

Title IX
Sexual Harassment/Sexual Misconduct Policy
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La Sierra University Mission Statement

As members of the diverse La Sierra University community, we are committed to inquiry, learning, and service. Our community is rooted in the Christian gospel and Seventh-day Adventist Church values and ideals. Our mission is: To seek truth, enlarging human understanding through scholarship; To know God, ourselves, and the world through reflection, instruction, and mentoring; To serve others, contributing to the good of our local and global communities. We pursue this mission with excellence, integrity, compassion, and mutual respect.

Believing that all humanity is created in the image of God, the University celebrates the diversity of its students, faculty and staff with regard to race, national origin, ethnicity, sex, gender and age. The university recognizes this diversity as a valuable asset in the preparation of all its students for positions of service and leadership in professions, business, government, in the civic community, and in the church.

Religious Exemption

La Sierra University is a religious institution of higher education, a part of the Seventh-day Adventist system of higher education, that takes seriously anti-discrimination provisions under federal and state law, and is committed to providing a learning and living environment that promotes student safety, transparency, personal integrity, civility and mutual respect.

La Sierra University is exempted by the State of California from California Education Code 66270, to the extent the application of California Education Code 66270 is not consistent with the institution's religious tenets.

Furthermore, the University is exempt from Title IX to the extent application to Title IX would not be consistent with the institution's religious tenets. See 20 U.S. Section 1681(a)(3).

The exemptions stated above allows the University to create and enforce policies consistent with its religious tenets, even when those tenets would otherwise conflict with California Education Code 66270 or Title IX. The exemptions may apply to, but are not limited to, University practices or policy requirements addressing student conduct, housing, admissions, marriage, sports participation and facilities use.

For more information, see the La Sierra Student Handbook (<https://lasierra.edu/fileadmin/documents/slif/la-sierra-student-handbook.pdf>) and the La Sierra Faculty Handbook (<https://lasierra.edu/fileadmin/documents/about-la-sierra/provost/faculty-handbook.pdf>).

In some cases the University's religious tenets, policies and practices on matters of sexual orientation, sexual conduct outside marriage, same-sex marriage, and gender identity and expression, may appear to conflict with interpretations of California Education Code 66270 and Title IX, but the above-referenced exemptions allow the University's policies and practices to do so.

For more information about the Seventh-day Adventist Church's position on matters involving marriage, sexual orientation, and gender identity and expression, see the church's Official Statements at <http://www.adventist.org/en/information/official-statements/statements/>

The University retains all rights afforded to it under federal law and the laws of the State of California.

Article I. Policy Statement

A. Institutional Values and Community Expectations

In keeping with La Sierra University's mission and its heritage as a Seventh-day Adventist university, we resolve to live consistently within traditional Christian values and teachings on sexuality. We believe that Scripture is the ultimate authority on how to conduct our lives.

La Sierra University takes the position that sexuality is a gift from God. Therefore, sexual expression should honor God, self, and others. The University expects that faculty, staff, and students will not engage in sexual intercourse outside of marriage nor engage in any sexual behavior or activity that would interfere with the University learning environment and its community.

However, La Sierra University recognizes that members of its community may make choices that are inconsistent with the University's expectations for sexual behavior.

La Sierra University is committed to maintaining an environment in which all members of our campus community are safe, secure, and free from discrimination based on sex, sexual misconduct, sexual assault or sexual harassment in any form. Our community expects that all interpersonal relationships and interactions - especially those of an intimate nature - will be grounded upon Christian principles and values, mutual respect, open communication, and clear consent according to applicable laws. When learning of conduct or behavior that may not meet these standards, community members are expected take an active role in upholding this policy and promoting the inherent dignity of all individuals.

This policy defines prohibited discrimination, misconduct and harassment based on sex and details the University's response when it has notice of discrimination based on sex.

Specifically, this policy prohibits all forms of sexual discrimination and/or sexual misconduct, including sexual assault, non-consensual sexual contact, sexual harassment, dating violence, domestic violence and stalking. Prohibited conduct also includes retaliation against a person who reports, complains about or participates in good faith in processes under this policy, and violation of supportive measures. Such conduct is collectively referred to as prohibited conduct.

This policy is established in compliance with Title IX of the Education Amendments of 1972, the Final Rule released by the Office of Civil Rights (OCR) on May 6, 2020, and the Violence Against Women Reauthorization Act of 2019 (VAWA), which amends the Jeanne Clery Disclosure of Campus Security and Campus Crimes Statistics Act, commonly known as Clery Act.

In addition, this policy follows OCR’s Final Rule 106.6 (e) in relation to Family Educational Rights and Privacy Act (FERPA) which indicates that the Education Department:

“Is precluded from administering, enforcing, and interpreting statutes, including Title IX and FERPA, in a manner that would require a recipient to deny the parties, including employee-respondents, their constitutional right to due process because the Department, as an agency of the Federal government, is subject to the U.S. Constitution.”

B. Right to notify parents

In following OCR’s Final Rule Section 106.6 (g) and the University’s policy, the University reserves the right to notify parents/guardians of dependent students regarding any health or safety risk, change in student status or student conduct situation, particularly alcohol and other drug violations. The University may also notify parents/guardians of non-dependent students who are under age 21 of alcohol and/or drug policy violations.

When a student is non-dependent, the University may contact parents/guardians to inform them of situations in which there is a significant and articulable health and/or safety risk. The University also reserves the right to designate which University officials have a need to know about incidents that fall within this policy, pursuant to the Family Educational Rights and Privacy Act (FERPA).

If you have any questions about this policy, you may contact the Title IX Coordinator:
by phone 951.785.2849, or
email titleix@lasierra.edu.

You may also visit the Title IX office located at:
11498 Pierce St.,
Suite AA, Riverside, CA 92505.

This policy may be found online on the ‘About’ page of La Sierra’s website:

<https://lasierra.edu/sexual-misconduct/>. Online reporting is available through the site.

C. Notice of Non-Discrimination

1. Title IX of the Education Amendments of 1972

La Sierra University (the University) is firmly committed to complying with all applicable laws and regulations. It does not unlawfully discriminate on the basis of sex in its educational, extracurricular, athletic, or other programs. Sex discrimination is prohibited by Title IX of the Education Amendments of 1972 (“Title IX”).

Title IX provides that:

“No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance.”

2. The Violence Against Women Act (VAWA)

Upon receiving a report of prohibited conduct, the University will take prompt and equitable action to eliminate the prohibited conduct, prevent its re-occurrence, and remedy its effects. The University seeks compliance with the federal Violence Against Women Act amendments to the Jeanne Clery Disclosure of Campus Security Policy and Campus Crimes Statistics Act and the accompanying regulations that became effective on July 1, 2015 (collectively referred to as VAWA).

VAWA imposes additional duties on universities and colleges which receive reports of sexual misconduct to investigate and respond to reports of prohibited conduct and to publish policies and procedures related to the way these reports are handled. As amended, VAWA’s 2005 reauthorization added a non-exclusivity provision clarifying that the title should not be construed to prohibit male victims from receiving services under the Act. Therefore, in its application to higher education institutions, VAWA provides coverage for male victims as well.

The University has designated the Title IX Coordinator to coordinate the University’s compliance with Title IX policy and to respond to reports of prohibited conduct. It has directed its Title IX Coordinator to coordinate its compliance with VAWA and to respond to reports of violations, and its Department of Campus Security to coordinate the University's compliance with the Clery reporting-related VAWA requirements. For more information about Title IX, please go to: <http://lasierra.edu/sexual-misconduct/>.

A person may also file a complaint with the Department of Education's Office for Civil Rights regarding an alleged violation of Title IX by visiting:

www2.ed.gov/about/offices/list/ocr/complaintintro.html or by calling 1-800-421-3481.

3. Individuals with Disabilities Education Act (IDEA) and Americans with Disabilities ACT (ADA) and Section 504 of the Rehabilitation Act of 1973.

The University has an obligation to comply with applicable disability laws, including the Individuals with Disabilities Education Act (IDEA), the Americans with Disabilities Act (ADA) and Section 504 of the Rehabilitation Act of 1973, with respect to Complainants as well as Respondents (and any

other individual involved in a Title IX matter, such as a witness), with respect to applications of these final regulations.

D. Title IX Office

La Sierra University has designated a Title IX Coordinator who has the duty to oversee and implement the University's Title IX policy. It is the Title IX Coordinator's primary responsibility to coordinate the University's efforts to maintain the institution free of discrimination based on sex and to respond appropriately and diligently in case an allegation of a violation of the University's Title IX policy is reported.

In compliance with the Final Rule released by OCR on May 6, 2020, Section 106.44, if an allegation of a violation is reported, the Title IX Coordinator will proceed according to the procedures explained in this policy. Furthermore, the Title IX Coordinator may take the following actions, including but not limited to, initiate an investigation, oversee an informal resolution, implement corrective and/or supportive measures, issue no contact orders, offer training in regards to this Title IX policy and work with other offices to stop, remediate and prevent discrimination based on sex.

The Title IX Coordinator will fulfill these duties with independence and authority, free from bias and conflict of interest.

In case the Title IX Coordinator may have a conflict of interest in a specific situation, this should be informed promptly to the President's office and/or the Provost office who will address the situation.

E. Training required

In accordance with OCR's Final Rule Section 106.45 (b)(1)(iii) it will be required that any Title IX Coordinator, investigator, decision-maker, or person who facilitates an informal resolution process will, when serving in such a role, be trained to serve in that role.

F. Scope of the Policy

1. Persons Covered

Prohibited conduct violates the community values and principles of our institution and disrupts the living, learning, and working environment for La Sierra University students, faculty, staff and other community members. Thus, the following policy applies to all members of the La Sierra University community: students, faculty (including adjunct), administrators, and staff (including temporary employees), as well as the University's vendors, contractors, volunteers, interns, visitors, guests, and third parties.

For purposes of this policy, and under Section 106.30 of the Final Rules, the person who is reported to have experienced prohibited conduct is referred to as the Complainant and the person who is reported to have allegedly engaged in the prohibited conduct is referred to as the Respondent.

2. Locations Covered

La Sierra University encourages reporting of alleged prohibited conduct no matter where it occurred so it can take prompt action to ensure the safety of the parties and campus community.

This policy applies to all on-campus and some off-campus conduct, as described below.

According to OCR's Title IX Final Rule, Section 106.44, the Title IX statute applies to persons **in the United States** with respect to education programs or activities that receive Federal financial assistance. Under the Final Rule, schools must respond when sexual harassment/sexual misconduct allegedly occurs in the school's education program or activity, against a person **in the United States**.

Under OCR's Title IX Final Rule Section 106.44 (a), education program or activities includes locations, events, employment, education or circumstances over which the University exercises substantial control over both the Complainant and the Respondent and the context in which the sexual harassment allegedly occurred, and also includes any building owned or controlled by a student organization that is officially recognized by the University.

Therefore, under this policy the University retains jurisdiction over education programs and/or activities, including but not limited to, employment, on campus learning, off-campus learning, online education, remote work and virtual learning, fieldtrips, cultural and artistic presentations and athletic events among other related activities.

3. Time Limits on Reporting

According to this policy, and to OCR's Final Rule Section 106.44 (c) La Sierra University encourages reporting of any allegation of a violation to our Title IX policy. Therefore, the University will not impose any time limitation on reporting allegations to the Title IX Coordinator.

However, if the Respondent is no longer subject to the University's jurisdiction because they are no longer associated with the University in any capacity, like education or employment, the University's response may be limited and the Title IX Coordinator may decide if an investigation should be completed or if the allegations should be dismissed.

Furthermore, if significant time has passed, the ability to investigate, respond, and provide remedies may be more limited or may not be under the University's jurisdiction.

Therefore, at the discretion of the Title IX Coordinator it may still be possible to offer remedies and/or accommodations, and the Title IX Coordinator may determine to document the allegations for future reference.

When reporting has been impacted by the passage of time the University will apply the policy in place at the time of the alleged misconduct, and the procedures in place at the time the alleged violation is reported.

G. Procedures

1. Seeking Medical Assistance

Experiencing any form of sexual misconduct, especially acts of violence, is difficult and overwhelming. Reporting parties often experience a range of emotions, including fear, anxiety, and confusion and may be unsure of what they want to, or should do, next.

Regardless of whether the individual chooses to report the incident or not, the University strongly encourages Complainants of any form of violence to seek medical attention as soon as possible, even if they feel no injury was sustained. Medical assistance providers can treat visible physical injuries and identify injuries that may not be visible and, where appropriate, also test for and treat sexually transmitted infections, test for pregnancy, and provide emergency contraception (if requested).

In addition, a hospital can test for the presence of alcohol or drugs (e.g., "date rape" drugs) and perform a rape evidence collection procedure (see Procedures Section 2), which are also strongly recommended to maintain all legal options.

Under California law, medical personnel are required to alert police when it reasonably appears that the person requesting treatment has sustained an injury as a victim of a criminal offense, including sexual assault or violence, but individuals have the right to refuse to speak to police.

Medical services are available from the following resources on or near La Sierra University:

La Sierra University Health Services

Evidence collection kit cannot be provided.

Location: Student Health Services

Phone: 951.785.2200 (if after hours, call Security at 951.785.2222)

Website: <https://lasierra.edu/health-services/>

(for regular hours of operation and 24-hour emergency contact info)

Riverside Community Hospital, Emergency Dept. (24 hours)

Evidence collection kit cannot be provided.

Location: 4445 Magnolia Ave, Riverside CA 92501

Phone: 951.788.3000 (emergency room)

Website: <http://riversidecommunityhospital.com/>

Corona Regional Medical Center, Emergency Dept. (24 hours)

Evidence collection kit cannot be provided.

Location: 800 S. Main St., Corona CA 92882

Phone: 951.737.4343

Website: <http://www.coronaregional.com/>

Kaiser Permanente Riverside Medical Center, Emergency Dept. (24 hours)

Evidence collection kit cannot be provided.

Location: 10800 Magnolia Ave, Riverside CA 92505

Phone: 951.353.2000

Evidence collection kits are available at the following hospitals:

Riverside University Health System Medical Center

26520 Cactus Ave., Moreno Valley, CA 92555

Phone: (951)486-4000

Eisenhower Hospital

39000 Bob Hope Dr. Rancho Mirage, CA 92270

Phone: (760) 340-3911

Under California law, medical personnel are required to alert police when it reasonably appears that the person requesting treatment has sustained an injury as a victim of a criminal offense, including sexual assault or violence, but individuals have the right to refuse to speak to police.

2. Preserving Evidence

Many sexual misconduct offenses also are crimes in the state or locality in which the incident occurred. For that reason, Complainants of sexual misconduct often have several legal options that they can pursue. These options are available solely at the discretion of the Complainant, who may change their minds about pursuing them at any time. For example, a Complainant may seek a protective order from a court against the Respondent; pursue a civil action against the

Respondent; and/or participate in a law enforcement investigation and criminal prosecution of the Respondent. Regardless of whether an incident of sexual misconduct is reported to the police or the University, La Sierra University strongly encourages individuals who have experienced sexual misconduct to preserve evidence to the greatest extent possible as this will best maintain all legal options for them in the future.

Additionally, such evidence may be helpful in pursuing a complaint with the University. While the University does not conduct forensic tests for parties involved in a complaint of sexual misconduct, the results of such tests that have been conducted by law enforcement agencies and medical assistance providers may be submitted as evidence that may be considered in a University investigation or proceeding provided they are available at the time of the investigation or proceeding.

Below are suggestions for preserving evidence related to an incident of sexual misconduct. It is important to keep in mind that each suggestion may not apply in every situation.

3. General Evidence Preservation Suggestions

- Do not alter, dispose of, or destroy any physical evidence.
- If there is suspicion that a drink may have been drugged, inform a medical assistance provider and/or law enforcement as soon as possible so they can attempt to collect possible evidence (e.g., from the drink, through urine or blood sample).
- Preserve evidence of electronic communications by saving them and/or by taking screenshots of text messages, instant messages, social networking pages, or other electronic communications, and by keeping pictures, logs, or copies of documents that relate to the incident and/or the responding party.
- Even if reporting parties choose not to make a complaint regarding sexual misconduct, they should nevertheless consider speaking with law enforcement to preserve evidence in the event that they change their mind at a later date.

4. Evidence Preservation Suggestions Specific to Sexual Assault

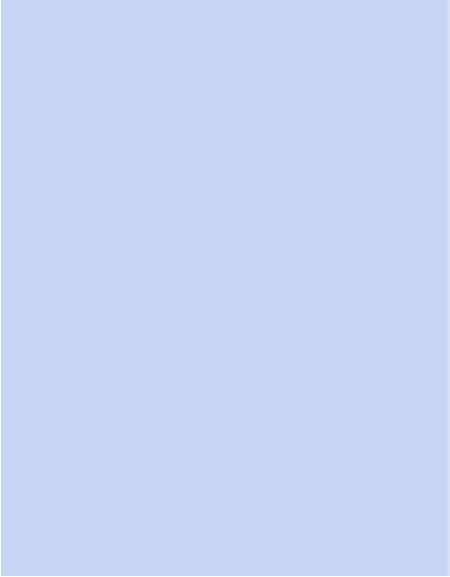

- Because some evidence, particularly evidence that may be located on the body, dissipates quickly (within 48-96 hours), individuals who have been sexually assaulted and wish to preserve evidence should go to a hospital or medical facility immediately to seek a medical examination and/or evidence collection. VAWA mandates that rape victims cannot be forced to pay for their own rape examination or for services of protective order.
- Individuals who have been sexually assaulted should not shower, bathe, douche, smoke, brush teeth, eat, drink, or change clothes or bedding before going to the hospital or seeking medical attention.

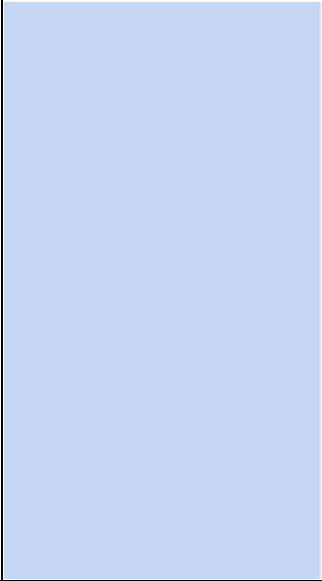
- Individuals who have been sexually assaulted decide to change clothes or bedding, they should not wash the clothes worn or bedding used during the assault and should bring them to a hospital, medical facility or the police in a non-plastic bag (e.g., paper bag).
- In California, individuals who have been sexually assaulted may allow the collection of evidence even if they choose not to make a report to law enforcement after the evidence is collected. A sexual assault evidence collection kit may not be released by a California hospital without written consent from the reporting party.

5. Confidential Support, Advocacy, & Counseling Services

The following resources are available for individuals to discuss incidents and issues related to sexual misconduct on a confidential basis. Confidential resources (e.g. licensed health center employees, psychologists, pastoral counselors, mental health counselors) cannot and will not disclose information about incidents of sexual misconduct to anyone, including law enforcement or the University, except in very limited situations, such as when failure to disclose the information would result in imminent danger to the individual or to others or where state law requires a report be made. Confidential resources can provide reporting parties with information about support services and their options. Because of the confidential nature of these resources, disclosing information to or seeking advice from a confidential counselor does not constitute a report or complaint to the University and will not result in a response or intervention by the University.


On-Campus Confidential Resources

La Sierra University Counseling Center	951.785.2011 https://lasierra.edu/counseling/
Student Health Services	951.785.2200 https://lasierra.edu/health-services/ To reach after hours, please contact Campus Safety and Security Patrol. 951.785.2222 
 Spiritual Life Office	951.785.2090 spirituallife@lasierra.edu Before speaking with members of the Spiritual Life Office, individuals should

	<p>ask for confidentiality if that is their expectation.</p> 
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Under California law, medical personnel are required to alert police when it reasonably appears that the person requesting treatment has sustained an injury as a victim of a criminal offense, including sexual assault or violence, but individuals have the right to refuse to speak to police.

Off-Campus Confidential Resources

<p>Local Law Enforcement</p>	<p>911</p>	<p>If the physical or sexual abuse, or severe neglect is in progress, contact the police department by calling 911. If the abuse or neglect has recently occurred, but the "emergency" is over, contact the police department business line. In either case, contact the case agent in order to update the initial investigation.</p>
<p>Riverside Police Department</p>	<p>951.787.7911</p>	
<p>Corona Police Department</p>	<p>951.736.2330</p>	
<p>Riverside Area Rape Crisis Center</p>	 <p>www.rarcc.org</p>	

Article II. Prohibited Conduct

La Sierra University prohibits all forms of discrimination based on sex, including sexual misconduct in relation to sexual assault, sexual harassment, dating violence, domestic violence and stalking.

La Sierra University also forbids discrimination based on sex including marital status, pregnancy and promotes equality and equity in regards to athletic programs and forbids discrimination regarding athletic programs.

Such conduct violates the community values and principles of our institution and disrupts the living, learning, and working environment for students, faculty, staff and other community members. The University specifically prohibits the conduct listed below.

A. Definitions of Prohibited Conduct

In accordance with OCR's Final Rule Section 106.30, the following conduct will be investigated under this Title IX policy:

1. Sexual harassment - which means conduct on the basis of sex that satisfies one or more of the following:

a. "Quid Pro Quo."

According to this policy, Quid Pro Quo is when a University employee explicitly or implicitly makes submission to sexual conduct a term or condition of any aspect of a program or activity or is used as a basis for the University's decisions affecting the individual. Quid Pro Quo harassment will also include, but is not limited to, when sexual favors are used or threatened to be used as a basis for academic or employment decisions.

Any allegation of Sexual Harassment involving an institution's employee in relation to conditioning the provision of an aid, benefit, or service of the institution on an individual's participation in unwelcome sexual conduct will always be investigated by the University.

b. Unwelcome conduct which is persistent, pervasive and objectively offensive.

According to this policy, unwelcome conduct is determined by a reasonable person standard that is considered to be so severe, pervasive, **and** objectively offensive that it effectively denies a person equal access to the University's education program or activities.

The totality of the known circumstances will be considered in determining if the situation falls under the Title IX threshold for being severe, pervasive **and** objectively offensive, including, but not limited to, the type of harassment (verbal or physical), frequency, severity, age, sex and relationship of the individuals involved, whether the conduct is physically threatening, humiliating, ridiculing, intimidating or abusive, the number of persons involved, and the setting and context.

One instance of sexual assault or sexual harassment could support a finding of a violation of the Title IX policy.

2. Sexual Assault

In accordance with OCR’s Title IX Final Rule of May 6, 2020 Section 106.30, the University follows the Clery Act’s definition of Sexual Assault as explained in Section 106.30 of the Clery Act which can also be found on 20 U.S.C. 1092(f)(6)(A)(v).

Under the Clery Act, sexual assault is defined as:

“Any non-consensual sexual act proscribed by Federal, tribal, or State law, directed against another person, without the consent of the Complainant including instances where the Complainant is incapable of giving consent.”

Furthermore, the Clery Act, 20 U.S.C. 1092(f)(6)(A)(v) defines “sexual assault” to mean an offense classified as a forcible or nonforcible sex offense under the uniform crime reporting system of the Federal Bureau of Investigation (FBI).

Under the uniform crime reporting system of the FBI, sexual assault offenses are defined as follows:

Forcible Rape -- Penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the Complainant.

Forcible Rape—(Except Statutory Rape) The carnal knowledge of a person, forcibly and/or against that person’s will or not forcibly or against the person’s will in instances where the Complainant is incapable of giving consent because of temporary or permanent mental or physical incapacity.

Forcible Sodomy—Oral or anal sexual intercourse with another person, forcibly and/or against that person’s will or not forcibly or against the person’s will (non-consensually) in instances where the Complainant is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity.

Sexual Assault With An Object—To use an object or instrument to unlawfully penetrate, however slightly, the genital or anal opening of the body of another person, forcibly and/or against that

person's will or not forcibly or against the person's will in instances where the Complainant is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity.

Forcible Fondling—The touching of the private body parts of another person, (including but not limited to buttocks, groin, breasts) for the purpose of sexual gratification, forcibly and/or against that person's will (non-consensually) or not forcibly or against the person's will in instances where the Complainant is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity.

Sex Offenses, Nonforcible—Unlawful, nonforcible sexual intercourse.

Incest—Nonforcible sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by California law.

Statutory Rape – Non-forcible sexual intercourse with a person who is under the statutory age of consent in California which is 18 years of age.

This policy has included these violations as part of the University's Title IX policy in accordance with OCR's Final Rule Section 106.30. The Education Department established:

“That some Title IX sexual harassment might constitute criminal conduct does not alter the importance of identifying and responding to sex discrimination that is prohibited by Title IX. By requiring recipients to address sex discrimination that takes the form of sexual harassment in a recipient's education program or activity, the Department is not requiring recipients to adjudicate criminal charges or replace the criminal justice system. Rather, the Department is requiring recipients to adjudicate allegations that sex-based conduct has deprived a complainant of equal access to education and remedy such situations to further Title IX's non-discrimination mandate.”

3. Dating Violence

In compliance with OCR's Title IX Final Rule Section 106.30, the University follows the dating violence definition as defined in 34 U.S.C. 12291 (a) (10).

The term dating violence in this policy means violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim; and where the existence of such a relationship shall be determined based on a consideration of the following factors:

- The length of the relationship.
- The type of relationship.
- The frequency of interaction between the persons involved in the relationship.

For the purposes of this definition dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse and does not include acts covered under the definition of domestic violence.

4. Domestic Violence

In compliance with OCR's Title IX Final Rule Section 106.30, the University follows the domestic violence definition as defined in 34 U.S.C. 12291(a)(8).

The term domestic violence includes felony or misdemeanor crimes of violence committed by:

- A current or former spouse or intimate partner of the victim, or
- A person with whom the victim shares a child in common, or
- A person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, or
- A person similarly situated to a spouse of the victim under the domestic or family violence laws of California.

To categorize an incident as Domestic Violence, the relationship between the Respondent and the Complainant must be more than just two people living together as roommates. The people cohabitating must be current or former spouses or have or have had an intimate relationship.

In accordance with OCR's mandate Section 106.30, La Sierra University has to consider domestic violence under California Penal Code's list of misdemeanor and/or felonies in relation to domestic violence. Among the crimes listed as domestic violence offenses in California are the following:

3.1. Penal Code 273.5, corporal injury to a spouse or inhabitant

3.2. Penal Code 243(e)(1), domestic battery

3.5. Penal Code 270, child neglect/failure to provide care

3.7. Penal Code 422, criminal threats

3.8. Penal Code 646.9, stalking

3.9. Penal Code 591, damaging a telephone line

3.10. Penal Code 601, aggravated trespass

3.11. Penal Code 647(j)(4), revenge porn

3.12. Penal Code 653.2, posting harmful information on the internet

This policy has included these violations as part of the University's Title IX policy in accordance with OCR's Final Rule Section 106.30. The Education Department established:

“That some Title IX sexual harassment might constitute criminal conduct does not alter the importance of identifying and responding to sex discrimination that is prohibited by Title IX. By requiring recipients to address sex discrimination that takes the form of sexual harassment in a recipient's education program or activity, the Department is not requiring recipients to adjudicate criminal charges or replace the criminal justice system. Rather, the Department is requiring recipients to adjudicate allegations that sex-based conduct has deprived a complainant of equal access to education and remedy such situations to further Title IX's non-discrimination mandate.”

5. Stalking

In compliance with OCR's Title IX Final Rule Section 106.30, the University follows the stalking definition as defined in 34 U.S.C. 12291 (a)(30) which is to be considered engaging in a course of conduct directed at a specific person that would cause a reasonable person to:

- a. Fear for their safety or the safety of other; or
- b. Suffer substantial emotional distress.

For the purpose of this definition stalking means:

- Course of conduct means two or more acts, including but not limited to , stalking may occur by two or more acts including but not limited to:
- Acts in which the stalker directly, indirectly, or through third parties, by any action, method, device or means.
- Follows, monitors, observes, surveils threatens or communicates to or about a person, or interferes with a person's property.
- Reasonable person means a reasonable person under similar circumstances and with similar identities to the Complainant.
- Substantial Emotional Distress means significant mental suffering or anguish that may, but not necessarily require, medical or other professional treatment or counseling.

Stalking, as used herein, includes cyber-stalking, the use of social or digital media, cellphones, emails, and any other electronic resources and/or platforms.

Other examples of Stalking include threatening to harm self or others, defamation, and/or vandalizing property of the intended party or that belongs to a third party.

6. Sexual Exploitation

Under this policy, and under California law, **sexual exploitation** which is an act or acts committed through non-consensual abuse or exploitation of another person's sexuality for the purpose of sexual gratification, financial gain, personal benefit or advantage, or any other non-legitimate purpose for oneself or a third party, and may include but it is not limited to:

- a. spying on someone nude,
- b. taking or sharing images of sexual activity or nudity,
- c. inducing incapacitation, using a person's image or profile in a sexual manner without the consent of the person,
- d. sexual abuse of children and youth through the exchange of sex or sexual acts for drugs, shelter, protection, other basis of life and/or money.
- e. Sexual exploitation includes involving children, youth or an unwilling or unknowing party in creating pornography and sexually explicit websites.
- f. Prostitution or prostituting another.
- g. 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 infection.
- h. Administering alcohol or drugs (such as "date rape" drugs) to another person without their knowledge or consent (assuming the act is not completed).

This behavior may fall under Sexual Assault if violating California's definition of Affirmative Consent or under Sexual Harassment, if it is considered to be severe, pervasive **and** objectively offensive.

7. Retaliation

According to this policy, retaliation means an adverse action (e.g. conduct that threatens, harasses, coerces or intimidates), taken against a person for making a good faith report of prohibited conduct, providing information, exercising one's rights or responsibilities under this policy, or for otherwise being involved in the process of responding to, investigating, or addressing allegations of sexual misconduct.

Retaliation can be substantiated without a finding that there is responsibility for prohibited conduct. Third parties can be the victims or perpetrators of retaliation.

Allegations of retaliatory actions, such as intimidation, threats, or coercion against any individual for having engaged in the above activities, will be addressed by La Sierra University.

Anyone who is aware of possible retaliation or has other concerns regarding the response to a complaint of Sexual Discrimination, Sexual Assault, Sexual Harassment, Dating Violence, Domestic Violence, Stalking, Retaliation or any other conduct prohibited by this policy, should report such concerns to the Title IX Coordinator who will ensure that the matter is investigated and make recommendations to the University to enable appropriate actions to be taken in a fair and impartial manner.

Individuals who engage in such actions are subject to disciplinary action that may include, but is not limited to sanctions including exclusion, expulsion, or dismissal from the University, and termination of employment, including revocation of tenure.

Harassment and retaliation against members of the University's community are not protected expression or the proper exercise of academic freedom. The University will consider academic freedom in the investigation of reports of discrimination based on sex that involve individuals' statements or speech in accordance with rights established in the First Amendment of the United States Constitution and the State of California laws.

8. Violation of a Supportive Measure

In responding to a report of prohibited conduct, the University may implement supportive measures. According to La Sierra University policy, violation of supportive measures is a separate policy violation and is not dependent on substantiation of the reported or underlying policy violation.

B. Affirmative Consent

1. Definition of affirmative consent in California

In accordance with California state law, (SB 967, 2014) engaging in any sexual activity requires affirmative consent (also known as Yes means Yes). Therefore, engaging in any sexual activity without first obtaining affirmative consent is considered sexual assault in the State of California. In the State of California, affirmative consent can be withdrawn and may be revoked at any time. Once consent is withdrawn or revoked, the sexual activity must stop immediately.

According to California law, affirmative consent means affirmative, knowing, active, informed, conscious, voluntary, present and ongoing, mutual agreement to engage in sexual activity.

Under California law, a person has not affirmatively consented to engage in sexual activity when a person is subjected by coercion to engage in unwanted sexual activity and is persuaded to engage in

sexual conduct by force or threats or under duress, coercion, intimidation, or physical, emotional or psychological pressure.

Thus in following California law, this policy establishes that **affirmative** consent must be all of the following:

Knowing: positive cooperation in act and attitude with **knowledge** and agreement to the nature of the sexual act in which the person has agreed to engage.

California law requires that all individuals understand, are aware of, and agree to the “who” (which partners), “what” (what acts), “when” (when the acts occur), and “how” (how the acts are performed and **under what conditions**).

Active: Consent must take the form of "clearly understandable words or actions" that reveal one's expectations and agreement to engage in specific sexual activity. This means that silence, passivity, submission, and/or the lack of verbal protest or physical resistance (including the lack of a "no") should not - in and of itself - be understood as consent. Consent cannot be inferred by an individual's manner of dress, the giving or acceptance of gifts, the extension or acceptance of an invitation to go to a private room or location, going on a date, or consumption of alcohol and/or drugs.

Informed: affirmative consent according to California law must be informed which means that it is freely and actively given, and communicated through mutually understandable words or actions that indicate a willingness to participate in the sexual activity and that both parties are aware, and thus have all the information, in regards to the sexual activity that they have agreed to engage in. Informed affirmative consent means that the parties are aware of the conditions of the sexual encounter.

Therefore, it will be considered that there is no affirmative consent, in the following instances, but not limited to, when a person agrees to engage in sexual activity using a condom, but the other participant does not inform that the condom has been broken or altered on purpose; when the sexual encounter is filmed, recorded, photographed, streamed via any online platform or documented in any form and the other party has not agreed to such conditions; or when the sexual encounter differs from what the parties agreed upon before or during the sexual act. Examples will be, but are not limited to, when a party wants to engage in violent sexual activity, multi-partner sexual activity, or any other sexual behavior that deviates from what the parties had agreed upon before or during the sexual encounter.

Conscious: which means that neither party is incapacitated and thus incapable of giving affirmative consent. (More on Incapacitation infra).

Voluntary: which means that affirmative consent cannot be the result of force (violence, physical restraint, or the presence of a weapon), threats (indications of intent to harm, whether direct or indirect), intimidation (extortion, menacing behavior, bullying), coercion (undue pressure, manipulation, threats, blackmail depending on the frequency, intensity, level of isolation of the Complainant, and duration of the pressure) or fraud (misrepresentation or material omission about oneself or the present situation in order to gain permission for sexual or intimate activity).

Present and ongoing: In the State of California affirmative consent requires that the parties involved must offer their affirmative consent to engage in sexual activity at all times, which means making sure that the party which with an individual is engaging in sexual activity are still active during the sexual encounter. If during a sexual encounter a person changes their behavior and stops responding actively to the sexual activity, goes limp, or shows they are uncomfortable, among other behavior that may indicate that the person has stopped actively or voluntarily engaging in sexual activity, the other party must stop and inquire if something is wrong and if the person wants to stop the sexual encounter.

Mutual: which means that both parties involved must agree to engage in sexual activity at all times. Consent to any sexual act or prior consensual sexual activity between or with any party does not necessarily constitute consent to any other sexual act. Consent to one form of sexual activity (or one sexual act) does not constitute consent to other forms of sexual activity. Consent given to sexual activity on one occasion does not constitute consent on another occasion.

The definition of consent does not vary based upon a participant's sex, sexual orientation, gender identify, or gender expression among other considerations.

The existence of a dating or social relationship between those involved, or the fact of past sexual activities between them, should never by itself be assumed to be an indicator of affirmative consent.

A request for someone to use a condom or birth control does not, in and of itself, constitute affirmative consent.

2. Age of Consent

The California age of consent to engage in sexual activity is 18 years old. California statutory rape law is violated when a person has sexual intercourse with an individual who is under 18 years of age who is not their spouse.

Furthermore, in California it is illegal to engage in sexual intercourse with a minor, even if the other participant is also a minor.

In accordance with California law, sexual intercourse by a party with a minor who is not their spouse will be considered by the University as unlawful and nonconsensual. Furthermore, the University will comply with any reporting obligations under the Child Abuse and Neglect Reporting Act.

3. Incapacitation

Under California law, a person who is incapacitated is not capable to give affirmative consent.

According to this policy, a person will be considered to be incapacitated to give affirmative consent to engage in any sexual activity if the person is asleep, unconscious or incapacitated due to the

influence of drugs, alcohol or medication in such a way that the person could not understand the fact, nature or extent of the sexual activity.

Furthermore, under this policy it will be determined that a person is incapacitated to give affirmative consent to engage in any sexual activity if the person lacks or lacked at the moment of the alleged event/s the physical and/or mental ability in order to make informed, rational decisions.

Moreover, under this policy a person's own intoxication from drugs or alcohol does not diminish that person's responsibility to obtain affirmative consent before engaging in sexual activity.

According to this policy, it should also be considered that a person with a medical or mental disability may also lack the capacity to give consent to engage in sexual activity.

Therefore, even when a person obtained consent to engage in any sexual activity with another person, consent will not be considered to have been given or be considered affirmative consent if the Respondent knew or reasonably should have known that the Complainant was unable to offer affirmative consent because the Complainant was under any of the circumstances listed above.

In addition, under this policy, a person will not be considered to have given affirmative consent if the person was unable to communicate their refusal to engage in any sexual activity due to their mental and/or physical condition.

Signs of incapacitation include individuals demonstrating that they are unaware of where they are, how they got there, or why or how they became engaged in a sexual interaction.

Some indicators of a lack of capacity to give consent due to consumption of drugs or alcohol may include, but are not limited to:

- A lack of full control over physical movements (for example, difficulty walking or standing without stumbling or assistance).
- A lack of awareness of circumstances or surroundings (for example, lack of awareness of where one is, how one got there, who one is with, or how or why one became engaged in sexual interaction).
- An inability to effectively communicate for any reason (for example, slurring speech, difficulty finding words).

A person may appear to be giving consent but may not have the capacity to do so, in which case the apparent consent is not effective. If there is any doubt as to another person's capacity to give consent, one should assume that the other person does not have the capacity to give consent.

In evaluating affirmative consent cases involving incapacitation, the University will determine whether a reasonable, sober person should have known that the Reporting party was incapacitated and thus unable to consent to sexual activity. Reasonable belief (based on the totality of circumstances which the Reporting party knew or reasonably should have known) in affirmative consent is a defense to sexual assault and non-consensual sexual contact.

In the case when both the Complainant and the Respondent allege that they were both intoxicated, the allegation will be investigated and it will be determined if either the Complainant or the Respondent were intoxicated to the point where they were incapacitated and neither party could reasonably consent to engage in sexual activity.

4. Revocation of Affirmative Consent

Under this policy, and in accordance with California law, affirmative consent can be withdrawn or revoked at any time, including after penetration. **Once consent is withdrawn or revoked, the sexual activity must stop immediately.**

5. Revocation of Consent in Case of Violence During Sexual Activity

This policy also acknowledges that there are instances when a party will not be able to inform the other party that they are revoking their consent to engage in sexual activity either verbally or in any other way. This may occur in instances when the party feels that they are in danger or that by informing the other party of their revocation of consent they might be attacked physically.

This policy also acknowledges that there are instances in which a party may have consented to engage in sexual activity but not to engage or participate in violent sexual activity. In those cases, it will be considered that the party has not consented to engage in sexual activity that may involve violent acts such as unwanted slapping, choking, gagging, spitting or similar acts even if the party does not inform the other party for fear of their safety among other considerations.

This also will include revocation of consent if the party, who initially consented to engage in sexual activity with another person, realizes that the other party wishes, among other conduct, to include another person or persons to engage in the sexual activity.

C. Non-Fraternization Policy/Consensual Relationships

This policy adheres to the **Non-Fraternization Policy/Consensual Relationships** included in the La Sierra University policy which states that:

“A consensual/romantic or consensual/sexual relationship between individuals who occupy different levels of authority in the institution automatically and inevitably carries the potential for evolving into a sexual harassment case of very serious implications, either from a subsequent change of attitude by the subordinate partner or from a contemporary complaint from a disadvantaged third party. Relationships of this sort are forbidden in those instances in which the partner with higher status and/or power has explicit or implicit authority over, or the power to reward or punish, the partner with lower status or power. It follows that consensual/romantic or consensual/sexual relationships between faculty members and students, or between administrators or supervisors and staff in an office or program are also forbidden.”

Although these types of situations are going to be investigated by, and are under the scope of, the Human Resources office, the Title IX policy acknowledges that La Sierra University has this Non-Fraternization Policy in place.

D. Criminal Charges and Title IX

Alleged victims of sexual misconduct, including sexual assault, sexual harassment, dating violence, domestic violence, and stalking, have the right to pursue legal action through civil litigation or by pressing criminal charges. In case a Complainant wants to inquire about legal action, the University will refer the Complainant to local law enforcement authorities and/or off-campus advocate support organizations.

As aforementioned, the University will offer supportive measures to the Complainant without requiring the Complainant to submit a formal complaint. In accordance with this policy a Complainant can decide whether, in addition to supportive measures, participating in a formal grievance process is a step the Complainant wants to take.

Moreover, supportive measures may also be granted while criminal or civil litigation related to the allegations may be pending in a court of law.

In its Final Rule the Education Department indicated that:

“The Department recognizes that some Title IX sexual harassment also constitutes criminal conduct under a variety of State laws and that the potential exists for the same set of allegations to result in proceedings under both § 106.45 and criminal laws. Where appropriate, the final regulations acknowledge this intersection, however a recipient (the University) cannot discharge its legal obligation to provide education programs or activities free from sex discrimination by referring Title IX sexual harassment allegations to law enforcement (or requiring or advising complainants to do so) because the purpose of law enforcement differs from the purpose of a recipient (the University) offering education programs or activities free from sex discrimination. Whether or not particular allegations of Title IX sexual harassment also meet definitions of criminal offenses, the recipient’s (the University’s) obligation is to respond supportively to the complainant and provide remedies where appropriate, to ensure that sex discrimination does not deny any person equal access to educational opportunities. Nothing in the final regulations prohibits or discourages a complainant from pursuing criminal charges in addition to a § 106.45 grievance process.”

E. Preponderance of the Evidence Standard

In accordance with OCR’s Final Rule Section 106.45(b)(7)(i), La Sierra University has determined to use the **preponderance of the evidence** as the legal standard to conduct **all** Title IX investigations. Preponderance of the evidence is a legal standard that means the greater weight of the evidence; that the evidence on one side outweighs, preponderates over, or is more than, the evidence on the other side. The preponderance of the evidence standard determines if it is more likely than not

that the alleged conduct occurred. In other words, under the preponderance of the evidence standard, the burden of proof is met when the party with the burden, convinces the fact finder that there is a greater than 50% chance that the claim is true.

The same preponderance of evidence standard will be applied for formal complaints against students as for formal complaints against employees, including faculty.

F. Burden of Proof

In following OCR's Final Rule Section 106.45(b)(5)(i), the University is obligated to carry both the burden of proof and the burden of collecting evidence sufficient to reach a determination regarding responsibility while also providing parties equal opportunity (but not burden or obligation) to gather and present witnesses and other evidence, review and challenge the evidence collected, and question other parties and witnesses.

G. Presumption of Non-Responsibility

In accordance with OCR's Final Rule Section 106.45 (b)(1)(iv), the University presumes the Respondent is not responsible for the alleged violation during the grievance process and maintains that presumption unless a determination of responsibility is made at the conclusion of the grievance process. This is often referred to as a "presumption of innocence", and reinforces the fact that the school bears the burden of proof and helps to ensure the standard of evidence is applied correctly.

The presumption of non-responsibility should not be interpreted to mean that a Complainant is not truthful or not credible based on the Complainant's status as a Complainant.

Furthermore, the presumption of non-responsibility should not be interpreted to mean that a Respondent is considered truthful, or that the Respondent's statements are credible or not credible, based on the Respondent's status as a Respondent.

According to OCR's Final Rule:

"Treating the Respondent as not responsible until the conclusion of the grievance process does not mean considering the Respondent truthful or credible; rather, that presumption buttresses the requirement that investigators and decision-makers serve impartially without prejudging the facts at issue.

Determinations of credibility, including of the Respondent, must be based on objective evaluation of relevant evidence – not on inferences based on party status.

Both the presumption of non-responsibility and this provision are designed to promote a fair process by which an impartial fact-finder determines whether the Respondent is responsible for perpetrating sexual harassment."

Article III. University's Obligations

A. University's Response/Non-Deliberately Indifferent Manner

The University shall respond promptly and effectively to all complaints of discrimination on the basis of sex, including Sexual Assault, Sexual Harassment, Dating Violence, Domestic Violence, Stalking and Retaliation or any allegation of a violation of this policy. The University shall take appropriate action to prevent, correct, and discipline any conduct that violates this policy.

This policy is intended to protect the rights and privacy of both the Complainant and the Respondent, as well as other involved individuals.

In accordance with the Department of Education's Final Rule Sections 106.44 (a), Sections 106.44 (b)(1)(2)(3) and Section 106.44 (c) protection of survivors of sexual violence is assured by requiring the University to respond promptly to complainants in a non-deliberately indifferent manner with or without the Complainant's participation in a grievance process, including offering supportive measures to Complainants, and requiring remedies for Complainants when Respondents are found responsible.

B. University's Internal Reporting Obligations

1. Officials with Authority

La Sierra University encourages staff members, faculty, students and third parties who have observed or been made aware of sexual harassment/sexual misconduct to report the incident to the Title IX Coordinator for investigation.

In following OCR's Final Rule Section 106.30, the University has designated employees to be considered "officials with authority" in regards to reporting instances of alleged Title IX violations to the Title IX Coordinator. OCR's Final Rule indicates that:

"For all recipients (the University), the Department guidance stated that a responsible employee was an employee who has the authority to take action to redress the harassment, or who has the duty to report to appropriate school officials sexual harassment or any other misconduct by students or employees, or an individual who a student could reasonably believe has this authority or responsibility."

Therefore, also in accordance with the University policy, the University designates the following employees as officials with authority in regard to Title IX. These employees must immediately report all known information about suspected prohibited conduct to the Title IX Office. This

includes the name of the parties and known details of the conduct. This duty applies no matter how the information is learned, including but not limited to, whether from direct report from an affected party, from social media, or from a concerned third party. The purpose of this requirement is to permit the University to take immediate and corrective action to address allegations of prohibited conduct.

Furthermore, in accordance with the University policy, the officials with authority in regards to our Title IX policy, who fail to make a timely report of prohibited conduct may be subject to disciplinary action that may include, but is not limited to, the sanctions listed in the Faculty and Staff handbook up to and including exclusion, expulsion, or dismissal from the University, and termination of employment, including revocation of tenure.

The following employees have been designated by the University to be officials with authority in regard to the University Title IX policy.

President of the University
Members of the President's Council
Provost
All Vice Presidents
Vice President for Student Affairs
Dean of Students
All employees working for the Dean of Students office
Director Student Activity and Leadership
Director International Students Office
Academic Advisors
Registrar/Records Director
All personnel at the Registrar's/Records office
Financial Services Director
All personnel at the Financial Services office
Human Resources Director
Human Resources Deputy Director
All employees working for the Human Resources office
Student Supervisors
Deans - all
Department Chairs – all
Faculty – all faculty including adjunct faculty
Program Directors
Supervisors
Director Criminal Justice Program
Athletic Director
Coaches
Residential Deans
Residence Assistants
Security Chief
Security office – all employees
Library – all employees

2. Title IX Coordinator

A report of sexual misconduct/discrimination based on sex in the form of Sexual Assault, Sexual Harassment, Dating Violence, Domestic Violence and or Stalking, or Retaliation among other alleged violations of this policy will be routed to the Title IX Office for investigation, regardless of where the report is initially directed. These will include complaints against students, faculty, staff, and third parties.

Contact: Title IX Coordinator

Location: 11498 Pierce St., Suite AA, Riverside, CA 92505

Phone: 951.785.2849

Email: titleIX@lasierra.edu

Website: <https://lasierra.edu/sexual-misconduct/>

Online Sexual Misconduct Reporting Form:

<https://lasierra.edu/sexual-misconduct/report/>

Website: <https://lasierra.edu/sexual-misconduct/>

3. Reporting to the Security Office

Reports of sexual misconduct made to Campus Safety and Security Patrol will automatically be reported to the Title IX Coordinator regardless of whether the individual who experienced the sexual misconduct chooses to press criminal charges or not.

Campus Safety and Security Patrol

Phone: 951.785.2222 (24 hours)

Riverside Police Department

Phone: 951.787.7911 (24 hours)

Corona Police Department

Phone: 951.736.2330 (24 hours)

C. External reporting obligations

1. Reporting to Government Agencies

All University employees are required to immediately report any suspected child abuse and neglect, including any and all incidents of sexual misconduct involving minors to Riverside County Child Protective Services at 1-800-442-4918 and local law enforcement. The source of the abuse need not be known. It is not the responsibility of anyone other than Child Protective Services and law enforcement to investigate suspected abuse. Employees are required to also report the suspected abuse to the Title IX Coordinator and Campus Safety.

FERPA: The outcome of a campus investigation is part of the educational record of the responding party, if they are a student, and the employee record if they are a faculty or staff member. The Family Educational Rights and Privacy Act protects the educational records of students from release. The University complies with FERPA regulations regarding the privacy of student records and observes the following exceptions to FERPA as mandated by the Clery Act:

2. Reporting to Law Enforcement

La Sierra University encourages individuals to report incidents of sexual misconduct to local law enforcement officials. Timely reporting to the police is an important factor in successful investigation and prosecution of crimes, including sexual violence crimes, and may lead to the arrest of an offender or aid in the investigation of other incidents.

An individual who has experienced sexual misconduct has the right to choose whether or not to file a police report. Filing a police report can result in the investigation of whether or not sexual violence or related crimes occurred and the prosecution of those crimes against a perpetrator. It is important to know that reporting the incident to police does not mean an individual is obligated to testify in court. The Riverside Police Department has officers who are specially trained to work with individuals reporting sexual violence.

La Sierra University seeks to cooperate with outside law enforcement, but it will not necessarily delay its investigation just because a police report has also been filed, as long as proceeding would not hinder legal process or proceedings.

3. Clery Act Reporting

The Clery Act permits the University to release publicly the name, nature of the violation and the sanction(s) for any student who is found in violation of a University policy that is a "crime of violence," including arson, burglary, robbery, criminal homicide, sex offenses, assault, intimidation (which may encompass stalking and/or bullying), hazing, destruction/damage/vandalism of property

and kidnapping/abduction. The University will release this information to the Complainant in any of these offenses regardless of the outcome.

The University will ensure that a Complainant's name and other identifying information is not disclosed, while still providing enough information for community members to make safety decisions in light of the potential danger.

4. Reporting to Children Protection Services

In accordance with California law, if a minor (a person under 18 years of age) is involved in any Title IX incident, involving violations covered by the Child Abuse and Neglect Reporting Act, the University will report the matter to Riverside County Child Protective Services at -800-442-4918 and/or local law enforcement.

5. Parental/Guardian Rights to Report

In its Final Rule, OCR indicated that:

“The (Education) Department recognizes that when a party is a minor or has a guardian appointed, the party’s parent or guardian may have the legal right to act on behalf of the party. For example, if the parent or guardian of a student has a legal right to act on behalf of a student, then the parent or guardian must be allowed to file the formal complaint on behalf of the student, although the student would be the “complainant” under the proposed regulation. In such a situation, the parent or guardian must be permitted to exercise the rights granted to the party under these final regulations, whether such rights involve requesting supportive measures or participating in a grievance process. Similarly, the parent or guardian must be permitted to accompany the student to meetings, interviews, and hearings during a grievance process to exercise rights on behalf of the student, while the student’s advisor of choice may be a different person from the parent or guardian. Whether or not a parent or guardian has the legal right to act on behalf of an individual would be determined by State law, court orders, child custody arrangements, or other sources granting legal rights to parents or guardians. Additionally, FERPA and its implementing regulations address the circumstances under which a parent or guardian is accorded certain rights granted thereunder, such as the opportunity to inspect and review a student’s education records as set forth at 34 CFR 99.10 and 99.12.¹⁶⁴⁹ Thus, FERPA generally would address a parent’s or guardian’s opportunity to inspect and review evidence obtained as part of the investigation that is directly related to the allegations raised in a formal complaint pursuant to § 106.45(b)(5)(vi).”

Therefore, the University will allow a parent or legal guardian of a minor who has a legal right to act on behalf of the minor, to exercise the rights granted to the party under OCR's Final Rule, which may include, but are not limited to:

- submit a formal complaint,
- request supportive measures,
- accompany the student to meetings.

The party's advisor of choice may be a different person from the parent or legal guardian.

D. Reporting of Alleged Violation

While the University strongly encourages reporting, members of the University community who believe they have experienced discrimination based on sex in form of Sexual Assault, Sexual Harassment, Dating Violence, Domestic Violence and/or Stalking, among other alleged violations to this policy, have the right to choose whether or not to report the incident to the University or law enforcement and pursue a sexual misconduct complaint. The information below provides information for individuals who wish to report incidents of sexual misconduct.

1. Actual Knowledge

In accordance with OCR's Final Rule Section 106.30 actual knowledge means notice of sexual harassment or allegations of sexual harassment to the University's Title IX Coordinator or any official of the University who has authority to institute corrective measures on behalf of the University.

2. Reporting that does not provide Actual Knowledge to the University according to OCR's Final Rule Section 106.45 (b)(2)

a. Confidential Reporting

In case a Complainant wishes to keep the details of the alleged violation to the University's Title IX policy confidential, the Complainant may contact the following resources on campus:

- Counseling Services
- Health providers
- Chaplain's office

The Complainant may also seek off-campus resources, including but not limited to:

- Local Rape Crisis Centers
- Local Rape Crisis Counselors
- Domestic Violence Support Groups
- Clergy/Chaplains
- Attorneys

The resources listed above (on-campus and off-campus) will maintain confidentiality, according to California law, except in extreme cases of immediacy of threat or danger or in case of a suspected situation that may involve the abuse of a minor.

b. Anonymous Reporting

Reports may also be made anonymously, by the Complainant or a third party, without identification of the Complainant. Anonymous reports may be preliminarily investigated to the extent possible, in order to assess the underlying allegation(s) and to determine if remedies can be provided or if the University should make a referral to the University's Security office among other offices.

However, anonymous complaints limit the University's ability to investigate, respond, and provide remedies, depending on what information is shared.

c. Third party reporting

In case an individual other than the Complainant, (a third party) may wish to submit a report to the Title IX office, the Title IX Coordinator will receive the report and, depending on the information provided, the Title IX Coordinator may seek to contact the Complainant in order to offer information to the Complainant on the provisions granted under the University's Title IX policy.

After reviewing the Title IX policy with the Title IX Coordinator, the Complainant will decide how they want to proceed.

d. Receipt of Multiple Reports Involving a Single Respondent when Complainants Wish to Remain Anonymous

OCR's Final Rule removed proposed Section 106.44 (b)(2) and therefore allows the University to retain discretion in determining whether or how to address multiple reports involving a single respondent in cases where complainants wish to remain anonymous or otherwise are unwilling to participate in a formal process. This means that the Title IX Coordinator retains discretion, but is not

required, to sign formal complaints after receiving multiple reports of potential sexual harassment against the same Respondent.

3. Report that Provides Actual Knowledge to the University

In accordance with OCR's Final Rule Section 106.44, the University will be considered to have actual knowledge of an alleged violation of its Title IX policy under the following situations:

- The complainant informs a University official with authority, as defined above, about an alleged violation of its Title IX policy.
- The complainant files a formal complaint reporting the alleged violation directly to the Title IX Coordinator.
- The Title IX Coordinator signs a formal complaint.

a. Report submitted by the Complainant to a University's Official with Authority

In accordance with this policy's Article III (B) (1) in the event a Complainant reports an alleged violation of the University's Title IX policy to a University's official with authority in regard to this Title IX policy, the grievance process will be initiated as follows:

- The official with authority will inform the Complainant that they are mandated to notify the Title IX Coordinator about the Complainant's allegations.
- The official with authority will report the information to the Title IX Coordinator immediately or as soon as possible.
- The official with authority will encourage the Complainant to contact the Title IX Coordinator and submit a report via email, in person, by phone or by accessing the University's website.
- The official with authority will encourage the Complainant to seek further assistance if necessary.
- As soon as the official with authority reports the allegation/s to The Title IX Coordinator, the Title IX Coordinator will contact the Complainant immediately or as soon as possible to initiate the grievance process.

b. Report submitted by the Complainant to the Title IX Coordinator

An individual who has experienced discrimination based on sex and thus in violation of this Title IX policy, (the Complainant) has the right to report the incident directly to the Title IX Coordinator.

In accordance with OCR's Final Rule Section 106.8, the University has designated the Title IX Coordinator to oversee complaints of sexual misconduct involving students, staff, faculty and third parties. The Title IX Coordinator is specially trained to work with individuals who report sexual misconduct and has knowledge about on-campus and off-campus resources, services, and options, including the availability of supportive measures and accommodations.

Any person may report sex discrimination, including sexual assault, sexual harassment, dating violence, domestic violence, stalking or any other alleged violation to this policy, (whether or not the person reporting is the person alleged to be the victim of conduct that could constitute sex discrimination or sexual harassment), in person, by mail, by telephone, or by electronic mail, or by accessing the University's website, or using the contact information listed above for the Title IX Coordinator, or by any other means that results in the Title IX Coordinator receiving the person's verbal or written report.

Such a report may be made at any time (including during non-business hours) by using the telephone number or electronic mail address, or by mail to the office address, listed above for the Title IX Coordinator.

E. Formal Complaint

The OCR defines the formal complaint as:

“the document that initiates a grievance process resolving sexual harassment allegations.”

Once the Title IX Coordinator is informed of the allegation, the Title IX Coordinator will contact the Complainant and offer information in order for the Complainant to submit a written formal complaint, if the Complainant so desires, and for the Complainant to receive supportive assistance as needed.

If the Complainant chooses to submit a written formal complaint, the Complainant will provide as much detailed information as possible about their allegation in the formal complaint including, but not limited to:

- Name of the Complainant
- Complainant's contact information
- Name of the alleged Respondent

- Respondent’s contact information
- Relationship, if any, between the parties
- Date(s), time(s) and location(s) of the alleged incident/s
- Name(s) and contact information of potential witness/witnesses
- A clear, concise statement of the facts that constitute the allegations, a description of the alleged conduct in violation of the Title IX policy, and sufficient information to identify any individuals or evidence that may provide relevant information during the course of any investigation

F. Instances where the Title IX Coordinator may sign a Complaint

In accordance with OCR’s Section 106.30:

“The final regulations retain the discretion of a Title IX Coordinator to sign a formal complaint initiating a grievance process against a Respondent, but the final regulations clarify that in such situations, the Title IX Coordinator is not a complainant or otherwise a party to the grievance process.”

Thus, according to the Final Rule, the University may utilize the grievance process when safety or similar concerns lead the University to conclude that a non-deliberately indifference response to actual knowledge of Title IX sexual harassment may require the University to investigate and potentially sanction a Respondent where the complainant does not wish to file a formal complaint.

G. Duty to Investigate

In accordance with OCR’s Final Rule Section 106.45, and with limited exceptions, where a Complainant has filed a formal written complaint, the University will be required to investigate the allegations and may not dismiss the complaint based on a summary conclusion that the allegations are frivolous, meritless, or otherwise unfounded.

The University will offer supportive measures to the Complainant even if the Complainant does not want to proceed with a formal investigation.

The University may, in its discretion, consolidate formal complaints where the allegations arise out of the same facts.

In case the University proceeds with a Formal Investigation, the Respondent will be informed by the Title IX Coordinator (more information is included in Article IV, Sections D and E).

The Respondent will not be contacted if the Complainant refuses to participate in a Formal Investigation and only requests supportive measures that do not involve the Respondent.

H. Supportive Measures, & Accommodations

In accordance with OCR's Final Rule supportive measures are prompt actions and/or services that may be implemented by the University in an individualized manner, designed to restore or preserve the Complainant's equal access to education without treating a Respondent as responsible until after a fair grievance process has concluded.

Supportive measures may be put in place once the University has actual knowledge of a Title IX complaint and may not be designed to be punitive, nor disciplinary and should be imposed avoiding burdening the Respondent.

According to OCR's Final Rule Section 106.45 (b)(1)(ix), supportive measures may be implemented regardless of whether a Complainant files a formal complaint, so that if a Complainant later decides to file a formal complaint, the Complainant has already been receiving supportive measures that help a Complainant maintain educational access.

The Title IX Coordinator will contact the Complainant (i.e., person who is alleged to be the victim of sexual harassment) to discuss supportive measures, consider the Complainant's wishes regarding supportive measures, inform the Complainant of the availability of supportive measures with or without the filing of a formal complaint, and explain to the Complainant the process for filing a formal complaint.

Complainants will be offered supportive measures whether or not a formal complaint has been filed or a determination regarding responsibility has been made.

These measures should be temporary in duration pending the results of a formal investigation. Depending on the final result of the investigation process it may be determined by the decision maker that the supportive measures will become permanent.

The Title IX Coordinator will assess supportive measures for both the Complainant and Respondent, and will be responsible for coordinating the provision of supportive measures through multiple University departments or offices. In determining and implementing such measures, the Title IX Coordinator will review all available information and seek to equitably apply such measures to both parties.

Supportive measures do not indicate that the University has reached any conclusion about allegations of a violation(s) of Title IX policy.

In situations where the Complainant wishes to remain anonymous and/or the Respondent is unknown it may not be possible to implement certain supportive measures; e.g., a no contact order would necessitate identification of the Respondent.

Supportive measures include, but are not limited to, the following:

- Imposition of a campus no-contact order
- Housing or workspace change
- Modify housing contracts
- Adjustment of course schedules or employment schedules
- Alternate learning arrangements
- Alternate course completion options
- Withdrawal from class without penalty
- Reschedule or retake exams without penalty
- Reschedule assignments
- Time off from class or work, or a voluntary leave of absence
- Transportation arrangements
- Safety planning
- Access to counseling
- Access to medical providers
- Limit access to facilities/events
- Modify schedule to separate parties
- Campus escort
- University imposed leave
- Any other remedy that can be tailored to specific individuals to reasonably achieve the goals of this policy.

The University will keep confidential any accommodations or supportive measures provided to the extent that maintaining such confidentiality would not impair the ability of the institution to provide the supportive measures or accommodations. The Title IX office will advise Campus Safety of any order it may need to enforce, such as those related to no-contact or no access.

The Title IX Coordinator will advise the relevant Administration or Faculty regarding academic accommodations. To seek a supportive measure, please contact the Title IX Coordinator at 951.785.2849 or titleix@lasierra.edu.

Violations of directives related to supportive measures or accommodations may lead to an investigation and disciplinary action which may include, but are not limited to, sanctions including exclusion, expulsion, or dismissal from the University, and termination of employment, including revocation of tenure.

I. Emergency Removal

According with OCR's Final Rule Section 106.44 (c) the University is allowed to implement the emergency removal of a Respondent prior to the conclusion of a grievance process (or even where no grievance process is pending), in order to protect the safety of the University's community where the University determines an immediate safety threat exist. The immediate threat must be assessed by the University's Security office in coordination with the Dean of Students office among other University's offices.

In accordance with OCR's Final Rule Section 106.44 (c) nothing precludes the University from removing a Respondent from the University's education program or activities on an emergency basis, provided that the University undertakes an individualized safety and risk analysis, determines that an immediate threat to the physical health or safety of any student or any other individual arising from the allegations of the violation of this policy justifies removal, and the University provides the Respondent with notice and an opportunity to challenge the decision immediately following the removal.

J. Appeal Process for Supportive Measures and/or Emergency Removal

In accordance with OCR's Final Rule Section 106 (b)(1)(viii), the Title IX Coordinator will inform the parties immediately if the University has determined it is appropriate to impose a supportive measure before the investigation process is completed and/or if the University has determined to proceed with the emergency removal of a Respondent.

1. Notice of Supportive Measure and/or Emergency Removal and Right to Appeal

The Title IX Coordinator will send a **Notice of Supportive Measure** and/or **Notice of Emergency Removal** via email or mail or any other suitable written form to the parties informing them of the following:

- That a supportive measure and/or an emergency removal has been granted.
- The conditions impacting the parties with regard to the measures imposed.
- The parties' right to appeal the decision.
- The process to appeal the decision.
- The name of the appeal officer,
- How to contact the appeal officer,
- How to submit an appeal.

2. Appointment of an Appeal Officer

In accordance with this policy, the Title IX Coordinator will appoint an appeal officer who will determine if the supportive measure should be kept in place, altered or dismissed. The appeal officer will also determine if the emergency removal was granted according to the risk assessment that was performed and if this is the appropriate measure to be imposed.

3. Submission of an Appeal of a Supportive Measure and/or Emergency Removal

The party/parties who wish/wishes to submit an appeal to a supportive measure and/or an emergency removal will contact the Title IX Coordinator informing of their intention to appeal.

The party/parties will contact the appeal's officer in writing via email, mail or any other written form and explain their objection/s to the supportive measure and/or emergency removal imposed.

The party/parties will send a copy of their appeal letter to the Title IX Coordinator.

The party/parties should submit their request as soon as possible. The party/parties will submit their request for an appeal to a supportive measure and/or emergency removal, no later than **two (2) days** of the date the party/parties received notification from the Title IX Coordinator of the supportive measure and/or emergency removal being appealed.

The Title IX Coordinator will inform the other party about the party's appeal and will grant the other party **two (2) days** to respond in writing via email or any other written form as appropriate.

The aforementioned **two (2) day** time limit refers to business days and may be amended at the University's discretion for reasonable cause.

4. Assessment of the Appeal Request

The appeal officer will evaluate the merit of the appeal(s) in accordance with this policy.

The appeal officer may request additional information from the party/parties and/or from the Title IX Coordinator regarding the appeal(s).

After all the pertinent information has been submitted to the appeal officer, the appeal officer will have **two (2) days** to make a decision about the appropriateness of the supportive measure that was granted and/or the appropriateness of an emergency removal.

The appeal officer will issue a **Notice of Appeal Decision** and inform the party/parties and the Title IX Coordinator about the decision and will explain the basis for the determination.

The **mentioned two (2) days** - time limit refers to business days and may be amended at the University's discretion for reasonable cause.

The appeal officer's decision will be considered final.

K.No Trespass Orders

La Sierra University is a private institution and as such has the power to determine who may be allowed to be present on or have access to any of its campus, including online learning platforms.

The University retains the right to determine if an individual may be ordered not to entered the University's campus, particularly if it is determined that the individual may pose a risk to the University's staff and/or student body.

L. Need to Know Basis

In accordance with OCR's Final Rule Section 106.45 (b)(1)(x), the University will limit the group of officials who will be informed, on a need to know basis, about the grievance that may be initiated after a formal complaint is received by the Title IX Coordinator. Among the offices that may be informed are the following: Provost office, Dean of Students, Security Office, and any other office that may be contacted in order to provide remedies, accommodations, supportive measures to the party/parties. These officials are also obligated to disclose the information on a need to know basis as well when required by law of policy.

M. Complainant Refuses to Proceed

In case a Complainant does not wish for their name to be disclosed, or does not wish for an investigation to take place, or does not want a formal resolution to be pursued, they may make such a request in writing to the Title IX Coordinator, who will evaluate that request in light of the duty to ensure the safety of the campus and to comply with federal law.

In accordance with OCR's Final Rule Section 106.45(b)(3)(ii)

“the autonomy of Complainants is reaffirmed and their ability to choose to remove themselves from the formal grievance process at any point, while granting recipients (the University) the discretion to proceed with an investigation against a Respondent even where the Complainant has requested that the formal complaint or allegation be withdrawn.”

According with OCR's Final Rule the University may choose to proceed without the Complainant's participation when the University has gathered evidence apart from the Complainant's statements and desires to reach a determination regarding the Respondent's responsibility.

Under this policy, the Title IX Coordinator has ultimate discretion over whether the University will proceed with an investigation when a Complainant refuses to do so.

It should be noted that the University's ability to pursue an investigation and/or provide remedies may be limited in cases in which the Complaint refuses to cooperate.

Nevertheless, the University may, in its discretion, offer supportive measures to the Complainant and may determine, at the request of both parties, to issue an informal resolution agreement.

N. False allegations/reports

OCR's Final Rule Section 106. (b)(1)(iv) allows for the University to impose sanctions under its Student Code of Conduct and under its Employee's Handbook to parties or witnesses who deliberately submit false and/or malicious accusations, as opposed to allegations which, even if erroneous, are made in good faith.

O. Amnesty for Sexual Misconduct Complaints

La Sierra University encourages reporting of sexual misconduct and seeks to remove barriers to an individual/group making a report. The University recognizes that individuals who have been engaging in sexual conduct outside marriage, drinking or using drugs at the time of the incident may be hesitant to make a report because of potential consequences for their own conduct. Individuals who report sexual misconduct that was directed at them or another person, either as a Complainant, Respondent or a third party witness, will not be subject to disciplinary action by the University for their own personal involvement in sexual activity, provided their own personal involvement in sexual activity does not violate this Title IX policy, and/or consumption of alcohol or drugs at or near the time of the incident provided that any such violations did not and do not place the health or safety of any other person at risk. However, they will be asked to sign a statement indicating their awareness of the University's policy regarding sexual activity outside marriage, and/or the consumption of alcohol and drugs.

P. Discretionary Dismissal of Formal Complaints

In accordance with OCR's Final Rule Section 106.45(b)(3)(ii), the University is allowed (but is not required) to dismiss formal complaints in three specified circumstances:

- Where a Complainant notifies the Title IX Coordinator in writing that the Complainant would like to withdraw the formal complaint or any allegations therein;
- Where the Respondent is no longer enrolled or employed by the University; or
- Where the Respondent is not a participant of the University's education program or activities.
- Where specific circumstances prevent the University from gathering evidence sufficient to reach a determination as to the allegations contained in the formal complaint.

A discretionary dismissal does not preclude the University from offering supportive measures to the Complainant including an Informal Resolution Process agreed upon by both parties.

Q. Mandatory Dismissal of Formal Complaints

In accordance with OCR's Final Rule Section 106.45 (b)(3)(i), the University will dismiss formal complaints in the following specified circumstances:

- Where the alleged violation does not meet the OCR's Final Rule's definition of sexual assault, sexual harassment, dating violence, domestic violence and/or stalking or any other alleged violation, as explained in Article II of this policy.
- Where the alleged violation did not occur in a University's education program or activity,
- Where the alleged violation did not occur against a person in the U.S.
- Where the Complainant was not a participant or attempting to participate of the University's education program or activities at the time the complaint was filed.

According to OCR's Final Rule, a mandatory dismissal does not preclude the University from investigating the allegations under another policy, including under the student conduct code or employee and/or faculty conduct codes, if both parties are participants of the University's education program or activity. Such dismissal is only for Title IX purposes and does not preclude the school from addressing the conduct in any manner the school deems appropriate.

In addition, a mandatory dismissal does not preclude the University from offering supportive measures to the Complainant if the Complainant is a participant of the University's education program or activities.

The University may also facilitate an Informal Resolution Process agreed upon by both parties where both parties are participants of the University's education program or activities.

R. Notice of Dismissal

In accordance with OCR's final regulations Section 106.45(b)(3)(iii) the University will promptly send the party/parties written notice when a formal complaint (or allegations therein) has been dismissed (whether under mandatory dismissal or discretionary dismissal), including the reason for the dismissal.

S. Right to Appeal Dismissal

The party/parties will have the right to appeal the Title IX Coordinator's decision to dismiss (whether a mandatory or discretionary dismissal) a formal complaint. The party/parties will have **two (2) days** to submit their appeal to the Title IX Coordinator in writing either via email, mail or any other written media.

According to OCR's Final Rule a party may submit an appeal on one or more the following bases:

- procedural irregularity that affected the outcome of the matter,
- newly discovered evidence that was not reasonably available at the time of the determination regarding dismissal was made that could affect the outcome of the matter, and/or
- The Title IX Coordinator, investigator or decision maker(s) had a conflict of interest or bias, for or against complainants or respondents generally or the individual Complainant or Respondent that affected the outcome of the matter.

The Title IX Coordinator will appoint an appeal officer who will review the party/parties appeal and will determine if the appeal should be granted or denied and will inform the party/parties in a prompt manner of their decision.

The aforementioned **two (2) day** time limit refers to business days and may be amended at the University's discretion for reasonable cause.

T. Informal Resolution Process

In accordance with OCR's Final Rule Section 106.45(b)(9), the University retains the discretion to offer and facilitate informal resolution processes, subject to each party voluntarily agreeing after giving informed, written consent.

Informal resolution may only be offered after a formal complaint has been filed, so that the parties understand what the grievance process entails and can decide whether to voluntarily attempt informal resolution as an alternative. The University will not require any person to participate in an informal resolution, and the University will never condition enrollment, employment, or enjoyment of any other right or privilege upon agreeing to an informal resolution.

Informal resolution is not an option to resolve allegations that an employee sexually harassed a student (Quid Pro Quo).

Informal resolution can be pursued at any time after a formal complaint is filed. In an informal resolution the parties may agree to submit to a No Contact Order and/or other supportive measures, which will not necessarily mean that the Respondent has admitted responsibility for the alleged prohibited conduct violation.

At any time prior to agreeing to an informal resolution, any party has the right to withdraw from the informal resolution process and resume the formal grievance process with respect to the formal complaint.

1. Respondent Admission of Responsibility during an Informal Resolution Process

In accordance with the Final Rule, the Respondent may admit responsibility for all or part of the alleged violation(s) at any point of the grievance process.

In the event the Respondent admits partial or full responsibility to the allegations while the parties were considering an informal resolution process, if both parties agree, the Respondent's admission will be included in the informal resolution agreement.

However, should either party withdraw from the informal resolution process, the University will pursue a formal investigation into the allegations, and the Respondent's previous admission of responsibility will not be used against the Respondent and the formal grievance process will proceed in accordance with this policy.

2. Restorative Justice and/or Mediation

According to OCR's Final Rule Section 106.45 (b)(9), "*Restorative Justice requires the Respondent to admit wrongdoing from the beginning and work to redress the harm caused, whereas mediation requires no admission of guilt, implicitly rests on the premise that both parties are partially at fault for the situation and must meet in the middle, and often entails debate over the facts.*"

Thus, in accordance with OCR's Final Rule, both parties may agree to mediation within an informal resolution process. In mediation, both parties may agree to actions that may remediate and/or prevent the recurrence of the behavior alleged in the formal complaint. These actions may include, but are not limited to, a mutual No Contact Order.

In case the Respondent admits to have violated this Title IX policy as alleged by the Complainant and admits their actions may have caused harm and/or detriment to the Complainant, the parties may agree to an informal resolution process based on a restorative justice model in which the Respondent will redress the harm caused to the Complainant.

As part of a restorative justice model, the parties may agree that the Respondent take specific actions to prevent future harm and remediate detriment that the Complainant may have endured. These actions may include, but are not limited to, a written apology to the Complainant, compensation for damages to property, payment for medical treatment and/or counseling, among other actions. The Respondent may also agree to undergo counseling or other type of therapy in order to prevent the Respondent from causing future harm. The parties may also agree, among other actions, that a No Contact Order be issued in favor of the Complainant.

The University may facilitate an informal resolution process only after both parties agree in writing to submit to an informal resolution process.

U. Cross-complaints

The Respondent may wish to file a cross-complaint against the Complainant alleging that the Complainant allegedly violated the University's Title IX policy affecting the rights of the Respondent.

In such cases, the University will allow the Respondent to file a formal complaint against the original Complainant, according to the process explained in this policy. The University will be obligated to ensure that the allegations submitted by the Respondent are made in good faith and were not filed for retaliatory purposes.

Cross-claims determined to have been reported in good faith and which comply with the requirements established under OCR's Final Rule, will be processed using the grievance procedure established by this policy. Depending on the timeliness of the Respondent's allegations, among other factors, the Title IX Coordinator may determine to investigate such allegations along with the underlying original allegations or under a separate grievance process.

If it is found that the cross-claims were not made in good faith, they will be considered retaliatory, and in violation of this policy.

Article IV. Investigation Process

As defined by this policy and by OCR's Final Rule Section 106.44 (b)(1), an investigation is a formal review of all the pertinent evidence related to an allegation of a violation of the University's Title IX policy.

An investigation process will be initiated once the Complainant submits a formal complaint in writing to the Title IX Coordinator and the Title IX Coordinator determines that the alleged violation falls under the prohibited conduct established in this policy (supra Article II, (A) (1-9) and is not subject to dismissal. (supra Article III, (F and G).

The Final Rule states the University must investigate the allegations in any formal complaint and send written notice to both parties (Complainants and Respondents) of the allegations upon receipt of a formal complaint.

The University will conduct investigations in a thorough, reliable, impartial, prompt, and fair manner. A formal investigation will involve interviews with both parties and witnesses; obtaining all available evidence; and identifying sources of expert information, as necessary.

It is expected that both the Complainant and the Respondent will participate in the investigation process in good faith, ethically, without any bias and with integrity and honesty.

It is also expected that both the Complainant and the Respondent will maintain discretion about the information related to the investigation to preserve the integrity of the investigation.

A. Formal Investigation Process Steps

According to this policy, the Investigation process will consist of the following steps:

- Submission of a formal complaint in writing by the Complainant.
- Initial Assessment.
- Notice of Dismissal.
- Notice of right to appeal the dismissal.
- Appeal decision in regards to dismissal.
- Notice of Allegations
- Appointment of a Title IX Investigator by the Title IX Coordinator.
- Investigation by the Title IX Investigator.
- Notice of Review of the Evidence: the Title IX Coordinator sends the evidence collected to the parties for their review. The parties may submit additional evidence to be considered.
- Final Investigative Report: the Title IX Investigator prepares a Final Investigative Report.

- Notice of Completion of the Title IX Final Report: the Title IX Coordinator sends a notice to the parties informing the parties that the Final Investigative Report has been completed and will share the Final Investigative Report with the parties and/or their advisors.
- Appointment of a Panel of Hearing Officers (decision makers) – the Title IX Coordinator appoints a panel of at least three (3) campus representatives who will determine if the Respondent is responsible or not for the alleged violation of this Title IX policy.
- Notice of Hearing: the Title IX Coordinator sends a notice to the parties informing them the date, time and place in which the live-hearing will be held and informing the parties of their right to be accompanied by an advisor who will conduct cross-examination of the other party and witnesses.
- Live Hearing: the parties participate in a live hearing in the presence of the panel members. The parties will have the right for their advisors to cross-examine the other party and witnesses.
- Notice of Finding: the panel members prepare a written report in which they inform of their decision about the alleged conduct in violation of this Title IX policy and will explain the basis for this decision. The Title IX Coordinator will send a Notice of Finding to the parties to inform the parties of the panel members’ decision and will send the panel members’ written report for the parties to review.
- Notice of the Right to Appeal: the Title IX Coordinator will send the parties a letter informing the parties of their right to appeal the panel members’ decision and will explain to the parties how they should proceed in case they want to submit an appeal.
- Appeal: in case the party/parties decide to proceed with an appeal, the Title IX Coordinator appoints an appeal officer who will make a determination on the appeal(s).
- Notice of Appeal Officer decision: the appeal officer will inform the parties in writing of the decision on the appeal that was submitted.

B. Initial Assessment

Upon receipt of a report of prohibited conduct, the Title IX office will contact the Complainant to request an intake meeting during which the Title IX Coordinator will explain to the Complainant their rights under this policy, reporting options and resources and referrals. In addition, a Complainant may contact the Title IX Coordinator and request a meeting.

At the intake meeting, the Title IX Coordinator will gather general details about the incident and determine if the report alleges a potential violation of this policy under OCR’s Title IX Final Rule Section 106.30 and if supportive measures are needed. The Complainant may bring documentation or evidence and a list of suggested witnesses to the meeting. The Complainant has the right to bring an advisor to the intake meeting. Both parties are permitted to have an advisor of their choosing present at all meetings referenced in this policy.

C. Request for Anonymity or for No Formal Action to Be Taken

A Complainant may request anonymity or that the University take no formal action. The Title IX Coordinator will analyze and balance the Complainant's request with the health and safety of the Complainant and University community and the need to advise the Respondent of the allegations.

In case the University decides to contact the Respondent, the University will provide the Respondent a reasonable opportunity to respond before any action is imposed. If the University can satisfy its obligations to the Complainant, the community and the Respondent without proceeding, the Title IX Coordinator has the discretion to do so.

If the Title IX Coordinator decides that the investigation must proceed, the Complainant will be notified, but will not be required to participate. In that event, the University's ability to investigate may be limited. The Title IX Coordinator shall evaluate and decide about questions of anonymity and whether to proceed with formal action within **two (2) days** (business days) of receiving notice of any such request.

D. Determination to Initiate a Formal Investigation Process

After a written complaint is filed and the Title IX Coordinator performs an initial assessment of the complaint in accordance with OCR's Final Rule Section 106.30, the Title IX Coordinator will determine if the University will dismiss the complaint or will proceed with a formal investigation process. If the Title IX Coordinator decides to proceed with a formal investigation process, the University will follow the grievance process steps as explained in this policy.

E. Initiation of the Grievance Process

1. Written Notice of Allegations

In following OCR's Final Rule Section 106.45 (b)(2) once the Title IX Coordinator has completed an initial assessment and has determined that the University will proceed with a formal investigation process, the Title IX Coordinator will send the parties a written **Notice of Allegations** in which the Title IX Coordinator will inform the parties of the following:

- The University has initiated a formal investigation into the allegations submitted by the Complainant.
- A written description of the alleged violation/s, including, among other information:
 - the parties involved,
 - the date and location of the reported violation/s,

- a description of the alleged conduct,
- a list of all policies allegedly violated,
- a description of the applicable procedures,
- a statement of the potential sanctions/responsive actions that could result
- a list of potential witnesses.

The Notice of Allegations will also inform the parties that:

- The parties have the right to select an advisor of their choice who may be, but need not be, an attorney.
- The Respondent is presumed not responsible for the alleged conduct.
- A determination regarding responsibility will be made at the conclusion of the grievance process.
- The burden of gathering evidence and the burden of proof remains on the University and not on the parties.
- The University will provide equal opportunity for the parties to present fact and expert witnesses and other inculpatory and exculpatory evidence.
- The parties have the right to provide the names of witnesses.
- The parties have the right to provide expert witness if they so desire.
- The party that wishes to provide an expert witness will be responsible for any fees or expenses associated with the expert's participation in the investigation process.
- That in the event a party knowingly provides false statements or knowingly submits false information during the grievance process, this behavior will be investigated under the Student Code of Conduct and/or under the Employee Handbook provisions.
- The University has appointed an investigator who will conduct the formal investigation.

The Title IX Coordinator will also inform the parties of the name and contact information of the investigator that has been appointed and who will be contacting the parties to interview them and gather information in relation to the investigation.

The Title IX Coordinator will also inform the parties of any supportive measure that may have been put in place and how to appeal any supportive measure that may have been granted.

2. Right to an advisor

In following OCR's Final Rule Section 106.45 (b)(5)(iv), the Title IX Coordinator will inform the Complainant and the Respondent that they both have the right to select an advisor of their choice to assist them in the grievance process. The advisor may be a family member, a friend or a person the party trusts. The advisor may, but is not required to be an attorney.

According to this policy, the parties may be accompanied by their advisor at all meetings, interviews and/or during the live hearing. Advisors are expected to assist the parties in preparing for these meetings. It is also expected that advisors act in good faith, ethically, without any bias and with integrity and honesty. Advisors will also inform if they have any conflict of interest that may forbid them to assist a party at any point during the investigation process. It is also expected that advisors maintain discretion about the information related to the investigation to preserve the integrity of the investigation.

The advisor is the only individual that the OCR's Final Rule allows to conduct cross-examination during a live hearing.

In addition, according to OCR's Final Rule, if a party does not bring an advisor to the live hearing, the University will provide, without fee or charge to the party, an advisor of the University's choice, to assist the party in question. The advisor may, but is not required to be an attorney. The University does not guarantee equal advisory rights which means that the advisor appointed by the University may be an University employee and the University is under no obligation to provide an attorney to either party or contract an attorney to perform this task.

Furthermore, according to OCR's Final Rule, a party may not dismiss an assigned advisor during the hearing, but if the party correctly asserts that the assigned advisor is refusing to conduct cross-examination on the party's behalf, then the University is obligated to provide the party an advisor to perform that function, whether that means counseling the assigned advisor to perform the role, or stopping the hearing to assign a different advisor.

3. Supportive Advisor

La Sierra University will allow that a party may be accompanied by a supportive advisor in addition to the party's advisor. This may be, among other supportive advisors, an advocacy organization's counselor or a family member. A supportive advisor will not engage in cross-examination and will only be allowed to accompany the party who wishes to have a supportive advisor. According to OCR's Final Rule Section 106.45 (b)(5)(iv) only the advisor of choice will be allowed to conduct the cross-examination of the other party during the live hearing on behalf of the party.

The Title IX Coordinator will determine if it would be appropriate for any party to be accompanied by a supportive advisor during the live hearing.

4. Interpreters and/or required support

In following the American with Disabilities Act (ADA), the Individuals with Disabilities in Education Act (IDEA), and Section 504 of the Rehabilitation Act of 1973, the University will allow that a party may be assisted by an interpreter, such as a sign language interpreter, or any other individual to provide required support to the party. This individual will accompany the party during interviews and other investigation steps including the live hearing. The party who wishes to be assisted by an interpreter or any other individual who will provide required support will make such arrangements and will inform the Title IX Coordinator about this situation.

The Title IX Coordinator may consult with the University's Associate Director for Disability Services in regard to this matter.

5. Translators

The University will allow that a party may be assisted by a translator, who will accompany the party during interviews and other investigation steps including the live-hearing. The party who wishes to be assisted by a language translator will make such arrangements and will inform the Title IX Coordinator about this situation. The University will not provide the services of a language translator.

F. Title IX Investigator

According to OCR's Final Rule Section 106.45 (b)(7)(i), once the Title IX Coordinator determines that a formal investigation should be initiated, the Title IX Coordinator will appoint a Title IX Investigator who will conduct the formal investigation. The Title IX Investigator will report to the Title IX Coordinator and will keep the Title IX Coordinator informed about the progress of the investigation.

According to OCR's Final Rule Section 106.45 (b)(7)(i), the Title IX Investigator will conduct an impartial investigation into the allegations presented by the Complainant.

The Title IX Investigator will perform the following duties, among other tasks, in order to complete the formal investigation:

- Contact the parties to inform the parties of the initiation of the investigation process.
- Make arrangements to interview both the Complainant and the Respondent separately.
- Provide both parties with **written notice** of the date, time, and location of their meeting with the Title IX Investigator.
- Send a copy of the written notice to the Title IX Coordinator.
- Interview both parties separately.

- Document the interview and send the parties a summary of their interview statements for the parties to review its accuracy.
- Collect evidence from the parties which may include, but will not be limited to, pictures, photographs, screen-shots, emails, text messages, recordings, etc.
- Inquire about potential witnesses that may offer additional information in regard to the investigation.
- Prepare a list of potential witnesses and collect their contact information.
- Contact and interview all witnesses provided by the parties.
- Interview additional witnesses in relation to the investigation.
- Prepare a summary of the witness/witnesses' interviews and send a summary to the witness/witnesses for them to review its accuracy.
- Conduct follow-up interviews as necessary.
- Keep the parties informed about the progress of the investigation and provide updates of the investigation.
- Prepare a summary of the evidence gathered.
- Prepare an Investigative Report for the consideration of the decision makers/panel hearing officers.
- Participate during the live-hearing.

It is expected that the Title IX Investigator will perform their duties in good faith, ethically, without any bias and with integrity and honesty. Title IX Investigators will also inform the Title IX Coordinator if they have any conflict of interest that may forbid them to complete the investigation at any point during the investigation process. It is also expected that Title IX Investigator will maintain discretion about the information related to the investigation to preserve the integrity of the investigation.

G. Evidence

The University will conduct investigations in a manner that guarantees the parties will have an equitable opportunity to present evidence in their favor, including inculpatory and exculpatory evidence, the right to suggest witnesses and questions, and to fully review and respond to all evidence.

Both the Complainant and the Respondent may present all evidence they consider to be relevant to the investigation and that pertains directly to the allegations under investigation. This may include expert witness statements and assessments. The party who wishes to provide expert testimony will be responsible for any fees associated with the expert's participation in the investigation process.

Evidence may include, but is not limited to, the parties' and witness/witnesses' statements, documents, reports, photographs, email messages, text messages, screen-shots, information gathered from online/media platforms including, but not limited to, Facebook, Messenger, Instagram, Twitter,

Tik-Tok, Snapchat and any other social media platforms and any other information in relation to the investigation.

The Title IX Investigator will determine which of the evidence presented by the parties and otherwise gathered is:

- **Relevant**

The Title IX Investigator will utilize and summarize the evidence considered to be relevant to the allegations in the investigation report.

- **Not considered**

The Title IX Investigator will list all evidence that was not considered as part of the investigation report. This may include evidence that was not corroborated, or was repetitive.

- **Not relevant**

The Title IX Investigator will list all evidence collected and/or submitted that had no relation to the allegations under investigation.

All evidence provided, gathered and offered will be disclosed to the parties.

This policy protects the privacy of a party's medical, psychological, and similar treatment records by stating that the University cannot access or use such records unless the University obtains the party's voluntary, written consent to do so.

H. Witness/witnesses

In accordance with OCR's Final Rule Section 106.45(b)(5)(ii) both the Complainant and the Respondent will have equal opportunity to present witnesses and other inculpatory/exculpatory evidence.

The parties will provide the Title IX Investigator with a list of potential witnesses. The Title IX Investigator will share this information with the Title IX Coordinator. The Title IX Investigator will make reasonable efforts to communicate with the witness/witnesses in order to arrange to meet with them in order to complete an investigative interview.

Witnesses will have the right to review the Title IX Investigator's notes for accuracy.

The Title IX Investigator will inform the witnesses that their statements will be considered as evidence in the grievance process and as such will be included as part of the investigation record.

The witnesses will be informed that they will be asked to participate in a live-hearing and will be asked questions during cross-examination.

It is expected that the witnesses will offer statements in good faith, ethically, without any bias and with integrity and honesty. It is also expected that witnesses will maintain discretion about the information related to the investigation to preserve the integrity of the investigation.

This policy protects the privacy of a witness' medical, psychological, and similar treatment records by stating that the University cannot access or use such records unless the University obtains the witness' voluntary, written consent to do so.

I. Notice of Evidence Review

The Title IX Investigator will promptly inform the Title IX Coordinator of the completion of the collection of the evidence related to the investigation including the interviews of the parties and witnesses.

The Title IX Investigator will provide the Title IX Coordinator with all the evidence collected during the investigation, including the parties' statements and the witness/witnesses' statements.

The Title IX Coordinator, in accordance with OCR's Section 106.45 (b)(5)(vi), will send the parties a written **Notice of Evidence Review** and will provide the parties, and if the party so chooses their advisor, an electronic format or hard copy of the following:

- A copy of the evidence submitted by the parties.
- A summary of the parties' statements.
- A copy of all the evidence collected during the investigation.
- A list of all the witnesses.
- A summary of the witness/witnesses' statements.

The evidence provided will include evidence upon which the University does not intend to rely in reaching a determination regarding the responsibility and inculpatory and exculpatory evidence whether obtained from a party or other source.

Depending on the content of the evidence, and in deference to the privacy of the Complainant, Respondent and/or witnesses, the University may determine to redact some of the information that will be sent out to the parties and their advisors. The University will make the information available for review in person. The University may also choose to send out sensitive information in redacted form and include a key to names and other information on a separate document.

The Title IX Coordinator will also inform the parties that:

- They have the right to review all the evidence submitted and collected during the investigation process.
- They have the right to submit additional evidence to be considered.

The parties, and, if they so choose, their advisors, will have ten (10) days (business days) to inspect, review and respond to the evidence.

In accordance with OCR's Final Rule Section 106.45 (b)(5)(vii), within the ten (10) day period the parties are granted to complete the review of the evidence, the parties will inform the Title IX Investigator:

- of any additional evidence the parties may wish to be included, and or
- of the parties' wish that additional witnesses be interviewed.

After the Title IX Investigator receives the parties' comments and suggestions in relation to the review of evidence, the Title IX Investigator will:

- Inform the Title IX Coordinator of any concerns and/or suggestions submitted by the parties.
- Conduct additional witness/witnesses' interviews in accordance with the parties' response.
- Conduct further evidence gathering as necessary.
- Provide the parties with updates if additional interviews and additional evidence is collected.

J. Investigative Report

Once the Evidence Review is completed by the parties and the Title IX Investigator has concluded any additional evidence gathering, the Title IX Investigator write a final investigation report summarizing the investigation, all parties and witness interviews, and addressing all evidence, copies of which are to be included in an appendix to the report.

Therefore, in the Investigative Report the Title IX Investigator will:

- include a summary of the allegations investigated,
- explain the investigation process that was followed,
- summarize the parties' and witness/witnesses' statements,
- list all evidence that was presented and/or gathered during the investigation process,

- explain which evidence was considered to be relevant to the investigation,
- detail which evidence was not considered as part of the investigative report.

K. Notice of Completion of the Title IX Final Report

In following OCR's Final Rule Section 106.45 (b)(5)(vii), once the Title IX Investigator completes the Final Investigative Report, the Investigator will send the report to the Title IX Coordinator.

The Title IX Coordinator will send a written **Notice of Completion of the Title IX Final Report** to the parties and will share the report (in electronic format or hard copy) with both the Complainant and the Respondent, and/or their advisors, if the parties so desire.

The parties will be granted a **ten (10) day period** (business days) to review the report. According to this policy, the parties have the right to submit comments, request changes, request that additional witnesses be interviewed and offer additional evidence in relation to the report.

The Title IX Investigator will conduct additional interviews and will consider additional evidence in accordance with the parties' review of the report and will amend the report accordingly. The amended report will be sent by the Title IX Coordinator to the parties, and to their advisors if the parties so desire.

The amended report is considered to be final.

L. Appointment of Hearing Officers/Decision Makers

OCR's Final Rule Section 106.45(b)(7) requires the University to appoint decision-maker(s) who will not be the same person(s) as the Title IX Coordinator or the investigator who will have the task of reaching a determination regarding responsibility by applying the preponderance of the evidence standard in the University's grievance process.

Thus, in accordance with OCR's Final Rule, the Title IX Coordinator will appoint three (3) community members as decision-makers who will oversee the live-hearing/cross-examination procedures. The Title IX Coordinator will appoint one of the three decision-makers as chair of the panel for live hearing/cross examination purposes. Community representatives include faculty and staff members from the University who have received training from the University to serve in the role of decision-makers.

It is expected that the decision-makers will perform their duties in good faith, ethically, without any bias and with integrity and honesty. The decision-makers will also inform the Title IX Coordinator if they have any conflict of interest that may forbid them to complete their role at any point during the hearing process. It is also expected that decision-makers will maintain discretion about the information related to the investigation to preserve the integrity of the investigation.

The Title IX Coordinator will issue a **Notice of Appointment of Decision-Maker(s)**, formally informing the decision makers about their appointment. This notice will also be sent out to both the Complainant and the Respondent, and to their advisors if the parties so desire.

This notification will also inform the parties that they have the right to request the removal of any decision-maker if there is actual evidence that they might be biased or not impartial towards the investigation.

The Title IX Coordinator will consider any concern expressed by any party and will determine the removal of an appointed decision-maker only based on evidence that the appointed decision-maker/s will not perform their duties impartially and without bias.

M. Decision-Makers' Role

The Decision-Makers will perform the following duties, among other tasks:

- Review the evidence.
- Review the Final Investigative Report.
- Oversee the live hearing
- During the live-hearing the decision-makers will be the only individuals who will determine by a majority vote if the question(s) asked by an advisor is appropriate.
- The decision-makers will be the only individuals who will determine by a majority vote if a party should or should not answer a question(s) asked by an advisor.
- Prepare a written final determination.

N. Pre-hearing

In accordance with OCR's Final Rule Section 106.45(b)(7), once the decision-makers have been appointed, the Title IX Coordinator will share with the decision-makers a list of the witness/witnesses, all the evidence that has been gathered during the investigation and the Final Investigative Report.

The decision-makers will have ten **(10) days (business days)** to review the list of witnesses, the evidence and the report.

O. Notice of Hearing

1. Parties

In accordance with OCR's Final Rule Section 106.45, the Title IX Coordinator will send a **Notice of Hearing** to the parties informing them the date, time and place in which the live hearing will be held.

The Notice of Hearing will also inform the parties about the following:

- Both the Complainant and the Respondent must participate in person and in the presence of the panel members in a live hearing.
- Alternate hearing options may be provided if a party/parties requests to participate in the live hearing via video-telephone arrangements or alternate arrangements.
- The live hearing, including the cross-examination of the parties, will be recorded by audio or audiovisual recording, or transcribed.
- Both the Complainant and the Respondent have the right to be accompanied by their advisor of choice (supra Article IV (E)).
- The Title IX Coordinator will determine if the party/parties may attend accompanied by a supportive advisor (supra Article IV (E) (3)).
- Only the parties' advisor will be allowed to engage in cross-examination of the other party and/or witnesses.
- If the party/parties cannot secure an advisor who will perform cross-examination, the University will provide the party/parties with an advisor.
- The panel members/decision-makers will oversee the live-hearing.
- Only the panel members/decision-makers will determine if a party or a witness will have to answer to a question(s) asked by the party's advisor.
- The panel members/decision-makers will inform if the party or a witness may proceed to answer to a question(s) asked by the opposing party's advisor.

2. Witnesses

In accordance with OCR's Final Rule Section 106.45, the Title IX Coordinator will send a **Notice of Hearing** to the witnesses informing them of the date, time and place in which the live-hearing will be held.

The Notice of Hearing to the witnesses will also inform the witnesses that:

- They must be present for the live hearing.
- The live hearing, including the cross-examination of the parties, will be recorded by audio or audiovisual recording, or transcribed.
- They will be subject to cross-examination by the parties' advisors.
- If they decide not to participate in the live-hearing their previous statements will not be considered by the panel members/decision-makers and thus disregarded as evidence.

P. Due Process/Live Hearing/Cross-examination

In its Final Rule Section 106.45 OCR determined that:

“The procedures contained in Section 106.45 of these final regulations best achieve the purposes of (1) effectuating Title IX’s non-discrimination mandate by ensuring fair, reliable outcomes viewed as legitimate in resolution of formal complaints of sexual harassment so that victims receive remedies, (2) reducing and preventing sex bias from affecting outcomes, and (3) ensuring that Title IX regulations are consistent with constitutional due process and fundamental fairness. The procedures in Section 106.45 are consistent with constitutional requirements and best serve the foregoing purposes, including the right for both parties to meaningfully be heard by advocating for their own narratives regarding the allegations in a formal complaint of sexual harassment.”

The Fifth (5th) Amendment and Fourteenth (14th) Amendment to the United States Constitution each contain a Due Process Clause that indicates that:

“No one can be deprived of life, liberty or property without due process of law.”

In the context of this policy, due process will be provided to both parties by the University providing due notice to the parties in regard to this policy and to the grievance process and by conducting live-hearings in order to:

- Provide the parties the right to cross-examine the other party and witnesses.
- Adjudicate if the Respondent violated the Title IX policy.
- must not rely on any statement of that party or witness in reaching a determination regarding responsibility; provided, however,
- that the decision-maker(s) cannot draw an inference about the determination regarding responsibility based solely on a party’s or witness’s absence from the live hearing or refusal to answer cross-examination or other questions.

Additionally, in accordance with OCR's Final Rule Section 106.45 (b) (6) (i), cross-examination will be conducted as follows:

- Parties will never be allowed to conduct cross-examination personally.
- Only the parties' advisors will be allowed to conduct cross-examination.
- Cross-examinations at live hearings will be conducted directly, orally, and in real time by the party's advisor of choice.
- The decision-maker(s) will permit each party's advisor to ask the other party and any witnesses all relevant questions and follow-up questions, including those challenging credibility.
- Only relevant cross-examination questions must be answered by the parties and witnesses.
- Only the decision-maker(s) will determine the relevance of a question asked during cross-examination.
- Before the Complainant, the Respondent, or a witness answers a cross-examination or other question, the decision-maker(s) must first determine whether the question is relevant and explain to the party's advisor asking the questions any decision to exclude a question as not relevant.
- If a party does not have an advisor present at the live hearing, the University will provide, without fee or charge to that party, an advisor of the school's choice who may be, but is not required to be, an attorney to conduct cross-examination on behalf of that party.
- Relevance will be determined by, but will not be limited to, repetitiousness, relation to the evidence presented and relation to the allegations under question.
- The decision-maker(s) will be trained on conducting live hearings and determining relevance (including the non-relevance of questions and evidence about a complainant's prior sexual history).
- The University will comply with obligations under applicable disability laws, and
- The University will grant accommodations, including short-term postponement of a hearing date due to a party's need to seek medical treatment for anxiety or depression, among other situations, that may be considered good cause for a limited extension of the University's designated reasonably prompt time frame for the grievance process.

The University will create an audio or audiovisual recording, or transcript, of any live hearing.

On August 24, 2021, the U.S. Department of Education Acting Assistant Secretary for Civil Rights Suzanne B. Goldberg issued a new mandate concerning the live-hearing process. This new mandate changed the implementation of the live hearing procedures in accordance to the decision issued by a federal court in Massachusetts in the case Victim Rights Law Center et al

v Cardona (Cardona case), No. 1:20-cv-11104, 2021 WL 3185743. This case vacated OCR's Final Rule Section 106.45(b)(6)(i), issued on May 6, 2020 and implemented on August 14, 2020.

This new directive has amended our Title IX policy as to the following:

A decision-maker at a postsecondary institution may now consider statements made by parties or witnesses that are otherwise permitted under the regulations, even if those parties or witnesses do not participate in cross-examination at the live hearing, in reaching a determination regarding responsibility in a Title IX grievance process.

Therefore, any party or 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. The Decision-maker(s) can only rely on whatever relevant evidence is available through the investigation and hearing in making the ultimate determination of responsibility. The Decision-maker(s) may not draw any inference solely from a party's or witness's absence from the hearing or refusal to submit to cross-examination or answer other questions.

Q. Alternate Live Hearing Options

OCR's Final Rule Section 106.45 establishes that alternate hearing options may be provided if a party/parties requests to participate in the live hearing via video-conferencing platforms like Zoom, Facetime, or similar media with technology able to make parties see and hear each other in real-time.

This means that the entire live hearing (and not only cross-examination) must occur with the parties in separate rooms, at the request of any party.

Furthermore, live hearings may be conducted with all parties physically present in the same geographic location or, at the University's discretion, any or all parties, witnesses, and other participants may appear at the live hearing virtually.

R. Rape Shield Protections

OCR's Final Rule Section 106.34 (b)(6), Section 106.45(b)(6) contains rape shield protections, providing that:

“Questions and evidence about the Complainant’s sexual predisposition or prior sexual behavior are not relevant, unless such questions and evidence about the Complainant’s prior sexual behavior are offered to prove that someone other than the Respondent committed the conduct alleged by the Complainant, or if the questions and evidence concern specific incidents of the Complainant’s prior sexual behavior with respect to the Respondent and are offered to prove consent.”

In the event that the Respondent's advisor asks the Complainant about the Complainant's sexual predisposition or prior sexual behavior, unless these questions are excepted as aforementioned, the

decision-makers will not allow the Complainant to respond and will dismiss the question(s) as not relevant.

Furthermore, as aforementioned Section 106.45(b)(1)(x) precludes the University from using information or evidence protected by a legally recognized privilege unless the holder of the privilege has waived the privilege.

In accordance with the Final Rule, privileged information may include, but is not limited, to attorney-client communications, doctor-patient communications, medical records, psychological and counseling records, rape counselor-client communications or victim advocate-client communications among other privileged communications.

S. Live Hearing Steps

Typically, the live hearing will have the following format:

- Introductions and Procedures – Title IX Coordinator
- Introduction of the Case – Title IX Investigator
- Panel Members question Title IX Investigator
- Complainant's advisor questions Investigator
- Respondent's advisor questions Investigator
- Follow-up questions for Investigator (in same order as before)
- Complainant's Statement and Response to Questions
- Panel Members question Complainant
- Respondent's advisor questions Complainant
- Respondent's Statement and Response to Questions
- Panel Members question Respondent
- Complainant's advisor questions Respondent
- Witness Statements and Response to Questions (repeat for each witness)
- Panel Members question Witness/Witnesses
- Complainant's advisor questions Witness/Witnesses
- Respondent's advisor questions Witness/Witnesses
- Follow-up questions for Witness (in previous order)
- Complainant Closing Statement and Last Questions
- Respondent Closing Statement and Last Questions

These steps are not to be strictly followed in all of the cases as long as both parties mutually agree to variations to this format. For example, both parties may agree that a witness does not submit a statement but only answer questions.

Also, after a party's advisor asks a question to either the other party or a witness, the panel members will have to determine if the question is relevant at the time of the live-hearing and if the party/witness shall proceed to respond.

T. Admission of Responsibility by the Respondent During Grievance Process

According to OCR's Final Rule Section 106.45 (b)(9):

“The Department of Education acknowledges that generally a critical feature of restorative justice is that the respondent admits responsibility at the start of the process.”

However, in accordance with the Final Rule:

“This admission of responsibility does not necessarily mean the recipient (the University) has also reached that determination, and participation in restorative justice as a type of informal resolution must be a voluntary decision on the part of the Respondent.

In case the Respondent admits to the violation(s) alleged in the formal complaint while the grievance process is already in progress, the University will document the Respondent's admission as part of the investigation file.

At the conclusion of the grievance process, all evidence collected, including the investigation report, the parties' statements, including the Respondent's admission, and the witnesses' statements will be referred to the decision maker(s) who will make a final determination on the matter.

If, after the grievance process is completed, the decision maker(s) determine that the Respondent violated the University's Title IX policy, the decision maker(s) will also determine which appropriate sanction(s) should be imposed and which appropriate actions, if any, should be taken.

Moreover, if the Respondent indicates that, due to their admission of responsibility, they do not want to engage in a live hearing and do not want to enforce their right to cross-examine the Complainant, and if both parties agree, the University will accept the Respondent's admission.

However, the University will still convene a decision-maker(s) meeting in order for the decision-maker(s) to determine which appropriate sanction(s) should be imposed and what actions, if any, should be taken based on the evidence submitted.

U. Decision-Maker's Determination Regarding Responsibility

In accordance with the Final Rule Section 106.30, once the live hearing has concluded the decision-maker(s) must issue a written determination regarding responsibility which will include the following:

- Identification of the allegations potentially constituting sexual harassment as defined in Section 106.30 of the Final Rule,
- A description of the procedural steps taken from the receipt of the formal complaint through the determination, including any notifications to the parties, interviews with parties and witnesses, site visits, methods used to gather other evidence, and hearings held,
- Findings of fact supporting the determination,
- Conclusions regarding the application of the University's code of conduct to the facts,
- A statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility, and any disciplinary sanctions the University imposes on the Respondent,
- and whether remedies designed to restore or preserve equal access to the University's education program or activity will be provided by the University to the Complainant.

The written determination regarding responsibility will also include:

- The University's procedures and permissible bases for the Complainant and Respondent to appeal.

The University will provide the written determination to the parties simultaneously.

The decision maker(s) will also send the written determination to the Title IX Coordinator.

V. Notice of Finding

The Title IX Coordinator will also send a **Notice of Finding and Right to Appeal** to the parties to inform the parties that they have three (3) days (business days) to submit an appeal to the Title IX Office in regard to the decision maker(s) determination. This period can be extended at the University's discretion.

W. Appeal Process

In case the party/parties decide to proceed with an appeal to the panel members/decision-makers' report, the Title IX Coordinator will appoint an appeal's officer who will determine if an appeal should be granted or not.

In following OCR's Final Rule Section 106.45(b)(8) a party may submit an appeal about the determinations regarding responsibility on one or more of the following bases:

Therefore, the University will offer appeals on at least the three following bases:

- Procedural irregularity that affected the outcome of the matter,
- Newly discovered evidence that was not reasonably available at the time the determination of responsibility was made that could affect the outcome of the matter,
- The Title IX Coordinator, investigator(s), or decision-maker(s) had a conflict of interest or bias for or against complainants or respondents generally or the individual Complainant or Respondent that affected the outcome.

The University will grant deference to the decision-makers' determination and therefore, the party/parties that do appeal the decision-makers' determination will have the burden of proof in regards to the appeal.

X. Notice of Appeal Officer's decision

The appeal officer will review the party/parties' appeal and make a determination based on the arguments presented by the party/parties'. The University will grant the appeal officer a reasonable time to review the appeal and offer a decision. Typically, this period will be **ten (10) days**, (business days) but can be extended at the University's discretion depending on the circumstances.

The appeal officer will either accept or deny the appeal request.

In case the appeal is accepted, once the appeal officer concludes the review, they will write a Notice of Appeal Officer's decision to the parties, and will also send the notice to the Title IX Coordinator, in which the appeal officer will explain the basis for the decision.

The Notice will also inform if:

- The decision-makers' decision stands.
- The decision should be remanded.
- The sanction imposed by the decision-makers should be adjusted.

In case the appeal officer finds that the decision should be remanded, the University may:

- Order a new investigation, among other situations, in case of bias or conflict of interest.
- Order a new hearing to gather further information to make a decision.
- Order a Sanctions-Only hearing in order to re-address the sanctions that were originally imposed.

In case the appeal is not accepted, the appeal officer will send a Notice of Appeal not accepted to both the Complainant and the Respondent, and the Title IX Coordinator, informing that the appeal was not accepted and explain why the appeal was not considered. In this case, the determination taken by the decision-makers will stand.

Y. Final Determination

In accordance with OCR's Final Rule Section 106.45 (b)(7) a "final" determination means:

"The written determination containing the information required in § 106.45(b)(7), as modified by any appeal by the parties."

Therefore, in accordance with the Education Department's mandate and to this policy, the determination regarding responsibility becomes final either on the date that the University provides the parties with the written determination of the result of the appeal, if an appeal is filed, or if an appeal is not filed, the date on which an appeal would no longer be considered timely.

The Title IX Coordinator is responsible for effective implementation of any remedies.

Z. Recordation of the Investigation Finding

Once the decision becomes final, the University will keep the following record:

- The University will keep the Title IX investigation file for a minimum of seven (7) years. The file will include the evidence collected, the Title IX Investigator's report, the decision-makers' written determination, including information of the sanctions, if any, that were imposed.
- In case the Respondent is a student and the decision-makers' determination is that they are either suspended or expelled from the University, the Title IX Coordinator will inform the Registrar's/Records office in writing and a notation may be included in the Respondent's transcript/academic record.
- The notation recorded will inform that the Respondent was suspended or expelled due to disciplinary reasons.
- In case the Respondent is a staff member or a faculty member, and the decision-makers' determination is that they be dismissed or terminated, the Title IX Coordinator will inform the Human Resources Director for further proceedings.
- If the Respondent is a staff member or faculty member, the Human Resources Director, jointly with the Title IX Coordinator, the University President and/or the University Provost will determine any other further actions in regards to the Respondent's employee's file.

AA. Request for Removal of Notation in the Academic Record

In case the Respondent is a student, they may request the notation be removed from their transcript/academic record after a minimum of a **two (2) years** following a determination of responsibility of violating the Title IX policy.

A request for removal of the notation must be submitted in writing to both the Title IX Coordinator and the University's President or the University's Provost.

In their request the Respondent must inform the University about the following:

- They have complied with further counseling, community service, or any other extracurricular activities that resulted in the benefit of the community, and/or
- They have not engaged in any other violation since the determination of responsibility in the Title IX Formal Investigation, and/or
- They have pursued further studies and have maintained a satisfactory grade point average, and/or
- They have held employment and have maintained a satisfactory employee record, and/or
- They can supply letters from members of the community who recommend that the notation be removed from their transcript/academic record, and/or

- They can supply any other relevant information that may be considered by the University that may be sufficient to support that the University order the removal of the notation from the Respondent's transcript/academic record.

The Title IX Coordinator and the University President or the University Provost will consider the Respondent's request and will determine jointly if the Respondent's request should be granted or denied.

Once the University determines if the Respondent's request should be granted or denied, the University will inform the Respondent in writing:

- Of the decision,
- If there is any additional information that the Respondent may submit to support their request,
- If the request is not granted, that the Respondent will be allowed to submit a second request of removal of the notation after **two (2) additional years**.

The University is in no way obligated to remove the notation from the Respondent's transcript/academic record, but will consider the request on its merits.

BB. Records on File

In accordance with the Final Rule Section 106.45(b)(10) the University will retain records of a sexual harassment investigation for at least seven years even if the University grants a request for removal of notation in the academic record.

CC. Sanctions, Corrective Actions, and Remedies

Violations of the policy may result in sanctions and corrective actions, which can include, but are not limited to the following:

- Verbal warning
- Written warning
- Campus access restrictions
- Advisory letter
- Monitoring
- Disciplinary hold on academic and / or financial records
- Performance improvement / management process
- Required counseling or therapy
- Loss of oversight, teaching or supervisory responsibility
- Disciplinary probation
- Degree revocation
- Demotion
- Loss of pay increase
- Transfer (employment)
- Restitution
- Suspension with pay
- Suspension without pay
- Censure
- Removal from campus housing
- Revocation of admission or degree
- Required training or education
- No trespass order issued by RPD

- Revocation of offer (employment or admission)
- Disciplinary suspension (with respect to campus locations)
- No contact directive (with respect to an individual)
- Loss of privileges
- Exclusions
- Expulsion
- Termination of employment
- Revocation of tenure
- Termination of contract (for contractor)

The University may assign other sanctions as appropriate in each particular situation. More than one sanction may be imposed for a single violation. Suspension, expulsion and withdrawal pending disciplinary action are permanently noted on a student's transcripts.

Sanctions and corrective actions will be imposed consistent with this policy. In addition, the University may take steps to remediate the effects of a violation on victims and others.

Following an investigation, the University may extend supportive measures and accommodations, and/or take other supportive measures to eliminate any limitation of access to education, employment or activities caused by the sexual harassment and/or misconduct, prevent the recurrence of any sexual harassment and/or sexual misconduct, and remedy the effects of the sexual harassment and/or sexual misconduct on the Complainant and the University community. Such measures may include, but are not limited to, the supportive measures as well as counseling, training, and other preventative measures.

DD. Educational Training, Awareness, and Prevention Programs

The University offers a variety of training, awareness and prevention programs to help prevent sexual harassment and/or sexual misconduct within the La Sierra University community. The University strives to ensure that such programming is culturally relevant; inclusive of diverse communities and identities; sustainable; responsive to community needs; informed by research or assessed for value, effectiveness, or outcome; and considers environmental risk and protective factors as they occur on the individual, relationship, institutional, community, and societal levels.

EE. Definitions

Actual knowledge – in accordance with OCR’s Final Rule Section 106.30 as actual knowledge of sexual harassment or allegations of sexual harassment to the University’s Title IX Coordinator or any official of the University who has authority to institute corrective measures on behalf of the University.

Advisor – the Complainant and the Respondent have the right to select an advisor of their choice to assist them in the grievance process. The advisor may be a family member, a friend or a person who the party trusts. It may be an attorney. The advisor is the only individual that OCR’s Final Rule allows to conduct cross-examination during a live hearing.

Affirmative Consent – as explained (supra) in Article II (C) (1), (2), (3), (4) and (5).

Burden of Proof – as explained (supra) in Article II (F)

Complainant – an individual who is alleged to have been discriminated against on the basis of sex and therefore is alleged to be the victim of conduct that could constitute sexual harassment and thus a violation of this policy.

Consensual Relationship - means a sexual or romantic relationship between two persons who voluntarily enter into such a relationship.

Coordinator - the person appointed by the University to coordinate the University’s compliance with this policy.

Cross-complaint – an allegation filed by the Respondent where the Respondent alleges that in fact it was the original Complainant who violated this Title IX policy .

Cross-examination – in this policy means the right for a party to have an advisor of the party’s choice question the opposing party and witnesses to this proceedings.

Dating Violence – as explained (supra) in Article II (A) (3)

Decision Maker(s) - decision-maker(s) are the person(s) appointed by the University to oversee the live-hearing process, and ultimately determine if a violation of the Title IX policy has occurred or not and impose a sanction if the Respondent is found to be in violation of the Title IX policy. During the live hearing the decision maker(s) will also determine the pertinence of questions during cross-examination of the parties. Decision maker(s) are required to be free from conflicts of interest and bias and trained to serve impartially without prejudging the facts at issue.

Department of Education – the federal agency with primary functions are to establish policy, administer and coordinate most federal assistance for education, collect data on United States schools, and enforce federal educational laws regarding privacy and civil rights.

Domestic Violence – as explained (supra) in Article II (A) (4)

Due Process – the legal requirement that the state must respect all legal rights that are owed to a person in order to guarantee fairness. In this policy due process means, but is not limited to, that the University will ensure the parties their right to cross-examine the opposing party and witnesses to the proceedings; present evidence in their favor and review all evidence presented as part of the investigation.

Education program or activities - includes locations, events, employment, education or circumstances over which the University exercises substantial control over the Complainant and the Respondent and the context in which the sexual harassment allegedly occurred, and also includes any building owned or controlled by a student organization that is officially recognized by the University.

Emergency Removal – as explained (infra) in Article II (I) (10)

Employee - any person employed by La Sierra University at any of its facilities or campuses, whether it is a student-employee; adjunct instructor; tenured or non-tenured faculty member or staff member; or works part time, full time; holds a permanent position or has been hired on a temporary basis; under contract or is an at will employee over which the University has control, is a casual, per diem or seasonal employee or on probation or is on a leave of absence from the University.

Final Rule – mandate in regard to the enforcement and implementation of Title IX in schools and higher education that was released by the Department of Education’s Office of Civil Rights on May 6, 2020.

Hearing – in this policy means the formal live-hearing conducted after the Title IX investigation process has been completed. During the hearing the parties will have the opportunity to cross-examine the opposing party and the witnesses that have been interviewed as part of the grievance process.

Investigation - a formal review of all the pertinent evidence related to an allegation of a violation of the University’s Title IX policy. The Title IX Coordinator is the person appointed by the University to determine if a formal investigation is going to be pursued.

Investigation Report – the final written document that the Title IX investigator prepares for the consideration of the decision maker/s in which the investigator details the allegations investigated, the investigation process and lists all evidence that was presented and/or considered during the investigation process.

Investigator - the person appointed by the University to investigate a Title IX complaint.

Marital Status - an individual’s state of marriage, non-marriage, divorce or dissolution, separation, widowhood, annulment or other marital state.

OCR – the Office of Civil Rights, under the Department of Education which oversees, among other duties, the implementation of the Title IX of the Education Amendments Act of 1972.

Official with Authority - an employee of the University who is mandated to report any allegation of violation of the University’s Title IX policy directly to the Title IX Coordinator.

Policy – La Sierra University Title IX policy in accordance with OCR’s Final Rule released on May 6, 2020.

Preponderance of the Evidence – as explained (supra) in Article II (E)

Presumption of Non-responsibility – as explained (supra) in Article II (G)

Reporter - a person who reports an alleged violation of the University’s Title IX policy. A reporter, may or may not be the Complainant. For the purpose of this policy, a reporter may request anonymity.

Respondent – an individual who allegedly has violated this policy.

Sexual Assault – as explained (supra) in Article II (A) (2)

Sexual Exploitation – as explained (supra) in Article II (C) (4)

Sexual Harassment – as explained (supra) in Article II (A) (1)

Stalking – as explained (supra) in Section II (A) (5)

Student - an individual that has been admitted to and intends to attend La Sierra University; any person that has registered, has enrolled, attends La Sierra University and takes a course or courses at the University, whether the person is a part time or full time student; audits a class; has enrolled and eventually withdrew from a course or courses; is a transfer student from another institution or intends to transfer to another institution; participates in missionary activities as part of their curriculum; has failed a class; is taking summer classes; attends undergraduate, graduate or extended education; or is on a leave of absence from the University; or a La Sierra University graduate awaiting a degree; is on interim suspension; or withdraws from the University pending a disciplinary matter, including a Title IX investigation.

Supportive Measures – as explained (infra) in Article ((I) (9)

University – in this policy means La Sierra University including its main campus located in Riverside, California as well as all of its campus, and online, remote and virtual learning.