

## **Sexual Harassment and Misconduct Policy**

Lincoln Memorial University is committed to upholding the principals of Abraham Lincoln's life: a dedication to individual liberty, responsibility and improvement, a respect for citizenship, and recognition of the intrinsic value of high moral and ethical standards. These principals form the basis for LMU's Sexual Harassment and Misconduct policy and provide the foundation for discipline for violations of this policy.

Freedom and liberty from unwanted, unwelcome, or coerced sexual contact is the right of every member of the campus community. Individual responsibility and recognition of the intrinsic value of high moral and ethical standards are guiding principles for every member of the campus community to foster an atmosphere that does not tolerate unwanted sexual contact or sexual violence.

LMU does not tolerate sexual misconduct or other sexual violence committed on or off campus by or against any sector of the campus community. LMU responds to and investigates any report of sexual misconduct and cooperates with investigations conducted by law enforcement agencies. LMU will investigate all allegations of sexual misconduct, even if the appropriate criminal justice authorities choose not to prosecute. Sexual misconduct that is in violation of University policy, even if such conduct does not violate criminal law, will lead to disciplinary action, up to and including dismissal from the University.

Persons of any gender, sexual orientation, or gender identity, can be the victim or perpetrator of sexual misconduct or other sexual violence. All members of the campus community have the right to be free from sexual misconduct or other sexual violence regardless of gender, sexual orientation, or gender identity. The University encourages all members of the University community to be aware of both the consequences of sexual misconduct and the options available to victims. The University urges victims to seek assistance using appropriate resources.

### **What constitutes Sexual Misconduct?**

Sexual misconduct incorporates a range of behaviors including sexual assault, sexual harassment, intimate partner (domestic) violence, stalking, voyeurism, and any other conduct of a sexual nature that is nonconsensual, or has the purpose or effect of threatening, intimidating, or coercing another person.

Making photographs, video, or other visual or auditory recordings of a sexual nature of another person without express permission of all parties being recorded, constitutes sexual misconduct, even if the activity documented was consensual. Similarly, sharing such recordings or other sexually harassing electronic communications without consent of all parties is a form of sexual misconduct.

**Sexual Assault** is sexual contact without another person's consent by force, intimidation or through the use of a victim's mental capacity, a state of intoxication, physical inability, physical helplessness (i.e. due to alcohol, drugs, unconsciousness, etc.), or the victim is under the age of 13. It includes, but is not limited to, rape (sexual penetration of any body orifice without consent), attempted rape, forcible sodomy, or intentional touching of a person's intimate parts (genitals, groin, breast or buttocks).

**Stalking** is unwanted or obsessive attention by an individual towards another person that instills fear in the person who is the subject of the attention. Stalking behaviors may include persistent patterns of leaving or sending the other person unwanted items or presents, following or laying wait for the other person, damaging or threatening to damage the other person's property, defaming the other person or harassing the other person via social media, email or text messaging.

**Domestic Violence** is abusive behavior in any relationship that is used by one partner to harm, gain or maintain power and control over another intimate partner. Domestic violence can be physical, sexual, emotional, economic, or psychological actions or threats of actions that influence another person.

**Dating Violence** is abusive behavior in a dating relationship that is used by one partner to harm, gain or maintain power and control over another person. Dating violence can be verbal, physical, sexual, emotional, or psychological actions or threats of actions that influence another person.

**Sexual harassment** is defined as unwelcome sexual advances, requests for sexual favors or other verbal or physical contact of a sexual nature. Sexual harassment refers to behavior that is not welcome, is personally offensive, is debilitating to morale and interferes with academic or work effectiveness. It frequently (though not necessarily) occurs as an abuse of authority where the parties are in an unequal power relationship.

This conduct constitutes unlawful sexual harassment when:

1. Submission to this conduct is explicitly or implicitly made a term or condition of an individual's employment or academic success;
2. Submission to or rejection of this conduct is used as the basis for an employment or academic decision; or
3. Such conduct has the purpose or effect of unreasonably interfering with an individual's work or academic performance or creating an intimidating, hostile or offensive work environment.

Sexual harassment may take different forms. One specific form is the demand for sexual favors. Other forms of harassment can include:

Verbal: Sexual innuendoes, suggestive comments, jokes of a sexual nature, sexual propositions, implied or explicit threats, and offensive or obscene language.

Non-Verbal: Sexually suggestive objects, graffiti, cartoons, posters, calendars, writings, pictures, graphic commentaries, suggestive or insulting sounds, leering, whistling, stalking, staring and making obscene gestures.

While sexual harassment may typically involve members of the opposite sex, it also includes "same sex harassment," (i.e., males harassing males and females harassing females because of the recipient's sex).

Sexual harassment may be subtle or overt. Some behavior that may be appropriate in a social setting is not appropriate in the workplace or in an academic environment. Regardless of the form it takes (verbal, non-verbal or physical), sexual harassment is inherently destructive, insulting and demeaning to the recipient and will not be tolerated at LMU.

In determining whether any alleged behavior constitutes a violation of LMU's Sexual Harassment and Misconduct policy, consideration will be given to the record of the incident as a whole and the totality of the circumstances, including the context in which the incidents occurred.

## **Other Discriminatory Harassment**

Other discriminatory harassment is verbal or physical conduct that denigrates or shows hostility or aversion toward an individual because of age, color, creed, disability, ethnic/national origin, gender, military status, pregnancy, race, religion, genetic information, sexual orientation, or other protected discriminatory factor, when such conduct (1) has the purpose or effect of creating an intimidating, hostile or offensive work or academic environment; (2) has the purpose or effect of unreasonably interfering with an individual's work or academic performance; or (3) otherwise adversely affects an individual's employment or academic opportunities.

Examples of discriminatory harassing conduct include, but are not limited to, using epithets, slurs, negative stereotyping, threatening, intimidating or hostile acts or words, or showing, exhibiting or creating written or graphic material that denigrates or shows aversion or hostility toward an individual or group because of age, color, creed, disability, ethnic/national origin, gender, military status, pregnancy, race, religion, genetic information, sexual orientation, or other protected discriminatory factor.

**All students, faculty and staff must avoid any action or conduct that might be viewed as discriminatory harassment (whether sexual or other). Approval of, participation in or acquiescence to conduct constituting such harassment is a violation of University policy. Note: Individuals may be disciplined for behavior which is not so severe as to independently constitute unlawful harassment (whether sexual or other), but which is nonetheless offensive.**

## **What constitutes consent?**

LMU defines consent as the act of willingly agreeing to engage in specific sexual behavior. Consent requires that every party have the choice and ability to say "yes" or "no" to such behavior, conduct or action.

- A person whose capacity is diminished because of drugs or alcohol may not be able to consent
- A person who is under the age of consent, as defined by state law, cannot consent
- A person with mental defect may not be able to consent
- Silence or non-communication cannot be interpreted as consent
- Consent given in response to coercion, violence, or threat of violence is not consent
- A current or prior dating or sexual relationship does not constitute consent

At any point during a sexual encounter, a party may withdraw consent. After consent is withdrawn, further sexual contact is sexual assault.

## **Title IX Coordinator**

LMU employs a Title IX Coordinator responsible for:

- Providing notification and education of Title IX rights and responsibilities
- Consultation, investigation, and disposition of all inquiries and complaints of alleged discrimination, harassment and/or sexual misconduct
- Providing victim services as necessary
- Providing institutional monitoring and compliance assurance

The Title IX Coordinator is assisted by Deputy Title IX Coordinators including: the Dean of Students and the Associate Dean of Students (for student issues), the Director of Human Resources (for employee issues) and the LMU Sexual Misconduct Response Team (SMRT).

### **Complaint and Reporting Procedure**

Individuals who experience, witness or are otherwise informed that an incident of sexual misconduct has occurred should, with the victim's permission, contact local law enforcement, LMU Campus Police, an LMU security officer, or a University official as soon as possible. Prompt reporting is important in order to preserve available evidence, to obtain necessary treatment and support for the victim, and to prevent further harm to others. *If possible, a victim of sexual assault should not shower or change clothes before receiving medical treatment.* Complaints of any kind of sexual misconduct will be investigated with regard for the confidentiality and protection of all persons involved in the case.

All complaints or reports should be directed to the Title IX Coordinator. Complaints may also be directed to the Director of Human Resources, the Dean of Students or the Associate Dean of Students.

Title IX Coordinator  
(423) 869-7103 or [titleixcomplaints@LMU.net](mailto:titleixcomplaints@LMU.net)

Libby King, Director of Human Resources  
(423) 869-6358 or [libby.king@LMU.net](mailto:libby.king@LMU.net)

Robert Sabbatini, Dean of Students  
(423) 869-6849 or [robert.sabbatini@LMU.net](mailto:robert.sabbatini@LMU.net)

Larry Thacker, Associate Dean of Students  
(423) 869-6433 or [larry.thacker@lmunet.edu](mailto:larry.thacker@lmunet.edu)

A person who believes they are a victim of sexual assault should notify the LMU Police Department (423-869-6911) or the Claiborne County Sheriff (911). University personnel will arrange transportation to the emergency room for medical care and evidence collection.

### **Anonymous Reporting**

The LMU Campus Police has established a confidential tip line through which individuals can share information anonymously. Telephone calls received on the tip line are recorded on a voice message system but callers will not be identified unless the caller leaves their identifying or contact information in their recorded message.

**LMU Tip Line: (423) 869-7159**

A text message option is also available. Just **text your report to 50911, type keyword LMUtip**, followed by your information.

## **Assistance for Victims**

A Counselor or Advocate with expertise in working with victims of sexual assault is available at the hospital emergency room. If a Counselor or Advocate is not available, the University will arrange for this service to be provided to the victim. The Counselor/Advocate can discuss options and alternatives and will help identify the most appropriate support services.

The University will assist victims in notifying the appropriate legal authorities should the victim wish to do so. The University will also assist victims in finding alternate on-campus housing accommodations, if requested, and in making any additional accommodations to remedy the effects of the misconduct, including changes to academic or work situations.

It is important that a victim understand the value of obtaining and/or receiving help in dealing with the impact of being a victim of a crime or of sexual misconduct. Existing counseling, mental health or student services for victims of sexual assault include:

LMU Counseling Services: (423) 869-6401 or (423) 869-6014

CEASE: a community resource that helps victims of sexual assault. Call the 24-hour crisis line at (423) 581-2220. Claiborne, Grainger, Hamblen, Hancock, Hawkins and Union counties in Tennessee call toll-free (800) 303-2220.

National Sexual Assault Hotline: (800) 656-HOPE

National Suicide Prevention Lifeline: (800) 273-TALK

## **Education and Information**

On-going sexual misconduct prevention education is part of the college experience at LMU. The Office of Student Services presents mandatory sexual misconduct prevention seminars at the beginning of each academic year. Educational programming for students also occurs throughout the academic year in a variety of formats and locations. Additional resources for students include a subscription to Student Health 101, a fully integrated wellness communication system that provides valuable wellness content to students in an active way throughout the academic year.

The Human Resources department presents annual training/educational sessions for all employees. Prevention literature is available in the DAR Student Services suite, the Tagge Center for Academic Excellence, the Counseling Office and the Human Resources office.

## **Sex Offender Notification**

Faculty, staff and students are encouraged to visit the appropriate Sex Offender Registry for information about registered sex offenders living near an LMU campus.

The Tennessee Sex Offender Registry is available at:

[http://www.tbi.state.tn.us/sex\\_ofender\\_reg/sex\\_ofender\\_reg.shtml](http://www.tbi.state.tn.us/sex_ofender_reg/sex_ofender_reg.shtml)

The Kentucky Sex Offender Registry is available at:  
<http://kspsor.state.ky.us/>

The Virginia Sex Offender Registry is available at:  
<http://sex-offender.vsp.virginia.gov/sor/>

### **Disciplinary Procedures for Sexual Misconduct or other Sexual Violence**

For students the adjudication procedures outlined for Campus Policy Violations section of the Student Handbook will be followed.

For faculty or staff the Discipline Policy outlined in the Faculty Staff Policy Manual will be followed.

In all situations involving alleged sexual misconduct or other sexual violence:

- The person charged with determining whether sexual misconduct or other sexual violence occurred shall offer equal access and time to the alleged victim and the alleged violator
- The person charged with determining whether sexual misconduct or other sexual violence occurred shall review all evidence offered regarding the allegation of sexual misconduct or other sexual violence, including but not limited to, verbal or written witness statements, verbal or written statements by the alleged victim, verbal or written statements by the alleged violator, and any other material offered by the alleged victim or the alleged violator, or available to person determining the issue. All information deemed likely credible and relevant may be considered by the person determining the matter
- The person hearing the matter shall find the sexual misconduct or other sexual violence did occur ***if upon review of the evidence it is more likely than not*** that sexual assault or sexual violence occurred
- Both the alleged victim and the alleged violator are entitled to have an advisor present with them at all stages of the hearing and/or appeal process. The advisor may not participate in the hearing and/or appeal
- Both the alleged victim and the alleged violator are entitled to request that the person hearing the matter be recused if either feels there may be a conflict of interest. In this case, the University will designate an alternate person to hear the matter
- The person hearing the matter shall notify both the alleged victim and the alleged violator simultaneously in writing of the outcome of the investigation, hearing and/or any appeal
- Both the alleged victim and the alleged violator may appeal as outlined in the Student Handbook or the Faculty Staff Policy Manual

In all cases of alleged sexual misconduct, LMU will take immediate steps to protect the accuser and the rights of the accused pending the outcome of the investigation and any disciplinary proceeding. Such interim steps include but are not limited to: changes to campus housing assignments, changes to academic or work schedules, the ability to withdraw from a class without penalty, no contact orders, etc.

### **Mandatory Reporters and Confidentiality**

All LMU faculty and staff are mandatory reporters. If any faculty or staff learns of sexual misconduct, discrimination, or sexual assault, they must take prompt action to report it to the Title IX Coordinator. Faculty or staff that have knowledge of serious crimes on campus including murder, manslaughter,

robbery, aggravated assault, burglary, car theft, arson, arrest for weapons violations, arrest for drug abuse violations, arrest for liquor law violations, or hate crimes must report those crimes to campus police.

LMU will make every reasonable effort to protect the privacy of individuals involved in all consultations, investigations, and hearings, insofar as is it feasible, considering the University's duty to investigate the complaint and take appropriate action. If a victim discloses an incident to an employee but wishes to maintain confidentiality or requests that no investigation into a particular incident be conducted or disciplinary action taken, the University will weigh that request against the University's obligation to provide a safe, non-discriminatory environment for all community members, including the victim. If the University honors the request for confidentiality, a victim must understand that the University's ability to meaningfully investigate the incident and pursue disciplinary action against the alleged violator(s) may be limited. However, LMU may still take steps to limit the effects of the alleged sexual misconduct and prevent its recurrence. Such steps could include but are not limited to: increased monitoring, supervision or security at the site of the alleged misconduct, additional training or educational programming for students or employees, etc.

A request for confidentiality does not negate LMU's responsibility to include the incident in any required statistical summary, such as the Annual Security Report, required by law. Although rare, there are times when the University may not be able to honor a victim's request in order to provide a safe, non-discriminatory environment for all students.

LMU has designated the Title IX Coordinator, in consultation with appropriate University personnel, to evaluate requests for confidentiality once a mandatory reporter is on notice of alleged sexual misconduct.

LMU will retain confidential documentation of all allegations and investigations and will take appropriate corrective action to remedy all violations of the confidentiality policy.

### **Intimidation and Retaliation**

Intimidation of or retaliation against any complaining individual, any witness, or anyone involved in a sexual misconduct, harassment, or discrimination complaint is strictly prohibited. LMU will monitor any complaint or investigation, as appropriate, to ensure that no intimidation or retaliation occurs. Individuals should immediately report any perceived intimidation or retaliation to the Title IX Coordinator, the Director of Human Resources, the Dean of Students or the Associate Dean of Students. The University will not tolerate intimidation or retaliation and will take prompt and immediate steps to eliminate it and prevent any reoccurrence.

### **Disclosure**

Lincoln Memorial University makes a good faith effort to obtain and report all relevant crime statistics in accordance with the Clery Act, the Violence Against Women Act (VAWA) and other federal and state regulations. Current consumer information, including LMU's Annual Security Report, is available at: [www.LMUnet.edu/consumer\\_information/](http://www.LMUnet.edu/consumer_information/)