include sexual harassment or sexual violence, such as rape, sexual assault, sexual battery, and sexual coercion.
34. **Title IX Coordinator** – the LCAD employee designated by the College President to ensure compliance with Title IX and LCAD’s Title IX program. References to the Title IX Coordinator throughout this Policy may also encompass a designee of the Coordinator for specific tasks.

35. **Title IX Team** – a collection of LCAD employees and, when appropriate, outside consultants or contractors charged with upholding this Policy and enacting the procedures defined within. The Title IX Team includes the Title IX Coordinator, deputy coordinators, investigators, decision-makers/hearing officers, appeal officers, trained advisors and anyone who may perform in any of these roles at any given time.

## **X. Prohibited Conduct**

Students, staff, administrators, and faculty are entitled to an employment and educational environment that is free of discrimination, harassment, and retaliation. This Policy is not meant to inhibit or prohibit educational content or discussions inside or outside of the classroom that include germane but controversial or sensitive subject matters protected by academic freedom.

The sections below describe the specific forms of legally prohibited discrimination, harassment, and retaliation that are prohibited under this Policy. When speech or conduct is protected by academic freedom and/or the First Amendment, it will not be considered a violation of this Policy, though supportive measures will be offered to those impacted.

All offense definitions below encompass actual and/or attempted offenses.

Any of the following offenses can be charged as or combined as pattern offenses, in which case the Notice of Investigation and Allegation (NOIA) will clearly indicate that both individual incidents and a pattern of conduct are being investigated. A pattern may exist and be charged when there is a potential substantial similarity to incidents where the proof of one could make it more likely that the other(s) occurred, and vice-versa. Patterns may exist based on target selection, similarity of offense, or other factors. Where a pattern is found, it can be the basis to enhance sanctions, accordingly.

Violation of any other College policies may constitute discrimination or harassment when motivated by actual or perceived protected characteristic(s), and the result is a limitation or denial of employment or educational access, benefits, or opportunities.

### **A. Discrimination**

Discrimination is different treatment with respect to an individual's employment or participation in an education program or activity based, in whole or in part, upon the individual's actual or perceived protected characteristic. Discrimination also includes allegations of a failure to provide reasonable accommodations as required by law or policy, such as for disability, religion, or creed.

Discrimination can take two primary forms:

#### **1. Disparate Treatment Discrimination:**

Any intentional differential treatment of a person or persons that is based on an individual's actual or perceived protected characteristic and that:

- Excludes an individual from participation in;
- Denies the individual benefits of; or
- Otherwise adversely affects a term or condition of an individual's participation in a LCAD program or activity.

## **2. Disparate Impact Discrimination:**

Disparate impact occurs when policies or practices that appear to be neutral unintentionally result in a disproportionate impact on a protected group or person that:

- Excludes an individual from participation in;
- Denies the individual benefits of; or
- Otherwise adversely affects a term or condition of an individual's participation in a LCAD program or activity.

## **B. Discriminatory Harassment**

Discriminatory harassment is unwelcome conduct on the basis of actual or perceived protected characteristic(s), that based on the totality of the circumstances, is subjectively and objectively offensive, and is so severe **OR** pervasive, that it limits or denies a person's ability to participate in or benefit from LCAD's education program or activity.

## **C. Sex-based Harassment (Applicable under Title IX, Title VII, and the Fair Housing Act)**

Sex-based harassment is a form of sex discrimination and means sexual harassment and other harassment on the basis of sex,<sup>4</sup> including sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, and gender identity; sexual assault, dating violence, domestic violence, and stalking. There are two form of sex-based Harassment list below:

### **1. Quid pro quo:**

- an employee agent, or other person authorized by LCAD,
- to provide an aid, benefit, or service under LCAD's education program or activity,
- explicitly or impliedly conditioning the provision of such aid, benefit, or service,
- on a person's participation in unwelcome sexual conduct.

### **2. Hostile Environment Harassment:**

- unwelcome sex-based conduct, that
- based on the totality of the circumstances,
- is subjectively and objectively offensive, and
- is so severe **OR** pervasive,
- that it limits or denies a person's ability to participate in or benefit from the Recipient's education program or activity

The College reserves the right to address offensive conduct and/or harassment that:

- (1) does not rise to the level of creating a hostile environment, or
- (2) that is of a generic nature and not based on a protected characteristic.

Addressing such conduct will not result in the imposition of discipline under LCAD's Policy, but may be addressed through respectful conversation, remedial actions, education, effective Alternative Resolution, and/or other Informal Resolution mechanisms.

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<sup>4</sup> Throughout this Policy, "on the basis of sex" means conduct that is sexual in nature, or that is directed to the Complainant because of his/her/their actual or perceived sex or gender identity.

### 3. Sexual Assault:<sup>5</sup>

Any sexual act, including Rape, Sodomy, Sexual Assault with an Object, or Fondling directed against another person, without the consent of the victim, including instances where the victim is incapable of giving consent; also unlawful sexual intercourse.<sup>6</sup>

#### a. Rape:

- Penetration,
- 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 or physical incapacity

#### b. Sodomy

- Oral or anal penetration
- Of the Complainant by the Respondent
- 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 or physical incapacity

#### c. Sexual Assault with an Object

- Respondent's use of an object or instrument
- To unlawfully penetrate, however slightly, the genital or anal opening
- Of the body of the Complainant,
- 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 or physical incapacity

#### d. Fondling:

- The touching of the private body parts (breasts, buttocks, groin) of the Complainant by the Respondent
- Or causing the Complainant to touch the Respondent's private body parts
- Intentionally for a sexual purpose
- 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 or physical incapacity.

#### e. Incest:

- Non forcible sexual intercourse between persons who are related to each other

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<sup>5</sup> This definition set is not taken from the FBI Uniform Crime Reporting (UCR) system verbatim. ATIXA has substituted Complainant for "victim," has removed references to his/her throughout, and has defined "private body parts." These are liberties ATIXA thinks are important to take with respect to the federal definitions, but users should consult legal counsel before adopting them.

<sup>6</sup> This definition of sexual assault does not constitute a chargeable offense under the Policy. It is a description encompassing the six chargeable offenses listed below it.

- Within the degrees wherein marriage is prohibited by CA law.

**f. Statutory Rape:**

- Non forcible sexual intercourse with a person
- who is under the statutory age of consent of the state of California.

**4. Dating Violence:**

- Violence<sup>7</sup> committed by a Respondent,
- Who is in or has been in a social relationship of a romantic or intimate nature with the Complainant; and
- Where the existence of such a relationship shall be determined based on a consideration of the following factors:
  - Length of the relationship
  - Type of relationship
    - frequency of the interaction between the Parties involved in the relationship.

**5. Domestic Violence:**

- **Felony or misdemeanor crimes committed by a person who:**
  - Is a current or former spouse or intimate partner of the Complainant under the family or domestic violence laws of California or a person similarly situated to a spouse of the Complainant;
  - Is cohabitating with, or has cohabitated with, the Complainant as a spouse or intimate partner;
  - Shares a child in common with the Complainant; or
  - Commits acts against a youth or adult Complainant who is protected from those acts under the family or domestic violence laws of California.

**6. Stalking:**

- Engaging in a course of conduct<sup>8</sup> on the basis of sex, that is,
- Directed at a specific person that would cause a reasonable person<sup>9</sup> to:
  - Fear for the person's safety, or
  - The safety of others; or
  - Suffer substantial emotional distress.<sup>10</sup>

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<sup>7</sup> For purposes of this Policy, violence is defined as intentionally or recklessly causing the Complainant physical, emotional, or psychological harm. Legitimate use of violence for self-defense is not chargeable under this Policy because the purpose is safety, not harm. Consensual use of violence, such as in kink relationships, would also not meet this definition, in most circumstances.

<sup>8</sup> For purposes of this definition, "A 'course of conduct' requires that there be more than one incident and the conduct must be directed at a specific person. Stalking can occur in person or using technology, and the duration, frequency, and intensity of the conduct should be considered. Stalking tactics can include, but are not limited to watching, following, using tracking devices, monitoring online activity, unwanted contact, property invasion or damage, hacking accounts, threats, violence, sabotage, and attacks. (Federal Register, Vol 89, No. 83, 04/29/2024, p. 33523). Merely annoying conduct, even if repeated, is a nuisance, but is not typically chargeable as stalking.

<sup>9</sup> Reasonable person is an objective standard meaning a person in the Complainant's shoes (having similar characteristics/demographics to the Complainant).

<sup>10</sup> In the context of stalking, a Complainant is not required to obtain medical or other professional treatment and counseling is not required to show substantial emotional distress.

## D. Sexual Misconduct

The following provisions of this Policy define prohibited behaviors, which may be within or outside of Title IX, that apply to all members of the LCAD community. Sanctions for the below-listed Civil Rights Offenses range from warning through expulsion/termination.

### 7. Relationships Between Faculty, Staff, and Students

The College prohibits all faculty and staff members, including graduate teaching assistants, and others involved in teaching activities, from engaging in or pursuing dating, sexual, or intimate relationships with students, including consensual relationships.

Faculty and staff members are in a position of trust and power with respect to a student's educational activities. Relationships with students can jeopardize the effective functioning of the College's mission by the appearance of unfairness in the exercise of professional judgment. This includes, but is not limited to, those students whom faculty or staff currently, or may in the future, instruct, mentor, evaluate, supervise, advise or exercise other forms of professional responsibilities toward (such as allocating resources, selecting students for scholarships and awards, and providing recommendations or references).

The purpose of this policy is to create and maintain a professional learning and work environment that is free from discrimination, harassment, and exploitation. This policy recognizes that there is often an inherent inequity in dating, sexual, or intimate relationships between faculty/staff and students. Such relationships often result in perceptions of favoritism, bias, harassment or discrimination that undermine academic achievements or decisions affecting students; the power imbalance also casts doubt on the validity of the consent. The College maintains a policy against discrimination and harassment including, without limitation, sexual harassment. Dating, sexual, or intimate relationships between faculty/staff and students may result in claims of sexual harassment and questions about the voluntariness of the relationship.

### 8. Sexual Exploitation:<sup>11</sup>

An individual taking non-consensual or abusive sexual advantage of another, that does not constitute sex-based harassment as defined above for their own benefit or for the benefit of anyone other than the person not being exploited.

Examples of Sexual Exploitation include, but are not limited to:

- Sexual voyeurism (such as observing or allowing others to observe a person undressing or using the bathroom or engaging in sexual acts, without the consent of the person being observed)
- Invasion of sexual privacy (e.g., doxing)
- Knowingly making an unwelcome disclosure of (or threatening to disclose) an individual's sexual orientation, gender identity, or gender expression (i.e., "outing" them)
- Taking pictures, video, or audio recording of another in a sexual act, or in any other sexually related activity when there is a reasonable expectation of privacy during the activity, without the consent of all involved in the activity; or exceeding the boundaries of consent (such as allowing another person to hide in a closet and observe sexual activity, or disseminating sexual pictures without the photographed person's consent), including the making or posting of non-consensual pornography

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<sup>11</sup> This offense is not classified under Title IX as "Sex-based harassment," but it is included here in this Policy as a tool to address a wider range of behaviors.



- Prostituting another person
- Engaging in sexual activity with another person while knowingly infected with human immunodeficiency virus (HIV) or a sexually transmitted disease (STD) or infection (STI), without informing the other person of the virus, disease, or infection
- Causing or attempting to cause the incapacitation of another person (through alcohol, drugs, or any other means) for the purpose of compromising that person's ability to give consent to sexual activity, or for the purpose of making that person vulnerable to non-consensual sexual activity
- Misappropriation of another person's identity on apps, websites, or other venues designed for dating or sexual connections (e.g., spoofing)
- Forcing a person to take an action against that person's will by threatening to show, post, or share information, video, audio, or an image that depicts the person's nudity or sexual activity
- Knowingly soliciting a minor for sexual activity
- Engaging in sex trafficking
- Knowingly creating, possessing, or disseminating child sexual abuse images or recordings
- Creating or disseminating synthetic media, including images, videos, or audio representations of individuals doing or saying sexually-related things that never happened, or placing identifiable real people in fictitious pornographic or nude situations without their consent (i.e., Deepfakes)
- Creating or disseminating images or videos of child sexual abuse material

## E. Other Prohibited Conduct

### 1. Bullying:<sup>12</sup>

- Repeated and/or severe aggressive behavior
- That is likely to intimidate or intentionally hurt, control, or physically or mentally diminish the Complainant,
- That is not speech or conduct that is otherwise protected by the First Amendment.

### 2. Endangerment:

- Threatening or causing physical harm;
- Extreme verbal, emotional, or psychological abuse; or
- Other conduct which threatens or endangers the health or safety of any person or damages their property.

### 3. Hazing:

- Any act or action
- Which does or is likely to endanger the mental or physical health or safety of any individual
- As it relates to an individual's initiation, admission into, or affiliation with any LCAD group or organization.

*For the purposes of this definition:*

- It is not necessary that a person's initiation or continued membership is contingent upon participation in the activity, or that the activity was sanctioned or approved by the Student Group or Student Organization, for an allegation of hazing to be upheld.
- It shall not constitute an excuse or defense to a hazing allegation that the participants took part voluntarily, gave consent to the conduct, voluntarily assumed the risks or hardship of the activity, or that no injury was suffered or sustained.

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<sup>12</sup> For Bullying, Hazing, and Endangerment, these offenses can be applied when the conduct is on the basis of protected characteristics, but is not a form of Sex-based Harassment.

- The actions of alumni, active, new, and/or prospective members of a Student Group or Student Organization may be considered hazing.
- Hazing is not confined to the Student Group or Student Organization with which the individual subjected to the hazing is associated.

**4. Retaliation:**

- Adverse action, including intimidation, threats, coercion, or discrimination,
- Against any person,
- By LCAD, a student, employee, or a person authorized by LCAD to provide aid, benefit, or service under LCAD’s education program or activity,
- For the purpose of interfering with any right or privilege secured by law or Policy, or
- Because the person has engaged in protected activity, including reporting information, making a Complaint, testifying, assisting, or participating or refusing to participate in any manner in an investigation or Resolution Process under the Equal Opportunity, Harassment, and Non-Discrimination Procedures, including an Informal Resolution process, or in any other appropriate steps taken by LCAD to promptly and effectively end any sex discrimination in its education program or activity, prevent its recurrence, and remedy its effects.

The exercise of rights protected under the First Amendment does not constitute retaliation. It is also not retaliation for LCAD to pursue Policy violations against those who make materially false statements in bad faith in the course of a resolution under the Equal Opportunity, Harassment, and Non-Discrimination Policy. However, the determination of responsibility, by itself, is not sufficient to conclude that any party has made a materially false statement in bad faith.

**5. Unauthorized Disclosure:**<sup>13</sup>

- Distributing or otherwise publicizing materials created or produced during an investigation or Resolution Process except as required by law or as expressly permitted by the College, or
- Publicly disclosing a party’s personally identifiable information without authorization or consent.

**6. Failure to Comply/Process Interference**

- Intentional failure to comply with the reasonable directives of the Administrator in the performance of their official duties, including with the terms of a no contact order
- Intentional failure to comply with emergency removal or interim suspension terms
- Intentional failure to comply with sanctions
- Intentional failure to adhere to the terms of an agreement achieved through informal resolution
- Intentional failure to comply with mandated reporting duties as defined in this Policy
- Intentional interference with the Title IX resolution process, including but not limited to:
  - Destruction of or concealing of evidence
  - Actual or attempted solicitation of knowingly false testimony or providing false testimony or evidence
  - Intimidating or bribing a witness or party

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<sup>13</sup> Nothing in this section restricts the ability of the Parties to: obtain and present evidence, including by speaking to witnesses (as long as it does not constitute retaliation under this Policy), consult with their family members, confidential resources, or Advisors; or otherwise prepare for or participate in the Resolution Process.

## **F. Consent, Force, and Incapacitation Definitions**

As used in this Policy, the following definitions and understandings apply:

### **1) Consent**

Consent is an affirmative, conscious, and voluntary agreement to engage in agreed upon forms of sexual contact. A person cannot give consent if the person is under the age of consent for sexual contact, the person is developmentally or intellectually disabled, or the person is mentally incapacitated or physically helpless. Lack of protest or resistance cannot be interpreted as consent. Silence cannot be interpreted as consent. Consent must be ongoing throughout any sexual contact and can be revoked at any time. The existence of a dating relationship, domestic partnership or marriage between the persons involved, or the existence of past sexual relations between the persons involved, is never by itself an indicator of consent.

Individuals may perceive and experience the same interaction in different ways. Therefore, it is the responsibility of each party to determine that the other has consented before engaging in the activity.

If consent is not clearly provided prior to engaging in the activity, consent may be ratified by word or action at some point during the interaction or thereafter, but clear communication from the outset is strongly encouraged. For consent to be valid, there must be a clear expression in words or actions that the other individual consented to that specific sexual conduct. Consent is evaluated from the perspective of what a reasonable person would conclude are mutually understandable words or actions. Reasonable reciprocation can establish consent. For example, if someone kisses you, you can kiss them back (if you want to) without the need to explicitly obtain *their* consent to be kissed back.

Consent can also be withdrawn once given, as long as the withdrawal is reasonably and clearly communicated. If consent is withdrawn, sexual activity should cease within a reasonably immediate time. Silence or the absence of resistance alone should not be interpreted as consent. Consent is not demonstrated by the absence of resistance. While resistance is not required or necessary, it is a clear demonstration of non-consent.

Consent to some sexual contact (such as kissing or fondling) cannot be assumed to be consent for other sexual activity (such as intercourse). A current or previous intimate relationship is not sufficient to constitute consent. If an individual expresses conditions on their willingness to consent (e.g., use of a condom) or limitations on the scope of their consent, those conditions and limitations must be respected. If a sexual partner shares the clear expectation for the use of a condom, or to avoid internal ejaculation, and those expectations are not honored, the failure to use a condom, removing a condom, or internal ejaculation can be considered acts of sexual assault.

Proof of consent or non-consent is not a burden placed on either party involved in a Complaint. Instead, the burden remains on the College to determine whether its Policy has been violated. The existence of consent is based on the totality of the circumstances evaluated from the perspective of a reasonable person in the same or similar circumstances, including the context in which the alleged misconduct occurred and any similar and previous patterns that may be evidenced. Going beyond the boundaries of consent is prohibited. Thus, unless a sexual partner has consented to slapping, hitting, hair pulling,

strangulation, or other physical roughness during otherwise consensual sex, those acts may constitute dating violence or sexual assault.<sup>14</sup>

## 2) Force

Force is the use of physical violence and/or physical imposition to gain sexual access. Sexual activity that is forced is, by definition, non-consensual, but non-consensual sexual activity is not necessarily forced. Force is conduct that, if sufficiently severe, can negate consent.

Force also includes threats, intimidation (implied threats), and coercion that is intended to overcome resistance or produce consent (e.g., “Have sex with me or I’ll hit you,” which elicits the response, “Okay, don’t hit me. I’ll do what you want.”).

Coercion is unreasonable pressure for sexual activity. Coercive conduct, if sufficiently severe, can render a person’s consent ineffective, because it is not voluntary. When someone makes clear that they do not want to engage in sexual activity, that they want to stop, or that they do not want to go past a certain point of sexual interaction, continued pressure beyond that point can be coercive. Coercion is evaluated based on the frequency, intensity, isolation, and duration of the pressure involved.

## 3) Incapacitation

Incapacitation is a state where a person is incapable of giving consent. An incapacitated person cannot make rational, reasonable decisions because they lack the capacity to give knowing/informed consent (e.g., to understand the “who, what, when, where, why, and how” of their sexual interaction). A person cannot consent if they are unable to understand what is happening or are disoriented, helpless, asleep, or unconscious for any reason, including because of alcohol or other drug consumption.

This Policy also covers a person whose incapacity results from a temporary or permanent physical or mental health condition, involuntary physical restraint, and/or the consumption of incapacitating substances.

Incapacitation is determined through consideration of all relevant indicators of a person’s state and is not synonymous with intoxication, impairment, blackout, and/or being drunk.

If the Respondent neither knew nor should have known the Complainant to be physically or mentally incapacitated, the Respondent is not in violation of this Policy. “Should have known” is an objective, reasonable person standard that assumes that a reasonable person is both sober and exercising sound judgment.

## XI. Standard of Proof

The College uses the **preponderance of the evidence** standard of proof when determining whether a Policy violation occurred. This means that the College will decide whether it is [more likely than not/highly likely], based upon the available information at the time of the decision, that the Respondent is in violation of the alleged Policy violation(s).

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<sup>14</sup> Consent in relationships must also be considered in context. When Parties consent to BDSM (bondage, discipline, sadism, masochism) or other forms of kink, non-consent may be shown by the use of a safe word. Resistance, force, violence, or even saying “no” may be part of the kink and thus consensual.

Definition of Preponderance of Evidence: the standard of proof in most civil cases in which the party bearing the burden of proof must present evidence which is more credible and convincing than that presented by the other party or which shows that the fact to be proven is more probable than not.

## **XII. Notice of Discrimination, Harassment, and/or Retaliation**

A Notice provides notice to the College of an allegation or concern about discrimination, harassment, or retaliation and provides an opportunity for the Administrator to provide information, resources, and supportive measures. A Notice provides notice to the College that the Complainant would like to initiate an investigation or other appropriate resolution procedures. A Complainant or individual may initially make a report and may decide at a later time to make a Complaint. A Notice of discrimination, harassment, and/or retaliation may be made using any of the following options:

- 1) File a Complaint with, or give verbal Notice directly to, the Title IX Coordinator or to any member of the Title IX Team. Such a Complaint may be made at any time (including during non-business hours) by using the telephone number, email address, or by mail to the office of the Administrator or any other Title IX Team member listed in this Policy.

**Title IX Coordinator:**

Thomas Olson

[tolson@lcad.edu](mailto:tolson@lcad.edu)

949-376-6000 ext. 237

- 2) Submit an online notice using the Title IX Complaint form. Anonymous reporting is accepted, but the report may give rise to a need to try to determine the Parties' identities. Anonymous Reporting typically limits the College's ability to investigate, respond, and provide remedies, depending on what information is shared. Measures intended to protect the community or redress or mitigate harm may be enacted. It also may not be possible to provide supportive measures to Complainants who are the subject of anonymous complaints.

This Policy provides protection from retaliation for making a report, or taking part in an investigation of any violation of the Policy. If you have concerns about your safety, you are encouraged to speak with the Counselors, who can provide support and are not required to make a report without your consent.

## **XIII. Time Limits on Reporting**

There is no time limitation on providing Notice/Complaints to the Administrator. However, if the Respondent is no longer subject to the College's jurisdiction and/or significant time has passed, the ability to investigate, respond, and/or provide remedies may be more limited or impossible.

Acting on Notice/Complaints significantly impacted by the passage of time (including, but not limited to, the rescission or revision of Policy) is at the Administrator's discretion; they may document allegations for future reference, offer supportive measures and/or remedies, and/or engage in informal or formal action, as appropriate.

#### **XIV. False Allegations and Evidence**

Deliberately false and/or malicious accusations under this Policy are a serious offense and will be subject to appropriate disciplinary action. This does not include allegations that are made in good faith but are ultimately shown to be erroneous or do not result in a determination of a Policy violation.

Additionally, witnesses and Parties who knowingly provide false evidence, tamper with or destroy evidence, or deliberately mislead an official conducting an investigation or resolution process can be subject to discipline under appropriate College policies.

#### **XV. Confidentiality/Privacy**

LCAD makes every effort to preserve the Parties' privacy. The College will not share the identity of any individual who has made a Complaint of harassment, discrimination, or retaliation; any Complainant; any individual who has been reported to be the perpetrator of discrimination, harassment, or retaliation; any Respondent; or any witness, except as permitted by, or to fulfill the purposes, of applicable laws and regulations (e.g., Title IX), Family Educational Rights and Privacy Act (FERPA) and its implementing regulations, or as required by law; including any investigation, or resolution proceeding arising under these policies and procedures.<sup>15,16</sup>

##### Unauthorized Disclosure of Information

Parties and Advisors are prohibited from unauthorized disclosure of information obtained by the College through the Resolution Process, to the extent that information is the work product of the College (meaning it has been produced, compiled, or written by the College for purposes of its investigation and resolution of a Complaint). It is also a violation of College Policy to publicly disclose a work product or a party's personally identifiable information without authorization or consent. Violation of this Policy is subject to significant sanctions.

#### **XVI. Emergency Removal/Interim Actions/Leaves**

The College can act to remove a student Respondent accused of Sex Discrimination or Sex-based Harassment from its education program or activities, partially or entirely, on an emergency basis when an individualized safety and risk analysis has determined that an immediate threat to the physical health or safety of any student or other individual justifies removal. This risk analysis is performed by the Title IX Coordinator and may be done in conjunction with the CARE Team (**Campus Assessment, Response, Evaluation Team**) using its standard objective violence risk assessment procedures. Employees are subject to existing procedures for interim actions and leaves.

#### **XVII. Federal Timely Warnings**

If an allegation of sexual assault, domestic violence, dating violence and/or stalking is reported to LCAD, and the Title IX Coordinator and Campus Security determine that the allegation also constitutes a possible ongoing or continuing danger or threat of bodily harm to members of the campus community, a timely warning notice will be distributed to the community in a manner consistent with the requirements of the Clery Act. This determination is made on a case-by-case basis with the intent to maintain appropriate transparency and protect the community. A timely warning related to a report of sexual misconduct will not disclose a complainant's name or other identifying information, while still providing sufficient information for community members to make safety decisions in light of the potential danger.

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<sup>15</sup> 20 U.S.C. 1232g

<sup>16</sup> 34 C.F.R. § 99

## **VIII. Amnesty**

The LCAD community encourages the reporting of misconduct and crimes by Complainants and witnesses. Sometimes, Complainants or witnesses are hesitant to give Notice to College officials or participate in Resolution processes because they fear that they themselves may be in violation of certain laws or other LCAD policies, such as underage drinking or use of illicit drugs at the time of the incident. Respondents may hesitate to be forthcoming during the process for the same reasons.

It is in the best interests of the College community that Complainants choose to give Notice of misconduct to College officials, that witnesses come forward to share what they know, and that all Parties be forthcoming during the process.

To encourage reporting and participation in the process, the College maintains a Policy of offering Parties and witnesses amnesty from minor policy violations, such as underage alcohol consumption or the use of illicit drugs, related to the incident. Granting amnesty is a discretionary decision made by the College, and amnesty does not apply to more serious allegations, such as physical abuse of another or illicit drug distribution.

### **A. Students**

The College maintains an amnesty policy for students who offer help to others in need. For example, a student who has been drinking underage, and gets help for a fellow student who is in danger.

### **B. Employees**

Sometimes, employees are hesitant to report discrimination, harassment, or retaliation they have experienced for fear of getting in trouble themselves. The College may, at its discretion, offer employee Complainants amnesty from such policy violations (typically more minor policy violations) related to the incident. Amnesty may also be granted to Respondents and witnesses on a case-by-case basis.

## **XIX. Preservation of Evidence**

The preservation of evidence is critical to potential criminal prosecution and to obtaining restraining/protective orders, and it is particularly time sensitive. The College will inform the Complainant of the importance of preserving evidence by taking actions such as the following:

### Sexual Assault

- Seek forensic medical assistance at the nearest hospital, ideally within 120 hours of the incident (sooner is better).
- Avoid urinating, showering, bathing, washing hands or face, or douching, if possible, but evidence may still be collected even if you do.
- If oral sexual contact took place, refrain from smoking, eating, drinking, or brushing teeth.
- If clothes are changed, place soiled clothes in a paper bag (plastic destroys evidence) or a secure evidence container (if provided one by law enforcement).
- Seeking medical treatment can be essential, even if it is not for the purposes of collecting forensic evidence.

### Stalking/Dating Violence/Domestic Violence/Sex-Based Harassment

- Evidence in the form of text and voice messages will be lost in most cases if the Complainant changes their phone number.

- 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 other electronic messages (e.g., Instagram, Snapchat, Facebook).
- Save copies of email and social media correspondence, including notifications related to account access alerts.
- Take time stamped photographs of any physical evidence, including notes, gifts, etc., in place when possible.
- Save copies of any messages, including 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.

## **XX. Federal Statistical Reporting Obligations**

Certain institutional officials (those deemed Campus Security Authorities) have a duty to report the following for federal statistical reporting purposes (Clery Act):

- 1) All “primary crimes,” which include criminal homicide, sexual assault, robbery, aggravated assault, burglary, motor vehicle theft, and arson.
- 2) Hate crimes, which include any bias-motivated primary crime as well as any bias-motivated larceny or theft, simple assault, intimidation, or destruction/damage/vandalism of property
- 3) Violence Against Women Act (VAWA-based crimes), which include sexual assault, domestic violence, dating violence, and stalking<sup>17</sup>
- 4) Arrests and referrals for disciplinary action for weapons law violations, liquor law violations, and drug law violations

All personally identifiable information is kept private, but statistical information regarding the type of incident and its general location (on- or off-campus or in the surrounding area, but no addresses are given) must be shared with the Clery Coordinator for publication in the Annual Security Report and daily campus crime log. Campus Security Authorities include student affairs/student conduct staff, campus law enforcement/public safety/security, local police, coaches, athletic directors, residence life staff, student activities staff, human resources staff, advisors to student organizations, and any other official with significant responsibility for student and campus activities.

## **XXI. Independence and Conflicts of Interest**

The Title IX Coordinator or Administrator manages the Title IX Team Team and acts with independence and authority, free from bias and conflicts of interest. The Administrator oversees all resolutions under this Policy and these procedures. The members of the Resolution Pool are vetted and trained to ensure they are not biased for or against any party in a specific Complaint, or for or against Complainants and/or Respondents, generally.

To raise any concern involving bias, conflict of interest, misconduct, or discrimination by the Administrator, contact the Office of Human Resources at [hr@lacad.edu](mailto:hr@lacad.edu). Concerns of bias, misconduct, discrimination, or a potential conflict of interest by any other Resolution Pool member should be raised with the Administrator.

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<sup>17</sup> VAWA is the Violence Against Women Act, enacted in 1994 and codified in part at 42 U.S.C. sections 13701 through 14040.



**KXII. Revision of this Policy**

This Policy succeeds previous policies addressing discrimination, harassment, sexual misconduct, and/or retaliation, though previous policies and procedures remain in force for incidents occurring before August 1, 2024. The Administrator reviews and updates these policies and procedures regularly. The College reserves the right to make changes to this document as necessary, and once those changes are posted online, they are in effect.

If government laws or regulations change or court decisions alter the requirements in a way that impacts this document, this document will be amended to comply with the most recent government laws, regulations, or court holdings.

This document does not create legally enforceable protections beyond the protections of the background state and federal laws that frame such policies and codes, generally.

This Policy is effective August 1, 2024

BASED ON THE ATIXA 2024 ONE POLICY, ONE PROCEDURE (1P1P) MODEL.  
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## RESOLUTION PROCESS FOR ALLEGED VIOLATIONS OF POLICY ON EQUAL OPPORTUNITY, HARASSMENT, AND NONDISCRIMINATION (Hereinafter the “Resolution Process”)

### I. Resolution Process Overview

The College will act on any Notice, Complaint, or Knowledge of a potential violation of the Equal Opportunity, Harassment, and Nondiscrimination Policy (“the Policy”) that is received by the Administrator<sup>18</sup> or any other Mandated Reporter by applying the Resolution Process below.

The procedures below apply to all allegations of discrimination on the basis of an actual or perceived protected characteristic, harassment, retaliation, or Other Prohibited Conduct involving students, staff, administrators, faculty members, or third parties.

### II. Notice/Complaint

Upon receipt of Notice, a Complaint, or Knowledge of an alleged Policy violation, the Administrator will initiate a prompt initial evaluation to determine the College’s next steps. The Administrator will contact the Complainant/source of the Notice to offer supportive measures, provide information regarding resolution options, and determine how they wish to proceed.

### III. Collateral Misconduct

Collateral misconduct is defined to include potential violations of other College policies not incorporated into the Policy on Equal Opportunity, Harassment, and Nondiscrimination that occur in conjunction with alleged violations of the Policy, or that arise through the course of the investigation, for which it makes sense to provide one resolution for all charges. Thus, the collateral allegations may be charged along with potential violations of the Policy, to be resolved jointly under these Procedures. In such circumstances, the Administrator may consult with College officials who typically oversee such conduct (e.g., human resources, student conduct, academic affairs) to solicit their input as needed on what charges should be filed, but the exercise of collateral charges under these procedures is within the discretion of the Administrator. All other allegations of misconduct unrelated to incidents covered by the Policy will typically be addressed separately through procedures described in the student, faculty, and staff handbooks.

### IV. Initial Evaluation

The Administrator conducts an initial evaluation typically within seven (7) business days of receiving Notice/Complaint/Knowledge of alleged misconduct.<sup>19</sup> The initial evaluation typically includes:

- Assessing whether the reported conduct may reasonably constitute a violation of the Policy.
  - If the conduct may not reasonably constitute a violation of the Policy, the matter is typically dismissed from this process, consistent with the dismissal provision in these procedures. It may then be referred to another process, if applicable.
- Determining whether the College has jurisdiction over the reported conduct, as defined in the Policy.
  - If the conduct is not within the College jurisdiction, the matter is typically dismissed from this process, consistent with the dismissal provision in these procedures. If applicable, the conduct

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<sup>18</sup> Anywhere this procedure indicates “Administrator,” the College may substitute a trained designee.

<sup>19</sup> If circumstances require, the President or Administrator will designate another person to oversee the Resolution Process should an allegation be made about the Administrator, or the Administrator be otherwise unavailable, unable to fulfill their duties, or have a conflict of interest.

will be referred to the appropriate College office for resolution, or to another appropriate institution or law enforcement agency.

- Offering and coordinating supportive measures for the Complainant.
- Offering and coordinating supportive measures for the Respondent, as applicable.
- Notifying the Complainant, or the person who reported the allegation(s), of the possible resolution processes, including a supportive and remedial response, an Informal Resolution option, or the Resolution Process described below.
- Determining whether the Complainant wishes to make a Complaint.
- Notifying the all parties, including the Respondent and Complainant, of the resolution processes, including a supportive and remedial response, an Informal Resolution option, or the Resolution Process described below, if a Complaint is made.
- Notifying all parties of their rights within the Resolution Process under this Policy.

### ***Helping a Complainant to Understand Options***

If the Complainant indicates they wish to initiate a Complaint (in a manner that can reasonably be construed as reflecting intent to make a Complaint, whether orally or in writing), the Administrator will help to facilitate the Complaint, which will include:

- Working with the Complainant to determine whether the Complainant wishes to pursue one of three resolution options:
  - a supportive and remedial response, and/or
  - Informal Resolution, or
  - the Resolution Process described below.

The Administrator will seek to abide by the wishes of the Complainant but may have to take an alternative approach depending on their analysis of the situation.

If the Complainant elects for the Resolution Process below, and the Administrator has determined the Policy applies and that the College has jurisdiction, they will route the matter to the appropriate Resolution Process, will provide the Parties with a Notice of Investigation and Allegation(s), and will initiate an investigation consistent with these Procedures.

If any Party indicates (either verbally or in writing) that they want to pursue an Informal Resolution option, the Administrator will assess whether the matter is suitable for Informal Resolution and refer the matter accordingly.

If the Complainant indicates (either verbally or in writing) that they do not want any action taken, no Resolution Process will be initiated (unless deemed necessary by the Administrator), though the Complainant can elect to initiate one later, if desired.

### ***Administrator Authority to Initiate a Complaint***

If the Complainant does not wish to file a Complaint, the Administrator, who has ultimate discretion as to whether a Complaint is initiated, will offer supportive measures and determine whether to initiate a Complaint themselves. To make this determination, the Administrator will evaluate the Complainant's request in order to determine if there is a serious and imminent threat to someone's safety, or if the College cannot

ensure equal access without initiating a Complaint. The Administrator will consider the following non-exhaustive factors to determine whether to file a Complaint:

- The Complainant's request not to proceed with initiation of a Complaint;
- The Complainant's reasonable safety concerns regarding initiation of a Complaint;
- The risk that additional acts of discrimination would occur if a Complaint is not initiated;
- The severity of the alleged discrimination, including whether the discrimination, if established, would require the removal of a Respondent from campus or imposition of another disciplinary sanction to end the discrimination and prevent its recurrence;
- The age and relationship of the Parties, including whether the Respondent is a College employee;
- The scope of the alleged discrimination, including information suggesting a pattern, ongoing discrimination, or discrimination alleged to have impacted multiple individuals;
- The availability of evidence to assist a Decision-maker in determining whether discrimination occurred;
- Whether the College could end the alleged discrimination and prevent its recurrence without initiating its resolution process.

If deemed necessary, the Administrator may consult with appropriate College employees, and/or conduct a violence risk assessment<sup>20</sup> to aid their determination whether to initiate a Complaint.

When the Administrator initiates a Complaint, they do not become the Complainant. The Complainant is the person who experienced the alleged conduct that could constitute a violation of this Policy.

#### V. **Dismissal**

The College **may** dismiss a Complaint if, at any time during the investigation or Resolution Process, one or more of the following grounds are met:

- 1) The College is unable to identify the Respondent after taking reasonable steps to do so
- 2) The College no longer enrolls or employs the Respondent
- 3) A Complainant voluntarily withdraws any or all of the allegations in the Complaint, and the Administrator declines to initiate a Complaint
- 4) The College determines the conduct alleged in the Complaint would not constitute a Policy violation, if proven

A Decision-maker can recommend dismissal to the Administrator, if they believe the grounds are met. A Complainant who decides to withdraw a Complaint may later request to reinstate or refile it.

Upon any dismissal, the College will promptly send the Complainant and Respondent written notification of the dismissal and the rationale for doing so simultaneously.

This dismissal decision is appealable by any party.

#### VI. **Appeal of Dismissal**

The Complainant may appeal a dismissal of their Complaint. The Respondent may also appeal the dismissal of the Complaint if dismissal occurs after the Respondent has been made aware of the allegations. All dismissal appeal requests must be filed within three (3) business days of the notification of the dismissal.

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<sup>20</sup> See detailed information regarding a Violence Risk Assessment in [Appendix B](#)

The Administrator will notify the Parties of any appeal of the dismissal. If, however, the Complainant appeals, but the Respondent was not notified of the Complaint, the Administrator must then provide the Respondent with a NOIA and will notify the Respondent of the Complainant's appeal with an opportunity to respond.

Throughout the dismissal appeal process, the College will:

- Implement dismissal appeal procedures equally for the Parties;
- Assign a trained Dismissal Appeal Officer who did not take part in an investigation of the allegations or dismissal of the Complaint;
- Provide the Parties a reasonable and equal opportunity to make a statement in support of, or challenging, the dismissal; and
- Notify the Parties of the result of the appeal and the rationale for the result.

The grounds for dismissal appeals are limited to:

- 1) Procedural irregularity that would change the outcome;
- 2) New evidence that would change the outcome and that was not reasonably available when the dismissal was decided;
- 3) The Administrator, Investigator, or Decision-maker had a conflict of interest or bias for or against Complainants or Respondents generally or the individual Complainant or Respondent that would change the outcome.
- 4) The dismissal was erroneously granted or denied.

Upon receipt of a dismissal appeal in writing from one or more Parties, the Administrator will share the petition with the other party and provide three (3) business days for other Parties to respond to the request. The appeal should specify at least one of the grounds above and provide any reasons or supporting evidence for why the ground is met. This appeal will be provided in writing to the other Parties, and the Administrator, who will be invited to respond in writing. At the conclusion of the response period, the Administrator will forward the appeal, as well as any response provided by the other Parties to the Dismissal Appeal Officer for consideration.

If the Request for Appeal does not provide information that meets the grounds in this Policy, the request will be denied by the Dismissal Appeal Officer, and the Parties, their Advisors, and the Administrator will be notified in writing of the denial and the rationale.

If any of the asserted grounds in the appeal satisfy the grounds described in this Policy, then the Dismissal Appeal Officer will notify all Parties and their Advisors, and the Administrator, of their decision and rationale in writing. The effect will be to reinstate the Complaint, and written Notice will be given to all parties.

In most cases, appeals are confined to a review of the written documentation or record of the original determination and pertinent documentation regarding the specific appeal grounds. The Dismissal Appeal Officer has seven (7) business days to review and decide on the appeal, though extensions can be granted at the discretion of the Administrator, and the Parties will be notified of any extension.

Appeal decisions are deferential to the original determination, making changes only if there is a compelling justification to do so.

The Dismissal Appeal Officer may consult with the Administrator and/or legal counsel on questions of procedure or rationale for clarification, if needed. The Administrator will maintain documentation of all such consultation.

#### VII. **Emergency Removal/Interim Suspension of a Student**

The College may initiate emergency removal of a student accused of Sex Discrimination or Sex-based Harassment upon receipt of Notice/Knowledge, a Complaint, or at any time during the resolution process. Prior to an emergency removal, the College will conduct an individualized risk assessment and may remove the student if that assessment determines that an imminent and serious threat to the health or safety of a Complainant or any students, employees, or other persons arising from the allegations of sex discrimination justifies such action. Students accused of other forms of discrimination (not sex) are subject to interim suspension, which can be imposed for safety reasons.

When an emergency removal or interim suspension is imposed, wholly or partially, the affected student will be notified of the action, which will include a written rationale, and the option to challenge the emergency removal or interim suspension within two (2) business days of the notification. Upon receipt of a challenge, the Administrator will meet with the student (and their Advisor, if desired) as soon as reasonably possible thereafter to allow them to show cause why the removal/action should not be implemented or should be modified.

This meeting is not a hearing on the merits of the allegation(s), but rather is an administrative process intended to determine solely whether the emergency removal or interim suspension is appropriate, should be modified, or lifted. When this meeting is not requested within two (2) business days, objections to the emergency removal or interim suspension will be deemed waived. A student can later request a meeting to show why they are no longer an imminent and serious threat because conditions related to imminence or seriousness have changed. A Complainant and their Advisor may be permitted to participate in this meeting if the Administrator determines it is equitable to do so.

The Respondent may provide information, including expert reports, witness statements, communications, or other documentation for consideration prior to or during the meeting. When applicable, a Complainant may provide information to the Administrator for review.

An emergency removal or interim suspension may be affirmed, modified, or lifted as a result of a requested review or as new information becomes available. The Administrator will communicate the final decision in writing, typically within three (3) business days of the review meeting.

#### VIII. **Placing an Employee on Leave**

When the Respondent is an employee, or a student employee accused of misconduct in the course of their employment, existing provisions in the staff and employee handbooks for interim action are typically applicable instead of the above emergency removal process.

#### IX. **Counter-Complaints**

The College is obligated to ensure that the Resolution Process is not abused for retaliatory purposes. Although the College permits the filing of Counter-Complaints, the Administrator will use an initial evaluation, described above, to assess whether the allegations in the Counter-Complaint are made in good faith. When Counter-Complaints are not made in good faith, they will not be permitted. They will be considered potentially retaliatory and may constitute a violation of the Policy.

Counter-Complaints determined to have been reported in good faith will be processed using the Resolution Process below. At the Administrator's discretion, investigation of such claims may take place concurrently or after resolution of the underlying initial Complaint.

## X. **Advisors in the Resolution Process**

### A. **Who Can Serve as an Advisor?**

The Parties may each have an Advisor (friend, mentor, family member, attorney, or any other individual a party chooses) present with them for all meetings, interviews, and hearings within the Resolution Process, including intake. The Parties may select whomever they wish to serve as their Advisor as long as the Advisor is eligible and available.<sup>21</sup>

The Administrator will offer to assign a trained Advisor to any party if the party chooses. If the Parties choose an Advisor from the pool available from the College, the College will have trained the Advisor and familiarize them with the College's Resolution Process.

The College cannot guarantee equal Advisory rights, meaning that if one party selects an Advisor who is an attorney, but the other party does not, or cannot afford an attorney, the College is not obligated to provide an attorney to advise that party.

A party may elect to change Advisors during the process and is not obligated to use the same Advisor throughout. Parties are expected to provide the Administrator with timely notification if they change Advisors. If a party changes Advisors, consent to share information with the previous Advisor is assumed to be terminated.

The College may permit Parties to have more than one Advisor, or an Advisor and a support person, upon special request to the Administrator. The decision to grant this request is at the Administrator's sole discretion and will be granted equitably to all Parties.

If a party requests that all communication be made through their attorney Advisor instead of to the party, the College will agree to copy both the party and their Advisor on all communications.

Advisors appointed by the institution cannot be confidential employees, and although they will not be asked to disclose details of their interactions with their advisees to institutional officials or Decision-makers absent an emergency, they are still reminded of their Mandated Reporter responsibilities.

LCAD fully respects and accords the Weingarten rights of employees, meaning that for Parties who are entitled to union representation, the College will allow the unionized employee to have their union representative (if requested by the Party) as well as an Advisor of their choice present for all resolution-related meetings and interviews. To uphold the principles of equity, the other Party (regardless of union membership) will also be

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<sup>21</sup> "Available" means the party cannot insist on an Advisor who simply doesn't have inclination, time, or availability. Also, the Advisor cannot have institutionally conflicting roles, such as being an administrator who has an active role in the matter, or a supervisor who must monitor and implement sanctions. Additionally, choosing an Advisor who is also a witness in the process creates potential for bias and conflicts of interest. A party who chooses an Advisor who is also a witness can anticipate that issues of potential bias will be explored by the Decision-maker(s).

permitted to have two Advisors. Witnesses are permitted to have union representation or Advisors in Resolution Process interviews or meetings.]

### **B. Advisor's Role in the Resolution Process**

Advisors should help the Parties to prepare for each meeting and are expected to advise ethically, with integrity, and in good faith. Advisors may not provide testimony or speak on behalf of their advisee unless given specific permission to do so.

The Parties are expected to ask and respond to questions on their own behalf throughout the Resolution Process. Although the Advisor generally may not speak on behalf of their advisee, the Advisor may consult with their advisee, either privately as needed, or by conferring or passing notes during any Resolution Process meeting or interview. For longer or more involved discussions, the Parties and their Advisors should ask for breaks to allow for private consultation.

Where applicable under state law or College Policy, Advisors or attorneys are permitted to fully represent their advisees or clients in the Resolution Process, including all meetings, interviews, and hearings. Although LCAD prefers to hear from Parties directly, in these cases, Parties are entitled to have their chosen representatives provide evidence.

### **C. Records Shared with Advisors**

Advisors are entitled to the same opportunity as their advisee to access relevant evidence, and/or the same written investigation report that accurately summarizes this evidence.

Advisors are expected to maintain the confidentiality of the records the College shares with them, Section XV of the Policy addressing confidentiality. Advisors may not disclose any College work product or evidence the College obtained solely through the Resolution Process for any purpose not explicitly authorized by LCAD.

### **D. Advisor Expectations**

The College generally expects an Advisor to adjust their schedule to allow them to attend LCAD meetings/interviews[/hearings] when planned, but the College may change scheduled meetings/interviews[/hearings] to accommodate an Advisor's inability to attend, if doing so does not cause an unreasonable delay.

The College may also make reasonable provisions to allow an Advisor who cannot be present in person to attend a meeting/interview[/hearing] by telephone, video conferencing, or other similar technologies.

All Advisors are subject to the same College policies and procedures, whether they are attorneys or not, and whether they are selected by a party or appointed by the College. Advisors are expected to advise their advisees without disrupting proceedings.

### **E. Advisor Policy Violations**

Any Advisor who oversteps their role as defined by the Policy, who shares information or evidence in a manner inconsistent with the Policy, or who refuses to comply with the College's established rules of decorum, will be warned. If the Advisor continues to disrupt or otherwise fails to respect the limits of the Advisor role, the meeting/interview[/hearing] may be ended, or other appropriate measures implemented, including the College requiring the party to use a different Advisor or providing a different College-appointed



Advisor. Subsequently, the Administrator will determine how to address the Advisor's non-compliance and future role.

## XI. **Resolution Option Overview**

This Resolution Process, consisting of Informal Resolution, Administrative Resolution, or Hearing Resolution is the College's chosen approach to addressing all forms of discrimination on the basis of protected characteristics, harassment, and retaliation. The process considers the Parties' preferences but is ultimately determined at the Administrator's discretion.

Resolution proceedings are confidential. All individuals present at any time during the Resolution Process are expected to maintain the confidentiality of the proceedings in accordance with College Policy.

### **A. Informal Resolution**

To initiate Informal Resolution, a Complainant or Respondent may make such a request to the Administrator at any time prior to a final determination, or the Administrator may offer the option to the Parties, in writing. The College will obtain voluntary, written confirmation that all Parties wish to resolve the matter through Informal Resolution before proceeding and will not pressure the Parties to participate in Informal Resolution.

Before initiation of an Informal Resolution process, the College will provide the Parties with a NOIA that explains:

- The allegations;
- The requirements of the Informal Resolution process;
- That, prior to agreeing to a resolution, any party has the right to withdraw from the Informal Resolution process and to initiate or resume the College's Resolution Process;
- That the Parties' agreement to a resolution at the conclusion of the Informal Resolution process will preclude the Parties from initiating or resuming the resolution process arising from the same allegations;
- The potential terms that may be requested or offered in an Informal Resolution agreement, including notification that an Informal Resolution agreement is binding only on the Parties; and
- What information the College will maintain, and whether and how it could disclose such information for use in its Resolution Process.

LCAD offers four categories of Informal Resolution:

- 1) **Supportive Resolution.** When the Administrator can resolve the matter informally by providing supportive measures (only) designed to remedy the situation.
- 2) **Educational Conversation.** When the Administrator can resolve the matter informally by having a conversation with the Respondent to discuss the Complainant's concerns and institutional expectations or can accompany the Complainant in their desire to confront the conduct.
- 3) **Accepted Responsibility.** When the Respondent is willing to accept responsibility for violating Policy and is willing to agree to actions that will be enforced similarly to sanctions, and the Complainant(s) and College are agreeable to the resolution terms.
- 4) **Alternative Resolution.** When the Parties agree to resolve the matter through an alternative resolution mechanism (which could include, but is not limited to, mediation, shuttle negotiation, restorative practices, facilitated dialogue, etc.), as described below.

It is not necessary to pursue Informal Resolution first in order to pursue an Administrative **OR** Hearing Resolution Process. Any party participating in Informal Resolution can withdraw from the Informal Resolution Process at any time and initiate or resume the Administrative **OR** Hearing Resolution Process.

The Parties may agree, as a condition of engaging in Informal Resolution, on what statements made or evidence shared during the Informal Resolution process will not be considered in the Administrative Resolution **OR** Hearing Process, should Informal Resolution not be successful, unless agreed to by all Parties.

If an investigation is already underway, the Administrator has discretion to determine if an investigation will be paused, if it will be limited, or if it will continue during the Informal Resolution process.

### Categories of Informal Resolution

#### **Supportive Resolution**

The Administrator will meet with the Complainant to determine reasonable supportive measures that are designed to restore or preserve the Complainant's access to the College's education program and activities. Such measures can be modified as the Complainant's needs evolve over time or circumstances change. If the Respondent has received the NOIA, the Administrator may also provide reasonable supportive measures for the Respondent as deemed appropriate. This option is available when the Complainant does not want to engage the other resolution options, and the Administrator does not initiate a Complaint.

#### **Educational Conversation**

The Complainant(s) may request that the Administrator address their allegations by meeting (with or without the Complainant) with the Respondent(s) to discuss concerning behavior and institutional policies and expectations. Such a conversation is non-disciplinary and non-punitive. Respondent(s) are not required to attend such meetings, nor are they compelled to provide any information if they attend. The conversation will be documented as the Informal Resolution for the matter, if it takes place. In light of this conversation, or the Respondent's decision not to attend, the Administrator may also implement remedial actions to ensure that policies and expectations are clear and to minimize the risk of recurrence of any behaviors that may not align with Policy.

#### **Accepted Responsibility<sup>22</sup>**

The Respondent may accept responsibility for any or all of the alleged Policy violations at any point during the Resolution Process. If the Respondent indicates an intent to accept responsibility for **all** alleged Policy violations, the ongoing process will be paused, and the Administrator will determine whether Informal Resolution is an option.

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<sup>22</sup> [Section 19](#) below, there is a description of a process to waive the decision-making step of the Resolution Process if a Respondent decides to admit to violating the charged Policies. That section and this one are similar, but there are meaningful differences. In this section, the Parties must agree to the resolution, and the Respondent in essence self-sanctions as part of the Informal Resolution by agreeing to voluntarily comply with whatever the terms are to which the Parties agree. Section 20, in contrast, is unilateral. Neither the Complainant nor the Administrator determine eligibility. It is simply a waiver of steps in the process by the Respondent, who can admit violations and accept sanctions assigned by the Decision-maker, if they choose to. No Complainant approval is sought or needed. Under Section 20, the outcome involves sanctioning imposed by the College, rather than an agreement to self-sanction, as outlined in this section.

If Informal Resolution is available, the Administrator will determine whether all Parties and the College are able to agree on responsibility, restrictions, sanctions, restorative measures, and/or remedies. If so, the Administrator implements the accepted finding that the Respondent is in violation of LCAD College Policy, implements agreed-upon restrictions and remedies, and determines the appropriate responses in coordination with other appropriate administrator(s), as necessary.

This resolution is not subject to appeal once all Parties indicate their written agreement to all resolution terms. When the Parties cannot agree on all terms of resolution, the Resolution Process will either continue or resume.<sup>23</sup>

When a resolution is reached, the appropriate sanction(s) or responsive actions are promptly implemented to effectively stop the harassment or discrimination, prevent its recurrence, and remedy the effects of the discriminatory conduct, both on the Complainant and the community.

### **Alternative Resolution**

The institution offers a variety of Alternative Resolution mechanisms to best meet the specific needs of the Parties and the nature of the allegations. Alternative Resolution may involve agreement to pursue individual or community remedies, including targeted or broad-based educational programming or training; supported direct conversation or interaction with the Respondent(s); indirect action by the Administrator or other appropriate College officials; and other forms of resolution that can be tailored to the needs of the Parties. Some Alternative Resolution mechanisms will result in an agreed-upon outcome, while others are resolved through dialogue. All Parties must consent to the use of an Alternative Resolution approach, and the Parties may, but are not required to, have direct or indirect contact during an Alternative Resolution process.

The Administrator may consider the following factors to assess whether Alternative Resolution is appropriate, or which form of Alternative Resolution may be most successful for the Parties:

- The Parties' amenability to Alternative Resolution
- Likelihood of potential resolution, considering any power dynamics between the Parties
- The nature and severity of the alleged misconduct
- The Parties' motivation to participate
- Civility of the Parties
- Results of a violence risk assessment/ongoing risk analysis
- Respondent's disciplinary history
- Whether an emergency removal or other interim action is needed
- Skill of the Alternative Resolution facilitator with this type of Complaint
- Complaint complexity
- Emotional investment/capability of the Parties
- Rationality of the Parties
- Goals of the Parties
- Adequate resources to invest in Alternative Resolution (e.g., time, staff, etc.)

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<sup>23</sup> The Parties may not want discussions that take place within Informal Resolution to be admissible in a later Resolution Process, but essential facts must and do transfer from the informal process to subsequent resolution proceedings. Disclosing something in an informal setting to shield it from formal admissibility is a cynical strategy, so administrators should take care in determining the terms of any assurances of the confidentiality of the Informal Resolution.

The Administrator has the authority to determine whether Alternative Resolution is available or successful, to facilitate a resolution that is acceptable to all Parties, and/or to accept the Parties' proposed resolution, usually through their Advisors, often including terms of confidentiality, release, and non-disparagement.

Parties do not have the authority to stipulate restrictions or obligations for individuals or groups that are not involved in the Alternative Resolution process. The Administrator will determine whether additional individual or community remedies are necessary to meet the institution's compliance obligations in addition to the Alternative Resolution.

The Administrator maintains records of any resolution that is reached and will provide notification to the Parties of what information is maintained. Failure to abide by the resolution agreement may result in appropriate responsive/disciplinary actions (e.g., dissolution of the Agreement and resumption of the Resolution Process, referral to the Student Conduct process for failure to comply, application of the enforcement terms of the Agreement, etc.). The results of Complaints resolved by Alternative Resolution are not appealable.

If an Informal Resolution option is not available or selected, the College will initiate or continue an investigation and subsequent Resolution Process to determine whether the Policy has been violated.

## **B. Administrative Resolution Process**

The Administrative Resolution Process<sup>24</sup> is used for all Complaints of discrimination on the basis of protected characteristics, harassment, retaliation, and Other Prohibited Behaviors (as defined in this Policy) or when Informal Resolution is either not elected or is unsuccessful.

The Administrative Resolution Process consists of a hand-off of the investigation report and all relevant evidence to the Decision-maker to make a finding and determine sanctions (if applicable).

At the discretion of the Administrator, the assigned Decision-maker will be an individual or a panel drawn from the Resolution Process Pool or other trained individuals either internal or external to the College Institution.<sup>25</sup> Once the Decision-maker receives and reviews the investigation Report File, they can recommend dismissal to the Administrator, if they believe the grounds are met.

The Administrative Resolution Process typically takes approximately thirty (30) business days to complete, beginning with the Decision-maker's receipt of the Draft Investigation Report. The Parties will be updated regularly on the timing and any significant deviation from this typical timeline.

### Investigator-led Questioning Meetings

- The Administrator provides the Draft Investigation Report to the Decision-maker and the Parties simultaneously for review. The Decision-maker can then provide the Investigator with a list of relevant questions to ask the Parties or any witnesses.

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<sup>24</sup> A Live Hearing may be requested by the party(s) or elected by the Administrator, see [Appendix A](#) for Live Hearing Process.

<sup>25</sup> The choice of a single Decision-maker or panel should generally be consistent for the same types of Complaints, and not vary Complaint-by-Complaint.

- The Investigator will also ask each of the Parties to provide a proposed list of questions to ask the other Parties and any witnesses.
  - To the extent credibility is in dispute and relevant to one or more of the allegations, questions proposed by the Parties may also explore credibility.
  - All party questions must be posed during this phase of the process and cannot be posed later unless authorized by the Decision-maker.
  - The Investigator will share all party-proposed questions with the Decision-maker, who will finalize the list with the Investigator to ensure all questions are both relevant and permissible.
- The Investigator will then hold individual meetings with the Parties and witnesses to ask the questions posed by the Decision-maker, as well as the questions proposed by the Parties that have been deemed relevant and not duplicative, including questions intended to assess credibility. These meetings will be recorded and transcribed.
  - For any question deemed not relevant or duplicative, the Investigator will provide a rationale for not asking the question, either during the recorded meeting, or in writing (typically as an Appendix to the report).
- Typically, within three (3) business days of the last of these meetings, the recordings or transcripts of them will be provided to the Parties for their review. The Parties will then have five (5) business days to review these recordings or transcripts and propose follow-up questions to be asked by the Investigator.
- The Investigator will review the proposed questions with the Decision-maker, to determine relevance and permissibility. If deemed necessary, the Investigator will then meet individually with the Parties or witnesses for whom there are relevant, and not duplicative, follow-up questions. These follow-up meetings will also be recorded, and the Parties will receive the recordings or transcripts of these meetings. This final round of questioning is the last such round permitted, unless leave is granted to extend, by the Decision-maker.
- The Investigator will then incorporate any new, relevant evidence and information obtained through the Parties' review of the Draft Investigation Report, the questioning, and follow-up meetings into a Final Investigation Report.
- The Investigator will also respond in writing (typically within the Final Investigation Report) to the relevant elements of the Parties' responses to the Draft Investigation Report and incorporate relevant elements of the Parties' written responses, additional relevant evidence, and any necessary revisions into the Final Investigation Report.
- The Investigator will then share the Investigation Report with the Administrator and/or legal counsel for their review and feedback.
- The Final Investigation Report and investigation file will then be provided to the Administrator.

#### The Decision-maker's Determination

The Administrator will provide the Decision-maker with the Final Investigation Report (FIR) and investigation file, including the relevant and permissible evidence and information obtained through the Investigator-led Questioning meetings.

The Decision-maker will review the FIR, all appendices, and the investigation file.

If the record is incomplete, the Decision-maker may direct a re-opening of the investigation, or may direct or conduct any additional inquiry necessary, including informally meeting with the Parties or any witnesses, if needed.

Upon reviewing the relevant evidence, the Decision-maker may also choose to pose additional questions:

To the extent credibility is in dispute and relevant to one or more of the allegations, the Decision-maker may meet individually with the Parties and witnesses to question them in order to assess their credibility. These meetings will be recorded and shared with the Parties.

At their discretion, the Decision-maker may also meet with any party or witness to ask additional relevant questions that will aid the Decision-maker in making their findings. These meetings will be recorded and shared with the Parties.

The Decision-maker will then apply the preponderance of the evidence standard to make a determination on each of the allegations and, if applicable, any attendant sanctions.

**Timeline.** The Decision-maker's determination process typically takes approximately ten (10) business days, but this timeframe can vary based on a number of factors and variables, The Parties will be notified of any delays.

**Impact Statements.** Prior to a determination, the Administrator will also provide the Parties an opportunity to submit a written impact and/or mitigation statement. The Administrator will review these statements upon receipt to determine whether there are any immediate needs, issues, or concerns, but will otherwise hold them until after the Decision-maker has made determinations on the allegations. If there are any findings of a Policy violation, the Decision-maker will request the Impact Statements from the Administrator and review them prior to determining sanctions. They will also be exchanged between the Parties at that time.

If it is later determined that a party or witness intentionally provided false or misleading information, that action could be grounds for reopening a Resolution Process at any time, and/or referring that information to another process for resolution.

## XII. Title IX Team - Resolution Pool

The Resolution Process relies on a pool of administrators ("the Pool") to carry out the process.

### A. Title IX Team Member Roles

- Appropriate intake of and initial guidance pertaining to Complaints
- Advisor to Parties
- Informal Resolution Facilitator
- Perform or assist with initial evaluation
- Investigator
- Hearing Facilitator
- Decision-maker
- Appeal Decision-maker

### B. Pool Member Appointment

The Administrator, in consultation with senior administrators as necessary, appoints the Pool, which acts with independence and impartiality. Although members of the Pool are typically trained in a variety of skill sets and

can rotate amongst the different roles listed above in different Complaints, the College can also designate permanent roles for individuals in the Pool.

**Training (see Appendix D for details of training for Pool Members)**

**XIII. Notice of Investigation and Allegations (NOIA)**

Prior to an investigation, the Administrator will provide the Parties with a detailed written NOIA. Amendments and updates to the NOIA may be made as the investigation progresses and more information becomes available regarding the addition or dismissal of various allegations. For climate/culture investigations that do not have an identifiable Respondent, the NOIA will be sent to the department/office/program head for the area/program being investigated.

The NOIA typically includes:

- A meaningful summary of all allegations
- The identity of the involved Parties (if known)
- The precise misconduct being alleged
- The date and location of the alleged incident(s) (if known)
- The specific policies/offenses implicated
- A description of, link to, or copy of the applicable procedures
- A statement that the Parties are entitled to an equal opportunity to access the relevant and not otherwise impermissible evidence
- The name(s) of the Investigator(s), along with a process to identify to the Administrator, in advance of the interview process, any conflict of interest that the Investigator(s) may have
- A statement that the College presumes the Respondent is not responsible for the reported misconduct unless and until the evidence supports a different determination
- A statement that determinations of responsibility are made at the conclusion of the process and that the Parties will be given an opportunity during the review and comment period to inspect and review all relevant evidence
- A statement that retaliation is prohibited
- Information about the confidentiality of the process, including that the Parties and their Advisors (if applicable) may not share the College work product obtained through the Resolution Process
- A statement that the Parties may have an Advisor of their choice who may accompany them through all steps of the Resolution Process
- A statement informing the Parties that the College's Policy prohibits knowingly making false statements, including knowingly submitting false information during the Resolution Process
- Detail on how a party may request disability accommodations during the Resolution Process
- An instruction to preserve any evidence that is directly related to the allegations

Notification will be made in writing and may be delivered by one or more of the following methods: in person, mailed to the local or permanent address(es) of the Parties as indicated in official College records, or emailed to the Parties' College-issued email or designated accounts. Once mailed, emailed, and/or received in person, the notification will be presumptively delivered.

**XIV. Resolution Timeline**

LCAD will make a good faith effort to complete the Resolution Process within sixty to ninety (60-90) business days, including any appeals, which can be extended as necessary for appropriate cause by the Administrator. The Parties will receive regular written updates on the progress of the Resolution Process, as well as

notification and a rationale for any extensions or delays, and an estimate of how much additional time will be needed to complete the process.

Investigations are completed expeditiously, normally within sixty (60) business days, though some investigations may take longer, depending on issues such as the nature, extent, and complexity of the allegations, witness availability, law enforcement involvement, and other factors.

If a party or witness chooses not to participate in the Resolution Process or becomes unresponsive, the College reserves the right to continue it without their participation to ensure a prompt resolution. Non-participatory or unresponsive Parties retain the rights outlined in this Policy and the opportunity to participate in the Resolution Process.

The College may undertake a short delay in its investigation (several days to a few weeks) if circumstances require. Such circumstances include but are not limited to a request from law enforcement to delay the investigation temporarily, the need for language assistance, the absence of Parties and/or witnesses, and/or health conditions. The College will promptly resume its Resolution Process as soon as feasible. During such a delay, LCAD will implement and maintain supportive measures for the Parties as deemed appropriate.

LCAD's action(s) or processes are not typically altered or precluded on the grounds that civil or criminal charges involving the underlying incident(s) have been filed or that criminal charges have been dismissed or reduced.

LCAD will make a good faith effort to complete the Resolution Process as promptly as circumstances permit and will communicate regularly with the Parties to update them on the progress and timing of the process.

**XV. Investigator Appointment**

Once an investigation is initiated, the Administrator appoints an Investigator(s) to conduct it. These Investigators may be members of the Resolution Process Pool, or any other properly trained Investigator, whether internal or external to the College's community.

**XVI. Witness Role and Participation in the Investigation**

Employees (not including Complainant and Respondent) are required to cooperate with and participate in the College's investigation and Resolution Process. Student witnesses and witnesses from outside the College community cannot be required to participate but are encouraged to cooperate with College investigations and to share what they know about a Complaint.

Interviews may be conducted in person, via online video platforms (e.g., Zoom, Microsoft Teams, FaceTime, WebEx, etc.), or, in limited circumstances, by telephone. LCAD will take appropriate steps to ensure the security/privacy of remote interviews.

Parties and witnesses may also provide written statements in lieu of interviews or choose to respond to written questions, if deemed appropriate by the Investigator(s), though not preferred.

**XVII. Interview Recording**

It is standard practice for Investigators to create a record of all interviews pertaining to the Resolution Process (other than Informal Resolution meetings). The Parties may review copies of their own interviews, upon request. No unauthorized audio or video recording of any kind is permitted during investigation meetings. If



an Investigator(s) elects to audio and/or video record interviews, all involved individuals should be made aware of audio and/or video recording.

The recording and/or transcript of those meetings will be provided to the Parties for their review, after which the Parties may pose additional questions to each other. Those subsequent meetings or interviews are also recorded and/or transcribed and shared with the Parties.

**VIII. Evidentiary Considerations**

The Investigator(s) and the Decision-maker(s) will only consider evidence that is deemed relevant and not otherwise impermissible. Relevant evidence is that which may aid in determining whether the allegation occurred, or whether the behavior constitutes a violation of Policy.

**Impermissible evidence** includes confidential employee communication, statutory legal privilege, (unless waived by the owning Party), and evidence that relates to the Complainant's sexual interests or prior sexual conduct, unless:

- 1) Evidence about the Complainant's prior sexual conduct is offered to prove that someone other than the Respondent committed the alleged conduct, or
- 2) Is evidence about specific incidents of the Complainant's prior sexual conduct with the Respondent that is offered to prove consent.

The fact of prior consensual sexual conduct between the Complainant and Respondent does not by itself demonstrate or imply the Complainant's consent or preclude a determination that sex-based harassment occurred.

Previous disciplinary action of any kind involving the Respondent may not be considered unless there is an allegation of a pattern of misconduct. Such information may also be considered in determining an appropriate sanction upon a determination of responsibility. Barring a pattern allegation, this information is only considered at the sanction stage of the process and is not shared until then. Within the limitations stated above, the investigation and determination can consider character evidence, if offered, but that evidence is unlikely to be relevant unless it is factual evidence or relates to a pattern of conduct.

**XIX. Respondent Admits Responsibility**

At any point in the proceedings, if a Respondent elects to admit to the charged violations and waive further process, the Decision-maker is authorized to accept that admission, adopt it as their finding/final determination, and administer sanctions. This would also waive all rights to appeal for the Respondent.

If the Respondent rejects the finding/final determination/sanctions, or does not admit to all conduct charged, the Resolution Process continues to its conclusion.

**XX. Investigation**

All investigations are adequate, thorough, reliable, impartial, prompt, and fair. They involve interviews with all relevant Parties and witnesses, obtaining relevant evidence, and identifying sources of expert information, as necessary.

After an interview, Parties and witnesses will be asked to verify the accuracy of the recording, transcript, or summary of their interview. They may submit changes, edits, or clarifications. If the Parties or witnesses do not respond within the time period designated for verification, objections to the accuracy of the recording, transcript, or summary will be deemed to have been waived, and no changes will be permitted.

The College may consolidate Complaints against more than one Respondent, or by more than one Complainant against one or more Respondents, when the allegations arise from the same facts or circumstances or implicate a pattern, collusion, and/or other shared or similar actions.

The Investigator(s) typically take(s) the following steps, if not already completed and not necessarily in this order:

- Determine the Complainant's identity and contact information.
- Identify all policies related to the alleged misconduct and inform both the Complainant and Respondent.
- Assist the Administrator with an initial evaluation to check if the allegations suggest a Policy violation.
- Help the Administrator prepare the initial Notice of Investigation and Allegations (NOIA), which may be updated as needed.
- Conduct a thorough, impartial investigation by identifying issues and creating a plan, including lists of witnesses, evidence, investigation timeframe, and interview order.
- Notify parties in writing about meeting details, including date, time, location, participants, and purpose.
- Make efforts to inform each party of meetings or interviews involving the other party, in advance when possible.
- Interview the Complainant and Respondent, and follow up as necessary.
- Interview all relevant witnesses and follow up as necessary.
- Allow parties and witnesses to review and verify the Investigator's summary notes or recordings of their interviews.
- Allow each party to suggest witnesses and questions for the Investigator(s) to ask, and document any changes or omissions.
- Complete the investigation promptly and within the planned timeline.
- Provide regular status updates to the Parties.
- Before concluding the investigation, provide the Parties and their Advisors with a list of witnesses whose information will be used.
- Ask the Parties to submit questions they want asked of the other party or witnesses, and provide a rationale for not asking any deemed irrelevant.
- Write a draft report summarizing the investigation, evidence, and interviews.
- Give the Parties and their Advisors an electronic copy of the draft report and a chance to review and comment on all relevant evidence within ten (10) business days. Parties may waive part or all of this period.
- The Investigator may share the report with the Administrator and/or legal counsel for review and feedback.

## XXI. **Sanctions**

Factors considered by the Decision-maker when determining sanctions and responsive actions may include, but are not limited to:

- The nature, severity of, and circumstances surrounding the violation(s)

- The Respondent's disciplinary history
- The need for sanctions/responsive actions to bring an end to the discrimination, harassment, and/or retaliation
- The need for sanctions/responsive actions to prevent the future recurrence of discrimination, harassment, and/or retaliation
- The need to remedy the effects of the discrimination, harassment, and/or retaliation on the Complainant and the community
- The impact on the Parties
- Any other information deemed relevant by the Decision-maker(s)

The sanctions will be implemented as soon as it is feasible once a determination is final, either upon the outcome of any appeal or the expiration of the window to appeal, without an appeal being requested. The sanctions described in this Policy are not exclusive of, and may be in addition to, other actions taken, or sanctions imposed by external authorities.

### **A. Student Sanctions**

The following sanctions may be imposed on students, either individually or combined:

- Reprimand: A formal statement that the conduct was unacceptable with a warning of more severe sanctions for future violations.
- Required Counseling: Mandatory counseling sessions to understand the misconduct and its impact.
- Restrictions: Limitations on activities, including access to locations, programs, certain activities, extracurriculars, study abroad, or leadership positions in student organizations.
- Probation: An official sanction for policy violations, with stricter penalties for further violations within a specified period. Terms may include denial of social privileges, exclusion from activities or campus areas, no-contact orders, and other measures.
- Suspension: Temporary separation from the institution for up to two years, with eligibility to return based on specific conditions. Students must leave institutional property within 24 hours unless extended by an Administrator. During suspension, students are banned from institutional property and events without written approval. This may be noted on the student's academic transcript.
- Expulsion: Permanent separation from the institution, banning the student from institutional property and events. This may be noted on the student's academic transcript.
- Withholding Diploma: The institution may withhold a student's diploma or deny participation in commencement activities as a sanction.
- Revocation of Degree: The institution reserves the right to revoke a degree for fraud, misrepresentation, or other serious violations of policies.
- Other Actions: The institution may assign other appropriate sanctions as necessary.

## **B. Student Group and Organization Sanctions<sup>26</sup>**

The following are the common sanctions that may be imposed upon student organizations singly or in combination:

- **Warning:** A formal notice that the conduct was unacceptable, and that further violations of any College Policy, procedure, or directive will lead to more severe actions.
- **Probation:** An official sanction for violating institutional Policy, indicating that more severe disciplinary actions will follow if any institutional Policy, procedure, or directive is violated within a specified time. Terms of probation may include denial of certain social and event privileges, denial of College funds, ineligibility for honors and awards, restrictions on new member recruitment, no-contact orders, and/or other appropriate measures.
- **Suspension:** Termination of student group or organization recognition and/or institutional support for a set period, not exceeding two years, or until specific criteria are met. During suspension, the group or organization cannot conduct any business or participate in College related activities, on or off-campus. Re-recognition is possible but not guaranteed, and will only be considered after the suspension period ends, based on meeting all re-recognition criteria and obtaining College clearance.
- **Expulsion:** Permanent termination of student group or organization recognition and revocation of the privilege to congregate and conduct business on campus as an organization.
- **Loss of Privileges:** Restriction from accessing specific College privileges for a set period.
- **Other Actions:** In addition to or, instead of the above sanctions, the College may impose any other appropriate sanctions.

## **C. Employee Sanctions/Responsive/Corrective Actions**

Responsive actions for an employee who has engaged in harassment, discrimination, and/or retaliation include:

- *Verbal or Written Warning*
- *Performance Improvement Plan/Management Process*
- *Enhanced Supervision, Observation, or Review*
- *Required Counseling*
- *Required Training or Education*
- *Probation*
- *Denial of Pay Increase/Pay Grade*
- *Loss of Oversight or Supervisory Responsibility*
- *Demotion*
- *Transfer*
- *Shift or schedule adjustments*

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<sup>26</sup> Subject to College's Organizational Code of Conduct. Organizational sanctions are included here despite the fact that organizations cannot be charged as Respondents under Title IX. However, nothing would prevent a LCAD from holding a student organization accountable for Policy violations using the Resolution Processes herein, as long as it was clearly noted that Title IX was not applicable. Often, individuals will be charged for their role in organizational misconduct under Title IX, and the organization would be charged as collateral misconduct to the individual charges, resolved in the same process as those charges.

- *Reassignment*
- *Delay of (or referral for delay of) Promotion Progress*
- *Assignment to New Supervisor*
- *Restriction of Stipends, Research, and/or Professional Development Resources*
- *Suspension/Administrative Leave with Pay*
- *Suspension/Administrative Leave without Pay*
- *Termination*
- *Other Actions:* In addition to or in place of the above sanctions/responsive actions, the College may assign any other responsive actions as deemed appropriate.

**XXII. Notice of Outcome**

Within ten (10) business days of the conclusion of the Resolution Process, the Administrator provides the Parties with a written outcome notification. The outcome notification will specify the finding for each alleged Policy violation, any applicable sanctions that the College is permitted to share pursuant to state or federal law, and a detailed rationale, written by the Decision-maker, supporting the findings to the extent the College is permitted to share under federal or state law.

The notification will also detail the Parties' equal rights to appeal, the grounds for appeal, the steps to take to request an appeal, and when the determination is considered final if neither party appeals.

The Administrator will provide the Parties with the outcome notification simultaneously, or without significant time delay between notifications. The written outcome notification may be delivered by one or more of the following methods: in person, mailed to the local or permanent address of the Parties as indicated in official College records, or emailed to the Parties' LCAD-issued or designated email account. Once mailed, emailed, and/or received in person, the outcome notification is presumptively delivered.

**XXIII. Withdrawal of Resignation Before Complaint Resolution**

**A. Students**

Should a student Respondent decide not to participate in the Resolution Process, the process proceeds absent their participation to a reasonable resolution. If a student Respondent withdraws from the College, the Resolution Process may continue, or the Administrator may exercise their discretion to dismiss the Complaint. If the Complaint is dismissed, College will still provide reasonable supportive or remedial measures as deemed necessary to address safety and/or remedy any ongoing effects of the alleged harassment, discrimination, and/or retaliation.

Regardless of whether the Complaint is dismissed or pursued to completion of the Resolution Process, LCAD will continue to address and remedy any systemic issues or concerns that may have contributed to the alleged violation(s), and any ongoing effects of the alleged discrimination, harassment, and/or retaliation.

When a student withdraws or leaves while the process is pending, the student may not return to the College in any capacity until the Complaint is resolved and any sanctions imposed are satisfied. If the student indicates they will not return, the Administrator has discretion to dismiss the Complaint. The Registrar and Office of Admissions will be notified, accordingly.

If the student Respondent takes a leave for a specified period of time (e.g., one semester or term), the Resolution Process may continue remotely. If found in violation, that student is not permitted to return to the College unless and until all sanctions, if any, have been satisfied.

### **B. Employees**

Should an employee Respondent decide not to participate in the Resolution Process, the process proceeds absent their participation to a reasonable resolution. If an employee Respondent resigns from the College with unresolved allegations pending, the Resolution Process may continue, or the Administrator may exercise their discretion to dismiss the Complaint. If the Complaint is dismissed, the College may still provide reasonable supportive or remedial measures as deemed necessary to address safety and/or remedy any ongoing effects of the alleged discrimination, harassment, and/or retaliation.

When an employee resigns and the Complaint is dismissed, the employee may not return to the College in any capacity. The Office of Human Resources will be notified, accordingly, and a note will be placed in the employee's file that they resigned with allegations pending and are not eligible for academic admission or rehire with the College. The records retained by the Administrator will reflect that status.

## **XIV. Appeal of the Determination**

The Administrator will designate a three-member Appeal Panel, or a single Appeal Decision-maker chosen from the Pool, or other trained internal or external individuals, to hear the appeal. No Appeal Decision-maker(s) will have been previously involved in the Resolution Process for the Complaint, including in any supportive measure or dismissal appeal that may have been heard earlier in the process. If a panel is used, a voting Chair of the Appeal Panel will be designated by the Administrator.

### **A. Appeal Grounds**

Appeals are limited to the following grounds:

- 1) A procedural irregularity that would change the outcome
- 2) New evidence that would change the outcome and that was not reasonably available at the time the determination regarding responsibility or dismissal was made
- 3) The Administrator, Investigator(s), or Decision-maker(s) had a conflict of interest or bias for or against Complainants or Respondents generally or the specific Complainant or Respondent that would change the outcome
- 4) The final determination by the Decision-maker is substantially contrary to the weight of the evidence in the record (applicable to sanctions of suspension, expulsion, or termination only)
- 5) The sanctions fall outside the range of sanctions designated for this offense, considering the cumulative conduct/disciplinary record of the Respondent (applicable to sanctions of suspension, expulsion, or termination only)

### **B. Request for Appeal**

Any party may submit a written "Request for Appeal" to the Administrator within five business days of receiving the Notice of Outcome.

The Request for Appeal will be forwarded to the Appeal Panel or Decision-maker to determine if it meets the grounds for appeal (a Review for Standing). This is not a review of the appeal's merits but solely a check to see if the request meets the grounds and was filed on time.

If the Request for Appeal does not meet the grounds in this Policy, it will be denied by the Appeal Panel Chair or Decision-maker. The Parties and their Advisors will be notified in writing of the denial and the reasons for it. If any part of the Request for Appeal meets the grounds in this Policy, the Appeal Panel Chair or Decision-maker will notify all Parties, their Advisors, the Administrator, and, if necessary, the Investigator(s) and/or the original Decision-maker.

All other Parties, their Advisors, the Administrator, and, if necessary, the Investigator(s) and/or Decision-maker will receive a copy of the Request for Appeal with the approved grounds and have five business days to respond to the approved portion of the appeal. The Appeal Panel Chair or Decision-maker will forward all responses to all Parties for review and comment.

The non-appealing party may also choose to appeal at this time. If so, that Request for Appeal will be reviewed by the Appeal Panel Chair or Decision-maker to see if it meets the grounds in this Policy and will either be approved or denied. If approved, it will be forwarded to the initial appealing party, the Administrator, and the Investigator(s) and/or original Decision-maker, who will have five business days to respond. These responses will be circulated for review and comment by all Parties. If denied, the Parties will be notified in writing. No new Requests for Appeal may be submitted after this time period. The Appeal Panel Chair or Decision-maker will collect any additional information needed, and all documentation regarding the approved appeal grounds and responses will be shared with the Appeal Panel or Decision-maker, who will promptly render a decision.

### **C. Appeal Determination Process**

In most cases, appeals are confined to a review of the written documentation or record of the original determination and pertinent documentation regarding the specific appeal grounds. The Appeals Panel or Decision-maker will deliberate as soon as is practicable and discuss the merits of the appeal.

Appeal decisions are to be deferential to the original determination, making changes to the finding only when there is clear error and to the sanction(s)/responsive action(s) only if there is a compelling justification to do so. All decisions are made by majority vote and apply the preponderance of the evidence.

An appeal is not an opportunity for the Appeal Panel or Decision-makers to substitute their judgment for that of the original Decision-maker merely because they disagree with the finding and/or sanction(s).

The Appeal Panel or Decision-maker may consult with the Administrator and/or legal counsel on questions of procedure or rationale, for clarification, if needed. The Administrator will maintain documentation of all such consultation.

### **D. Appeal Outcome**

An appeal may be granted or denied. If granted, it is usually sent back to the original Investigator(s) or Decision-maker with instructions for reconsideration. In rare cases, such as bias, a new investigation or decision may be ordered by the Appeal Panel or Decision-maker.

All parties will receive the Notice of Appeal Outcome letter at the same time or without significant delay. The letter will include the decision on each appeal ground, any instructions for reconsideration, potential sanctions, and the rationale for the findings as allowed by law.

The notification can be delivered in person, by mail to the address on record, or by email to the official institutional email or approved account. Once delivered, the Appeal Outcome is presumed received.

The appeal decision is final and constitutes the Final Determination, with no further appeals allowed, even if there are changes on remand. If a new finding or sanction results from the appeal, it can be appealed one final time according to the outlined procedures. If a remand leads to a new determination different from the appealed one, it can be appealed once more on any of the five available grounds.

#### **E. Sanction Status During the Appeal**

Any sanctions imposed as a result of the determination are stayed (i.e., not implemented) during the appeal process, and supportive measures may be maintained or reinstated until the appeal determination is made.

If any of the sanctions are to be implemented immediately post-determination, but pre-appeal, then the emergency removal procedures (detailed above) for a “show cause” meeting on the justification for doing so must be permitted within two (2) business days of implementation.

#### **XXV. Long-Term Remedies/Other Actions**

Following the conclusion of the Resolution Process, and in addition to any sanctions implemented or Informal Resolution terms, the Administrator may implement additional long-term remedies or actions with respect to the Parties and/or the College community that are intended to stop the discrimination, harassment, and/or retaliation, remedy the effects, and prevent recurrence.

These remedies/actions may include, but are not limited to:

- Referral to counseling and health services
- Referral to the Employee Assistance Program
- Course and registration adjustments, such as retroactive withdrawals
- Education to the individual and/or the community
- Permanent alteration of housing assignments
- Permanent alteration of work arrangements for employees
- Provision of Campus Safety escorts
- Climate surveys
- Policy modification and/or training
- Provision of transportation assistance
- Implementation of long-term contact limitations between the Parties
- Implementation of adjustments to academic deadlines, course schedules, etc.

At the discretion of the Administrator, certain long-term supportive measures may also be provided to the Parties even if no Policy violation is found. When no Policy violation is found, the Administrator will address any remedies the College owes the Respondent to ensure no effective denial of educational access.

The College will maintain the confidentiality of any long-term remedies/actions/measures, provided confidentiality does not impair the College’s ability to provide these services.



**XVI. Failure to Comply with Sanctions, Responsive Actions, and/or Informal Resolution Terms**

All Respondents are expected to comply with the assigned sanctions, responsive actions, corrective actions, and/or Informal Resolution terms within the timeframe specified by the final Decision-maker(s), including the Appeal Panel or Decision-maker or the Informal Resolution agreement.

Failure to abide by the sanction(s)/action(s) imposed by the date specified, whether by refusal, neglect, or any other reason, may result in additional sanction(s)/action(s), including suspension, expulsion, and/or termination from the College. Supervisors are expected to enforce the completion of sanctions/responsive actions for their employees. A suspension imposed for non-compliance with sanctions will only be lifted when compliance is achieved to the Administrator's satisfaction.

**XVII. Recordkeeping**

For a period of at least seven (7) years following the conclusion of the Resolution Process, LCAD will maintain records of:

- 1) Each discrimination, harassment, and retaliation resolution process, including any Final Determination regarding responsibility or appeal, and any audio or audiovisual recording or transcript required under federal regulation
- 2) Any disciplinary sanctions imposed on the Respondent
- 3) Any supportive measures provided to the Parties and any remedies provided to the Complainant or the community designed to restore or preserve equal access to the College's education program or activity
- 4) Any appeal and the result therefrom
- 5) Any Informal Resolution and the result therefrom
- 6) All materials used to provide training to the Administrator, Title IX Coordinator and designees, Investigators, Decision-makers, Appeal Decision-makers, Informal Resolution Facilitator, and any person who is responsible for implementing the College's Resolution Process, or who has the authority to modify or terminate supportive measures. LCAD will make these training materials available for review upon request.
- 7) All materials used to train all employees consistent with the requirements in the Title IX Regulations.

LCAD will also maintain any and all records in accordance with state and federal laws.<sup>27</sup>

**XVIII. Accommodations and Support During the Resolution Process**

**Disability Accommodations**

LCAD is committed to providing reasonable accommodations and support to qualified students, employees, or others with disabilities to ensure equal access to the College's Resolution Process.

Anyone needing such accommodations or support should contact the Administrator, who will work with disability support colleagues as appropriate to review the request and, in consultation with the person requesting the accommodation, determine which accommodations are appropriate and necessary for full process participation.

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<sup>27</sup> A model record maintenance and access policy can be found in [Appendix C](#).

## Other Support

LCAD will also address reasonable requests for support for the Parties and witnesses, including:

- Language services/interpreters
- Access and training regarding use of technology throughout the Resolution Process
- Other support as deemed reasonable and necessary to facilitate participation in the Resolution Process

### **(XIX. Revision of these Procedures**

These procedures succeed any previous procedures addressing discrimination, harassment, and retaliation for incidents occurring on or after August 1, 2024. The Administrator will regularly review and update these procedures. LCAD reserves the right to make changes to this document as necessary, and once those changes are posted online, they are in effect.

If governing laws or regulations change, or court decisions alter the requirements in a way that impacts this document, this document will be construed to comply with the most recent governing laws or regulations or court holdings.

This document does not create legally enforceable protections beyond the protections of California State and federal laws that frame such policies and codes, generally.

These procedures are effective August 1, 2024

BASED ON THE ATIXA 2024 ONE POLICY, ONE PROCEDURE (1P1P) MODEL.

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# APPENDICES

[APPENDIX A: HEARING RESOLUTION PROCESS](#)

[APPENDIX B: VIOLENCE RISK ASSESSMENT \(VRA\)](#)

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## APPENDIX A: HEARING RESOLUTION PROCESS

The Live Hearing Resolution Process provided in this appendix is not a requirement, but can be used when requested by the Party(or parties) or Administrator as an option.

### **1. Live Hearing Requirements**

The following provisions apply to a live hearing:

- **Hearing Venue Options and Recordings.** The live hearing may occur in person or via video technology. The Decision-maker and Parties must be able to simultaneously see and hear a party or witness while that person is speaking. Both options are considered fair and equitable. Alternative arrangements may also be made at the Administrator’s discretion.
  - The Parties may make a request to the Administrator that the hearing occur in person or via video technology, but they must do so at least three (3) business days prior to the hearing. The Administrator retains discretion to determine whether the hearing will occur in person or via video technology.
  - All hearings will be recorded, and Parties may request a copy of the recording from the Administrator following the live hearing.
  - No unauthorized recordings are permitted.
- **Hearing Participants.** Persons who may be present for a hearing include the Decision-maker(s), hearing facilitator, Investigator(s), the Parties and their Advisors, anyone providing authorized accommodations, interpretation, and/or assistive services, and anyone else deemed necessary by the Decision-maker. Witnesses are present only during their portion of the testimony.
- **Advisors.** The Parties may have the assistance of an Advisor of their choosing at the hearing or can request that the College appoint a trained Advisor for them. Appointed Advisors are not attorneys. If a party wishes to have an attorney as their Advisor, they must locate and pay for that attorney themselves. [If a party decides not to have an Advisor, they will forfeit the option of asking questions at the hearing].<sup>28</sup>
  - During the pre-hearing meeting and live hearing, Parties may only be accompanied by their Advisor. No other persons (e.g., additional support persons, advisors, friends, family) may accompany, attend, or listen in on the hearing unless explicitly authorized by the Administrator, with each party being provided the same opportunity.
  - Parties and Advisors are permitted to have their phones and a laptop or tablet, but these should only be used during the hearing in a manner consistent with Policy.
  - [During the hearing, all questions that a party wishes to ask must be posed by the Advisor, not the Parties.
  - If the party does not have an Advisor, the Administrator will provide the party with an Advisor for the purpose of Advisor-conducted questioning.
- **Impact Statements.** Each party may submit an impact and/or mitigation statement to the Administrator that the Decision-maker will review during any sanction determination.
  - Upon receipt of an impact and/or mitigation statement, the Administrator will review the impact/mitigation statement to determine whether any immediate needs exist.

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<sup>28</sup> Applies only if using an Advisor-led questioning model.

- The Administrator will only provide the impact statements to the Decision-maker if the Decision-maker determines that the Policy has been violated. When the Administrator shares the impact statements with the Decision-maker, they will also be shared with the Parties.
- **Disability Accommodations and Other Assistance.** Parties should contact the Administrator at least three (3) business days prior to the hearing to arrange any disability accommodations, language assistance, and/or interpretation services that may be needed at the hearing, if possible.
- **Conflicts of Interest or Bias.** The Decision-maker must not have a bias for or against complainants or respondents generally or the individual Complainant or Respondent in particular.
  - The Decision-maker must recuse themselves if such bias or conflict of interest exists.
  - If the Decision-maker believes there is possible conflict of interest or bias, they will consult with the Administrator about possible recusal or removal.
  - The Parties may raise challenges that the Decision-maker is biased or has a conflict of interest. The Parties must raise challenges with the Administrator within two (2) business days of receiving the hearing notice.
  - The Administrator will only remove and replace a Decision-maker in situations of demonstrated bias or conflicts of interest. Perceptions of bias or conflict are not sufficient to cause removal.
  - If a Decision-maker recused themselves as the result of a conflict of interest or bias, or is removed, the Administrator will promptly appoint a new Decision-maker who does not have a conflict of interest or bias and notify the Parties accordingly.
- **Evidence Provided to Decision-maker and Parties.**
  - The Decision-maker will be provided electronic copies of the Final Investigation Report and all relevant but not impermissible evidence, including the names of all Parties, witnesses, and Advisors, at least seven (7) business days in advance of the hearing.
  - The Parties will be provided with electronic copies of all the materials provided to the Decision-maker as part of the hearing notice, unless those materials have already been provided.<sup>29</sup>

## 2. Hearing Notice

The Administrator will send the Parties a Notice of Hearing with sufficient time for the Parties to prepare for the hearing, typically at least seven (7) business days prior to the hearing. Once mailed, emailed, and/or received in-person, notice will be presumptively delivered. The hearing notice includes:

- A description of the alleged violation(s), a list of all policies allegedly violated, a description of the applicable hearing procedures, and a statement of the potential sanctions/responsive actions that could result.
- The time, date, and location of the hearing.
- A description of any technology that will be used to facilitate the hearing.
- Relevant information regarding hearing logistics, pre-hearing meetings, the Final Investigation Report, the Parties and witnesses participating in the hearing, the identity of the Decision-maker, details related to questioning, the role of Advisors, impact/mitigation statements, and how to request disability accommodations or other assistance.

## 3. Witness Participation

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<sup>29</sup> Hard-copy materials may be provided upon request to the Administrator. The Final Investigation Report and relevant evidence may be shared using electronic means that preclude downloading, forwarding, or otherwise sharing.

Student witnesses are encouraged to participate in, and make themselves reasonably available for, the hearing. Employee witnesses are expected to participate in, and make themselves reasonably available for, the hearing. Witnesses may participate in-person or via video technology that allows the Decision-maker and the Parties to see and hear the witness while that person is speaking. Witnesses are not permitted to be accompanied by an advisor without express permission of the Administrator. At the discretion of the Decision-maker, a witness may join by phone if no other reasonable alternative is available.

If any party or witness does not appear at the scheduled hearing, the hearing may be held in their absence. For compelling reasons, the Administrator may reschedule the hearing.

Hearings for possible violations that occur near or after the end of an academic term (assuming the Respondent is still subject to this Policy) and are unable to be resolved prior to the end of term will typically be held immediately after the end of the term, including during the summer, as needed, to meet the College's resolution timeline and ensure a prompt resolution. Employees, including Parties and witnesses, who do not have 12-month contracts are still expected to participate in Resolution Processes that occur during months between contracts.

The Administrator will notify all witnesses of their requested participation in the hearing at least five (5) business days prior to the hearing. Witnesses will be present for the hearing only during their testimony.

Any witness scheduled to participate in the hearing must have been first interviewed by the Investigator(s), unless:

- All Parties and the Decision-maker assent to the new witness's participation in the hearing without remanding the complaint back to the investigator, and
- The Decision-maker deems the evidence presented by the new witness to be relevant, not impermissible, and not information already established in the record, and
- The witness's late involvement was not the result of bad faith by the witness, the Parties, or others.

If the above criteria are not met, but the witness's evidence is deemed relevant, not impermissible, and not duplicative, the Decision-maker may, at their discretion, engage in any of the following actions:

- Delay the hearing.
- Provide the Parties at least five (5) business days to review the relevant portions of the new witness's statements, if such statements are submitted.
- Remand the Complaint back to the Investigator for further investigation or verification.
- Allow the Parties to review and comment on the testimony of the new witness.

If the evidence is deemed not relevant or impermissible, the Decision-maker may proceed with the hearing absent the new witness's participation.

#### **4. Pre-Hearing Meetings**

The Decision-maker will offer to convene a pre-hearing meeting(s) with the Parties and their Advisors and invite them to submit the questions or topics they wish to ask or discuss at the hearing. This allows the Decision-maker to consider their relevance ahead of time to avoid any improper evidentiary introduction in the hearing or to provide recommendations for more appropriate phrasing.

However, this advance review opportunity does not preclude the Parties from submitting a question at the hearing for the first time or asking for a reconsideration on a Decision maker's pre-hearing decision based on any new information or testimony offered at the hearing. The Decision-maker will document and share their rationale for any evidence or question exclusion or inclusion, if any, at a pre-hearing meeting with each party.

The Decision-maker will work with the Parties to finalize a witness list for the hearing, and the Administrator will notify any witnesses of the hearing's logistics. The Decision-maker, **only** with the agreement of all Parties, may decide in advance of the hearing that certain witnesses do not need to be present if their testimony can be adequately summarized by the Investigator(s) in the Final Investigation Report or during the hearing, and their presence is not essential to assess their credibility.

Pre-hearing meeting(s) will not be recorded. The pre-hearing meetings will typically be conducted as separate meetings with each Party/Advisor, and can be done remotely, or as a written communication exchange. The Decision-maker will work with the Parties to establish the format and timing of the meetings and will circulate a summary of any rulings made to ensure all Parties and Advisors are aware.

## **5. Hearing Procedures**

### **A. Evidentiary Considerations**

The Parties must provide all evidence to the Investigator(s) prior to completing the Final Investigation Report. Evidence offered after that time will be evaluated by the Decision-maker for relevance. If deemed relevant and not impermissible, the Parties and Decision-maker must agree to admit it into the record. If the evidence is deemed not relevant or impermissible, the Decision-maker may proceed with the hearing absent the new evidence.

The new relevant evidence will be admitted to the record if:

- All Parties and the Decision-maker assent to the new evidence being included in the hearing without remanding the Complaint back to the Investigator, and
- The evidence is not duplicative of evidence already in the record, and
- It is not impermissible, and
- The new evidence was either not reasonably available prior to the conclusion of the Final Investigation Report, or the failure to provide it in a timely manner was not the result of bad faith by the Parties, witnesses, or others.

If the above criteria are not met, but the evidence is deemed materially relevant and not duplicative, the Decision-maker may, at their discretion, engage in any of the following actions:

- Delay the hearing.
- Provide the Parties with at least five (5) business days to review the relevant evidence.
- Remand the Complaint back to the Investigator for further investigation or analysis.
- Allow the Parties to review and comment on the new evidence.

If the evidence is deemed not relevant or impermissible, the Decision-maker may proceed with the hearing without allowing the new evidence.

### **B. Collateral Misconduct**

The Decision-maker has the authority to hear and make determinations on all allegations of discrimination, harassment, retaliation, and Other Prohibited Behavior under the Policy and may also hear and make

determinations on any additional alleged collateral misconduct that occurred in concert with the discrimination, harassment, retaliation, or Other Prohibited Behavior, even though those collateral allegations may not specifically fall within the Policy.

### **C. Joint Hearings**

In Complaints involving more than one Respondent and/or involving more than one Complainant accusing the same person of substantially similar conduct, the default procedure will be to hear the allegations jointly.

However, the Administrator may permit the investigation and/or hearings pertinent to each Respondent or Complaint to be conducted separately if there is a compelling reason to do so. In joint hearings, separate determinations of responsibility will be made for each Respondent and/or for each Complaint with respect to each alleged Policy violation.

### **D. Introductions and Hearing Procedure Explanation**

The Decision-maker will explain the hearing procedures and introduce the participants. The Decision-maker will answer any procedural questions prior to and as they arise throughout the hearing.

### **E. Investigator Presentation of Final Investigation Report**

The Investigator(s) will present a summary of the Final Investigation Report, including a review of the facts that are contested and those that are not. The Investigator may be questioned first by the Decision-maker and then by the Parties. The Investigator may attend the duration of the hearing or be excused after their testimony at the Decision-maker's discretion.

### **F. Testimony and Questioning**

The Parties and witnesses may provide relevant information in turn, beginning with the Complainant's opening statement, then the Respondent's, and then questioning in the order determined by the Decision-maker. The Decision-maker will facilitate questioning of the Parties and witnesses first by the Decision-maker and then by the Parties through the Decision-maker **OR** through their Advisors.

All questions must be directed toward and asked through the Decision-maker, and are subject to a relevance determination before they are asked. The Decision-maker will determine the method by which the Parties will submit their questions to the Decision-maker for their review and, if approved, to be posed. Questions that the Parties wish to have posed can be questions for that party themselves, another party, or witnesses.

The Decision-maker will explain any decision to exclude a question as not relevant, or to reframe it for relevance.

The Decision-maker will limit or disallow questions they deem not appropriate on the basis that they are irrelevant, unduly repetitious (and thus irrelevant), seek or pertain to impermissible evidence, or are abusive. The Decision-maker has final say on all questions and determinations of relevance and appropriateness. The Decision-maker may consult with legal counsel on any questions of admissibility.

The Decision-maker then poses the questions deemed relevant, not impermissible, and appropriate to the party and/or witness.

If the Parties raise an issue of bias or conflict of interest of an Investigator or Decision-maker at the hearing, the Decision-maker may elect to address those issues, consult with legal counsel, refer them to the



Administrator, and/or preserve them for appeal. If bias is not an issue at the hearing, the Decision-maker should not permit irrelevant questions that probe for Investigator bias.

The Decision-maker will allow witnesses who have relevant and not impermissible information to appear at a portion of the hearing to respond to specific questions from the Decision-maker and the Parties, and the witnesses will then be excused.

### **G. Refusal to Submit to Questioning and Inferences**

Any Party or student witness may choose not to offer evidence and/or answer questions at the hearing, either because they do not attend the hearing, or because they attend but refuse to participate in some or all questioning. Employee witnesses are required to participate in the hearing if they are reasonably available. The Decision-maker can only rely on the available relevant and not impermissible evidence in making the ultimate determination of responsibility. The Decision-maker may not draw any inference **solely** from a party's or witness's absence from the hearing or refusal to answer any or all questions.

An Advisor may not be called as a witness at a hearing to testify to what their advisee has told them during their role as an Advisor unless the party being advised consents to that information being shared.

### **H. Hearing Recordings**

The College records hearings (but not deliberations) for purposes of review in the event of an appeal. No unauthorized audio or video recording of any kind is permitted during the hearing.

The Decision-maker, the Parties, their Advisors, Appeal Decision-makers, and other appropriate College officials will be permitted to review the recording or review a transcript of the recording upon request to the Administrator. No unauthorized disclosure, including sharing, copying, or distribution of the recording or transcript, is permitted.

## **6. Deliberation and Determination**

After closing statements from the Parties, the Decision-maker will deliberate in closed session to determine whether the Respondent is responsible for the alleged Policy violation(s) based on the standard of proof. If a panel is used, a simple majority vote is required to determine the finding. Deliberations are not recorded.

When there is a finding of responsibility for one or more of the allegations, the Decision-maker may then consider any previously submitted impact and/or mitigation statement(s) provided by the Parties in determining appropriate sanction(s). The Administrator will ensure that any submitted statements are exchanged between the Parties if they are viewed by the Decision-maker. Impact/Mitigation statements do not influence the finding, they only potentially influence the sanctions.

The Decision-maker will then prepare and provide the Administrator with a written outcome letter detailing all findings and final determinations, the rationale(s) explaining the decision(s), the relevant and not impermissible evidence used in support of the determination(s), the evidence not relied upon in the determination(s), any credibility assessments, and any sanction(s) and rationales explaining the sanction(s).

This statement is usually five to fifteen (5-15) pages in length and is typically submitted to the Administrator within ten (10) business days from the conclusion of the hearing, unless the Administrator grants an extension. The Administrator will notify the Parties of any extension.

## APPENDIX B: VIOLENCE RISK ASSESSMENT (VRA)

Threat assessment is the process of assessing the actionability of violence by a person against another person or group following the issuance of a direct or conditional threat. A **Violence Risk Assessment (VRA)** is a broader term used to assess any potential violence or danger, regardless of the presence of a vague, conditional, or direct threat.

Implementing a VRA requires specific training. It is typically conducted by psychologists, clinical counselors, social workers, case managers, law enforcement officers, student conduct professionals, and/or other Behavioral Intervention Team (BIT) (sometimes known as Crisis, Assessment, Response & Evaluation or CARE team) members.

A VRA occurs in collaboration with the BIT, CARE team, and/or threat assessment team and must be understood as an ongoing process, rather than as a single evaluation or meeting. A VRA is not an evaluation for an involuntary behavioral health hospitalization (e.g., 5150 in California, Section XII in Massachusetts, Baker Act in Florida), nor is it a psychological or mental health assessment.

A VRA assesses the risk of actionable violence, often with a focus on targeted/predatory escalations. It is supported by research from law enforcement, criminology, human resources, and psychology.

When conducting a VRA, the assessor(s) use(s) an evidence-based process consisting of:

- 1) An appraisal of **risk factors** that escalate the potential for violence.
- 2) A determination of stabilizing influences, or **protective factors**, that reduce the risk of violence.
- 3) A contextual **analysis of violence risk** by considering environmental circumstances, hopelessness, and suicidality; catalyst events; nature and actionability of the threat; fixation and focus on target; grievance collection; and action and time imperative for violence.
- 4) The application of **intervention and management** approaches to reduce the risk of violence.

To assess a person's level of violence risk, the Administrator will initiate the VRA process through the Title IX Team. The Team will assign a trained person(s) to perform the assessment, according to the specific nature of the complaint.

The assessor(s) will follow the process for conducting a VRA and will rely on a consistent, research-based, reliable system that allows for the evaluation of the risk levels.

Some examples of formalized approaches to the VRA process include The NABITA Risk Rubric,<sup>30</sup> The Structured Interview for Violence Risk Assessment (SIVRA-35),<sup>31</sup> Violence Risk Assessment of the Written Word (VRAWW),<sup>32</sup> Workplace Assessment of Violence Risk (WAVR-21),<sup>33</sup> Historical Clinical Risk Management (HCR-20),<sup>34</sup> and MOSAIC.<sup>35</sup>

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<sup>30</sup> <https://www.nabita.org/training/nabita-risk-rubric/>

<sup>31</sup> <https://www.nabita.org/training/sivra-35/>

<sup>32</sup> <https://www.nabita.org/training/vraww/>

<sup>33</sup> [www.wavr21.com](http://www.wavr21.com)

<sup>34</sup> <http://hcr-20.com>

<sup>35</sup> [www.mosaicmethod.com](http://www.mosaicmethod.com)

The VRA is conducted independently from the Resolution Process, informed by it, but free from outcome pressure. The person(s) conducting the assessment will be trained to mitigate any bias and provide the analysis and findings in a fair and equitable manner.

The Title IX Team member(s) conducts a VRA process and makes a recommendation to the Administrator as to whether the VRA indicates there is a substantial, compelling, and/or immediate risk to the health and/or safety of a person or the community.

In some circumstances, the Administrator may determine that a VRA should be conducted by the Title IX Team as part of the initial evaluation of a Complaint under this Policy. A VRA can aid in critical and/or required determinations, including:

- 1) Whether to remove the Respondent on an emergency basis because of an immediate threat to a person or the community's health/safety (Emergency Removal)
- 2) Whether the Administrator should pursue/sign a Complaint absent a willing/able Complainant
- 3) Whether the scope of an investigation should include an incident, and/or pattern of misconduct, and/or climate of discrimination or harassment
- 4) To help identify potential predatory conduct
- 5) To help assess/identify grooming behaviors
- 6) Whether it is reasonable to try to resolve a Complaint through Informal Resolution, and if so, what approach may be most successful
- 7) Whether to permit the Respondent to voluntarily withdraw/resign
- 8) Whether to impose transcript notation or communicate with a transfer institution about a Respondent
- 9) Assessment of appropriate sanctions/remedies (to be applied post-determination)
- 10) Whether a Clery Act Timely Warning/Trespass order/Persona Non Grata is needed

A compelling risk to health and/or safety may result from evidence of patterns of misconduct, predatory conduct, threats, abuse of minors, use of weapons, and/or violence. Institutions may be compelled to act on alleged employee misconduct irrespective of a Complainant's wishes.

## **APPENDIX C: ATIXA RECORD MAINTENANCE AND ACCESS MODEL POLICY**

### **Policy Scope**

This Policy covers records maintained in any medium that are created pursuant to the College's Non-Discrimination Title IX Policy. All such records are considered private or confidential by the Office of Human Resources in accordance with FERPA and the directive from the Department of Education to maintain the confidentiality of records related to discrimination, harassment, and retaliation. These records may be shared internally with those who have a legitimate educational interest and will be shared with the Parties to a Complaint under applicable federal and/or state law. The Office of Human Resources controls the dissemination and sharing of any records under its control.

### **Types of Records Covered Under this Policy**

Records pertaining to this Policy include, but are not limited to:

- The Complaint
- NOIAs
- Documentation of notice to the institution, including incident reports
- Anonymous reports later linked to a specific incident involving known Parties
- Any documentation supporting the initial evaluation
- Investigation-related evidence (e.g., physical and documentary evidence collected and interview transcripts)
- Dismissal-related documentation and appeals
- Documentation related to Emergency Removals, leaves, and interim actions and challenges
- Documentation related to the Resolution Process
- The Final Investigation Report and file
- Remedy-related documentation
- Supportive measures-related documentation
- Appeal-related documentation
- Informal Resolution records
- Outcome Notices
- Any other records typically maintained by the College as part of the Complaint file

**Drafts and Working Files:** Preliminary drafts and “working files” are not considered records that the College must maintain, and these are typically destroyed during the course of an investigation or at the conclusion of the Resolution Process. They are preliminary versions of records and other documents that do not state a final position on the subject matter reviewed or are not considered to be in final form by their author and/or the Administrator. An example of a “working file” would be the Investigator’s notes made during an interview on topics that they want to revisit in subsequent interviews. Sole possession records maintained as such in accordance with FERPA are also included in this category. All drafts of investigation reports shared with the Parties are maintained.

**Attorney Work-Product:** Communications from the Title IX Team or its designees with the College’s legal counsel may be work product protected by attorney-client privilege. These privileged communications are not considered records to be maintained or accessible under this Policy unless the Administrator, in consultation with legal counsel as necessary, determines that these communications should be included as accessible records.

### **Record Storage**

Records may be created and maintained in different media formats; this Policy applies to all records, irrespective of format. All records created pursuant to the Policy, as defined above, must be stored in digital format and maintained by Office of Human Resources. The complete file must be transferred to the Office of Human Resources typically within fourteen (14) business days of the complaint resolution (including any appeal), if the file is not already maintained. Security protocols must be in place to preserve the integrity and privacy of any parts of any record that are maintained in the Office of Human Resources during the pendency of an investigation. The Office of Human Resources will store all records created pursuant to the Policy, regardless of the identities of the Parties. Any extra (non-essential) copies of the records (both digital and paper) must be destroyed.

A copy of records showing compliance with any applicable Clery Act/Violence Against Women Act (VAWA) requirements will be maintained along with the Complaint file by the Office of Campus Safety + Security.

### **Title IX Training Materials**

LCAD will also maintain copies of the slides or other materials from all Title IX training for the Resolution Process members, the Title IX Team, and employees. Training occurring after August 1, 2024, are available for review upon request to the Title IX Coordinator and online at [www.lcad.edu](http://www.lcad.edu).

### **Record Retention**

All records created and maintained pursuant to the Policy will be retained by the Office of Human Resources for a minimum of seven (7) years in database, digital, and/or paper form. Except for records pertaining to Title IX and the Clery Act/VAWA, the Administrator may authorize destruction or expungement acting under their own discretion, or in accordance with a duly executed and binding claim settlement and/or by court or government order.

### **Record Access**

Access to records created pursuant to the Policy is strictly limited to the Administrator and any person they authorize in writing, at their discretion, or via permission levels within the database. Those who are granted broad access to records are expected to access only those pertinent to their scope, work, or specific assignment. Anyone who accesses such records without proper authorization may be subject to an investigation and possible discipline/sanction. The discipline/sanction for unauthorized access of records covered by this Policy will be at the discretion of the appropriate disciplinary authority, consistent with other relevant College policies and procedures.

Student Parties may request access to their complaint file. The College will provide access or a copy within 45 days of the request. Appropriate redactions of personally identifiable information may be made before inspection, or any copy is shared. During the investigation, materials may be shared with the Parties using secure file transmission software. The Title IX Coordinator will watermark any such file with the watermark identifying the role of the person in the process (e.g., Complainant, Respondent, Decision-maker; Complainant's Advisor) before sharing.

### **Record Security**

The Administrator is expected to maintain appropriate security practices for all records, including password protection, lock and key, and other barriers to access as appropriate. Record security should include protection from floods, fire, and other potential emergencies. Clothing, forensic, and other physical evidence should be securely stored in the Office of Campus Safety + Security or another appropriate secure location. All physical evidence will be maintained in a facility that is reasonably protected from flood and fire. A catalog of

all physical evidence will be retained with the Complaint file.

## **APPENDIX D: TRAINING FOR MEMBERS OF THE RESOLUTION PROCESS POOL**

Resolution Process Pool members receive annual training related to their respective roles. This training may include, but is not limited to:

- The scope of the LCAD's Non-Discrimination Title IX Policy
- The College's Resolution Process
- How to conduct investigations and hearings that protect the safety of Complainants and Respondents, and promote accountability
- Implicit bias and confirmation bias & treating Parties equitably
- Disparate treatment and disparate impact
- Reporting, confidentiality, and privacy requirements
- Applicable laws, regulations, and federal regulatory guidance
- How to implement appropriate and situation-specific remedies
- How to investigate in a thorough, reliable, timely, and impartial manner
- Trauma-informed practices pertaining to investigations and resolution processes
- How to uphold fairness, equity, and due process
- How to weigh evidence, how to conduct questioning, and how to assess credibility
- Impartiality and objectivity
- How to render findings and generate clear, concise, evidence-based rationales
- The definitions of all prohibited conduct
- How to conduct an investigation and grievance process, including administrative resolutions, hearings, appeals, and Informal Resolution Processes
- How to serve impartially by avoiding prejudice of the facts at issue, conflicts of interest, and bias against Respondents and/or for Complainants, and on the basis of sex, race, religion, and other protected characteristics
- Issues of relevance of questions and evidence
- Issues of relevance and creating an investigation report that fairly summarizes relevant and not impermissible evidence
- How to determine appropriate sanctions in reference to all forms of harassment, discrimination, and/or retaliation allegations & recordkeeping

### **Additional Training Elements Specific to Title IX**

All Investigators, Decision-makers, and other persons who are responsible for implementing LCAD's Title IX policies and procedures will receive training related to their duties under Title IX promptly upon hiring or change of position that alters their duties under Title IX or this part, and annually thereafter. Training topics include, but are not limited to:

- How to conduct a sex discrimination resolution process consistent with the Nondiscrimination Procedures, including issues of disparate treatment, disparate impact, sex-based harassment, quid pro quo, hostile environment harassment, and retaliation
- The meaning and application of the term "relevant" in relation to questions and evidence, and the types of evidence that are impermissible regardless of relevance under the Title IX Regulations
- Training for Informal Resolution facilitators on the rules and practices associated with the College's Informal Resolution process

- The role of the Title IX Coordinator
- Clery Act/VAWA requirements applicable to Title IX
- LCAD's obligations under Title IX
- How to apply definitions used by the College with respect to consent, the absence or negation of consent;
- Reasonable modifications and specific actions to prevent discrimination and ensure equal access for pregnancy or related conditions