

## **Title IX Policy 2052**

Longwood University is committed to providing an environment that is free from discrimination based on sex. This policy prohibits sex discrimination, which includes sexual harassment, sexual assault, sexual exploitation, dating, relationship, and domestic violence, stalking, and discrimination against pregnant and parenting students by employees, students, or third parties. This policy applies to Longwood community members participating in an education program or activity, including locations, events, or circumstances over which Longwood University exercises substantial control over both the alleged respondent and the context in which the sex discrimination occurs. This policy provides the campus community with information, common definitions, and strategies to report incidents subject to Title IX.

### **Eligibility for Assistance**

This policy applies to all Longwood students and employees in all university programs and activities. It also applies to individuals who join our community as an affiliate or part of an affiliated program. The University will conduct investigations to the best of its ability that may lead to appropriate criminal, personnel, and student conduct actions. Longwood will offer students, and employees supportive measures, which may include counseling, medical assistance, and living, learning, and/or appropriate working environment adjustments.

The University will dismiss formal complaints involving Title IX misconduct that did not occur against a person in the United States. However, such dismissal does not preclude action under the student code of conduct or university policies. Neither does it preclude offering supportive measures.

To the extent possible, the University will address the behaviors defined below towards any member of the Longwood community by non-members, including contractors, alumni, visitors, and any others identified as non-employees or non-students of the University.

### **Definitions**

The following policy definitions apply:

1. **Consent:** Effective consent is the basis of the analysis applied to unwelcome sexual activity. Lack of consent is the critical factor in any incident of sexual misconduct and sexual violence. Consent can be communicated verbally or by actions. But in whatever way consent is communicated, it must be reasonable and mutually understandable. Consent is a voluntary, informed, non-coerced agreement through words or actions that is freely given, which a reasonable person would interpret as a willingness to participate in mutually agreed upon sexual activity. Consent to one form of sexual activity does not imply consent to other forms of sexual activity. Previous relationships or consent does not imply consent to future sexual activity. Consent may be withdrawn at any time, by any party to the sexual activity.

Consent cannot be procured by use of physical force, compelling threats, or intimidating behavior. Effective consent cannot be given by minors, mentally impaired individuals or persons incapacitated as a result of drugs or alcohol. Intentionally administering alcohol or drugs for the purpose of inducing incapacity is prohibited. Use of alcohol or other drugs will never function to excuse behavior that violates this policy.

2. **Sexual Harassment:** Sexual harassment means conduct on the basis of sex that satisfies one or more of the following: 1) An employee of the University conditioning the provision of an aid, benefit or service of the University on an individual's participation in unwelcome sexual conduct; 2) Unwelcome sex-based conduct determined by a reasonable person to be so severe, pervasive and objectively offensive that it effectively denies the person equal access to the University's education program or activity. Longwood University does not permit romantic or sexual relationships between employees and students that those employees teach, coach, supervise, evaluate, or grade.

While sexual harassment encompasses a wide range of conduct, some examples of specifically prohibited conduct include:

- Promising, directly or indirectly, a student or employee a reward if the student or employee complies with a sexually oriented request.
- Threatening, directly or indirectly, retaliation against a student or an employee if the student or employee refuses to comply with a sexually oriented request.
- Denying, directly or indirectly, a student or employee an employment or education-related opportunity if the student or employee refuses to comply with a sexually oriented request.
- Displaying pornographic or sexually oriented materials.
- Engaging in indecent exposure.
- Making sexual or romantic advances toward a student or employee and persisting despite the student or employee's rejection of the advances.
- Physical conduct such as assault, touching, or blocking normal movement.
- Retaliation for making harassment reports or threatening to report harassment.

Sexual harassment can involve a person or persons being harassed by members of any sex. Although sexual harassment sometimes involves a person in a greater position of authority as the harasser, individuals in positions of lesser or equal authority also can be found responsible for engaging in prohibited harassment.

3. **Sexual Assault:**

- a. **Unwelcome Sexual Contact:** includes fondling or touching either of the complainant or when the complainant is forced to touch another person's body. Sexual activity includes intentional contact directly or through clothing with the breasts, buttock, groin, or genitals, or touching another with any of these body parts, or making another touch oneself or themselves with or on any of these body parts; any intentional bodily contact in a sexual manner, though not involving contact with/of/by breasts, buttocks, groin, genitals, mouth or other orifice. Intercourse however slight, meaning vaginal penetration by a penis, object, tongue or finger; anal penetration by a penis, object, tongue; or finger, and oral copulation (mouth to genital contact or genital to mouth contact). The definition of fondling is the touching of the private body parts of another person for the purpose of sexual gratification without the consent of the victim.
- b. **Coerced Sexual Intercourse:** includes rape, attempted rape, sodomy, or other sexual acts or misconduct; or when the complainant is incapable of consent. The definition of rape is 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 victim. The definition of incest is sexual intercourse between persons who are related to each other within the

degrees wherein marriage is prohibited by law. The definition of statutory rape is sexual intercourse with a person who is under the statutory age of consent.

4. **Sexual Exploitation:** Sexual exploitation occurs when an individual takes non-consensual sexual advantage of another for their own advantage or benefit or to benefit or advantage anyone other than the one being exploited, and that behavior does not otherwise constitute one of the other sexual misconduct offenses. Examples of sexual exploitation include, but are not limited to:
- Prostituting another person;
  - Non-consensual video or audio-taping of sexual activity;
  - Engaging in voyeuristic behavior, including viewing or allowing viewing of sexual activity without the consent of all parties;
  - Knowingly transmitting an STD, STI or HIV to another.
  - Disseminating or using video or photographic still images created by any means that depicts another person who is totally nude, or in a state of undress so as to expose the genitals, pubic area, buttocks, or female breast, without consent of the person(s) who are the subject of the video or still images.
5. **Dating, Relationship, and Domestic Violence:** Abuse or violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim. This relationship involves physical or emotional intimacy. Physical intimacy is characterized by romantic or passionate attachment or sexual activity.
- a. The existence of such a relationship shall be determined based on the complainant's statement and with consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship.
  - b. For the purposes of this definition, dating and relationship violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse.

Dating and relationship violence is abuse or violence between partners or former partners, characterized by one or more of the following elements:

- a. Intentionally causing bodily injury;
  - b. Purposely or knowingly causing reasonable apprehension of bodily injury;
  - c. Emotional abuse creating apprehension of bodily injury or property damage;
  - d. Repeated telephonic, electronic, or other forms of communication, anonymously or directly, made with the intent to intimidate, terrify, harass, or threaten.
6. **Stalking:** includes repeatedly following, harassing, threatening, or intimidating another by telephone, mail, electronic communication, social media, or any other action, device or method that purposely or knowingly causes emotional distress or apprehension of bodily injury or death. Stalking is a course of conduct directed at a specific person that would cause a reasonable person to fear for their, or others' safety or to suffer substantial emotional distress. For the purposes of this definition:
- a. Course of conduct means two or more acts, including, but not limited to, acts in which the stalker directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, participates in surveillance of, threatens, or communicates to or about a person, or interferes with a person's property.
  - b. Reasonable person means a reasonable person under similar circumstances.

- c. Substantial emotional distress means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling.
7. **Discrimination against Pregnant and Parenting Students:** includes discrimination against a student for current, potential, or past pregnancy or related conditions. The offer of voluntary alternative participation by the University does not constitute discrimination. The student has discretion to accept or decline each reasonable modification offered by the University.
8. **Retaliation:** means intimidation, threats, coercion, or discrimination against any person by the University, a student, or employees, against an individual because of the individual's complaint or participation in the complaint process. Action is generally deemed retaliatory if it would deter a reasonable person in the same circumstances from opposing practices prohibited by this policy.
9. **Respondent** means an individual who has been reported to be the perpetrator of conduct that could constitute a violation of this policy.
10. **Complainant** means an individual who is alleged to be the victim of conduct that could constitute a violation of this policy. At the time of filing a formal complaint, a complainant must be participating in or attempting to participate in a University education program or activity.
11. **Party** means a complainant and/or respondent.
12. **Supportive measures** are non-disciplinary and non-punitive individualized services offered as appropriate, as reasonably available and without fee or charge, to protect the safety of all parties and deter violations of this policy. The University will provide supportive measures to respond to the reported incident in a manner that is not clearly unreasonable without burden on any party, regardless of the filing of a formal complaint.
- Supportive measures are available to Longwood employees and students to preserve each party's equal access to their education or employment pending the outcome of the investigation. Supportive measures may include counseling, extensions of deadlines or other course-related adjustments, modifications of work or class schedules, campus escort services, mutual restrictions on contact between the parties, changes in work or housing locations, leaves of absence, increased security and monitoring of certain areas of the campus, and other similar measures.
13. **Informal resolution** is the resolution of a complaint other than an investigation or formal hearing. Informal resolution may include mediation, restorative justice, or other models of alternative dispute resolution. Informal resolution is voluntary and requires the written consent of the parties and the University. Informal resolution is not available when the respondent is a University employee and the complainant is a student.
14. **Formal Complaint** means an oral or written request by a complainant or signed by the Title IX Coordinator alleging a violation of this policy and requesting that the University investigate the allegation of sex discrimination. At the time of filing a formal complaint, a complainant must be participating in or attempting to participate in the education program or activity of the recipient with which the formal complaint is filed. A formal complaint may be filed with the Title IX Coordinator.

## **Filing a Title IX Complaint**

All incidents of discrimination on the basis of sex and retaliation should be reported. Any person may report discrimination on the basis of sex by contacting the Title IX Coordinator. Formal complaints may be initiated by the complainant or the Title IX Coordinator.

All University employees, except those designated as Confidential Reporting Options, are designated as “responsible employees.” Responsible employees are required to promptly report all incidents and/or knowledge of sex discrimination, including personally identifiable information of the parties involved, to the Title IX Coordinator. All reports are treated with the maximum possible privacy.

An immediate report to the Longwood University Police Department (LUPD) will enable the preservation of evidence necessary for possible criminal prosecution. LUPD is trained in collecting and preserving evidence for criminal cases. Contacting LUPD for evidence collection may provide criminal charge options that a complainant may choose to pursue immediately or at a later date. Evidence collected by the LUPD will be retained indefinitely unless the Commonwealth of Virginia Attorney authorizes destruction. Complainants have the right, however, to choose whether or not to provide a statement to LUPD and to choose whether or not to pursue criminal prosecution after such a statement has been made.

## **Title IX Coordinator and Role of Title IX Coordinator**

Kathleen Roberts, Title IX Coordinator

Office: Brock Hall, 205

Office Phone (434) 395-2571, Cell Phone (434) 808-9439

Email: [titleix@longwood.edu](mailto:titleix@longwood.edu)

Online reporting to the Title IX Coordinator: [Say Something Report](#)

Students or employees who believe they have either witnessed or been subjected to sex discrimination or retaliation should notify the Title IX Coordinator. After the university receives notice of sex discrimination or retaliation, it will conduct an impartial investigation. For specifics regarding investigations, see the investigation procedures below. The University will not bring student conduct charges against students for minor violations of the Student Code of Conduct Standards and Regulations, or personal consumption of alcohol or drugs disclosed during the reporting process, when the disclosure is made in conjunction with a good faith report. Minor violations are those that have a minimum sanction of a letter of admonition. Please see the Student Handbook’s Student Code of Conduct Standards and Regulations for more information.

When the complainant and the respondent participate in the same educational opportunities, work in the same employment area and/or reside in the same University residence or in proximity to one another, the University may take immediate steps to separate the individuals and prevent contact, if appropriate. The applicable Vice President or designee, in consultation with the Title IX Coordinator, will make the appropriate determination regarding alternative arrangements. Alternative arrangements may include but are not limited to: interim disciplinary suspension (depending on the severity of the allegations), adjustment of academic schedule or employment, no contact orders, and/or alternative living arrangements.

The Title IX Coordinator can assist with all aspects of the process and is responsible for:

- Convening a review committee consisting of the Title IX Coordinator, Longwood University Police Department Representative and Student Affairs Representative. This committee will meet within 72 hours, and continue to meet as necessary, when notice to the University of an alleged violation of this policy is received. This committee will review and determine if it is necessary to disclose to the appropriate law-enforcement agency and assess all information of the alleged violation, including personally identifiable information, to protect the health or safety of the individual or community. It is the responsibility of the Longwood University Police Department Representative or designee to notify the appropriate law-enforcement agency and/or Commonwealth of Virginia Attorney.
- Ensuring that both the individual filing the complaint and the individual responding are aware of the complainant.
- Explaining Longwood University's policy and investigation procedures.
- Exploring various means of resolving the complaint, including informal resolution or referral to other applicable University policies or procedures.
- Making referrals to Counseling and Psychological Services for counseling or other mental health resources, if appropriate.
- Notifying the police if criminal activities are alleged.
- Conducting or arranging for an investigation of the alleged prohibited conduct.
- Arranging supportive measures.
- Arranging interim services to prevent the recurrence of the alleged prohibited conduct, which could include increased monitoring, supervision, or security at locations or activities where the alleged discrimination occurred and no-contact directives.
- Prepare or oversee any reports, recommendations, or remedial action(s) that are appropriate to resolve any prohibited conduct and maintain all information pertaining to an investigation or complaint in a secure file.
- Maintaining records relating to Title IX reports, investigations, and resolutions.
- The Title IX Coordinator, Deputy Title IX Coordinators, and investigators designated by the University, will participate in ongoing Title IX training and maintain a high level of knowledge of the policy and procedures.
- Referral of all complaints against employees to Human Resources. Human Resources is responsible for investigating all sex discrimination or retaliation complaints against employees. Human Resources will investigate all referred complaints using Human Resources policies or procedures.

### **Reporting Options**

1. Title IX Coordinator: Anyone who believes they have witnessed or been subjected to sex discrimination should notify the Title IX Coordinator:

Kathleen Roberts, Title IX Coordinator

Office: Brock Hall, 205

Office Phone (434) 395-2751, Cell Phone (434) 808-9439

Email: [titleix@longwood.edu](mailto:titleix@longwood.edu)

[www.longwood.edu/titleix](http://www.longwood.edu/titleix)

Online reporting to the Title IX Coordinator: [Say Something Portal](#)

2. Making a report with Longwood Police: Persons who wish to file a police report may contact Longwood Police at (434) 395-2091. Office: Dorrill Dining Hall, Ground Floor.  
Online reporting: <http://www.longwood.edu/police/forms/report-a-crime>
3. Confidential Reporting Options: Persons who wish to report an incident or speak to someone about what happened and desire that the details of the incident be kept confidential, should speak with staff members of Counseling and Psychological Services (CAPS), University Health Center, Centra Southside Community Hospital Forensic Nurse Examiner, or off-campus clergy, chaplains, or crisis resources, who will maintain confidentiality. CAPS staff is available to assist students free of charge.
  - Counseling and Psychological Services  
Pierson Hall - Health and Fitness Center, Upper Level; Phone: (434) 395-2409
  - Longwood University – Mental Health Crisis Line (Available 24/7)  
Phone: (434) 395-2409, Option #2
  - University Health Center  
Longwood Landings, 106 Midtown Ave, Farmville, VA; Phone: (434) 395-2102
  - Centra Southside Community Hospital Forensic Nurse Examiner (Available 24/7)  
800 Oak Street, Farmville, VA; Phone: (434) 392-8811
  - Madeline's House - 24/7 Domestic Violence / Sexual Assault Crisis Hotline;  
Phone: (866) 297-1564

### **Conflicts of Interest**

The Title IX Coordinator, investigators, university-provided advisors, and decision-makers must be free from conflicts of interest or bias for or against complainants or respondents.

### **Confidentiality**

If you would like to report an incident or speak to someone about what happened and you desire that details of the incident be kept confidential, you should speak with staff members of Counseling and Psychological Services, University Health Center, or off-campus crisis resources, who will maintain confidentiality. All inquiries, complaints, and investigations are treated with utmost discretion. Information may be released as law and policy permits. However, the identity of the complainant is usually revealed to the person(s) accused of such conduct and any witnesses. A complainant may decide, after they talk to the Title IX Coordinator, whether or not to pursue a Title IX Complaint.

### **Federal Statistical Reporting Obligations**

Certain campus officials (campus security authorities) have a duty to report sexual assault and other Clery Act reportable crimes for federal statistical reporting purposes. All personally identifiable information is kept private, but statistical information must be passed along to campus law enforcement regarding the type of incident and its general location (on or off-campus, in the surrounding area), for publication in the annual Security and Fire Safety Report.

Mandated federal reporters (campus security authorities) include student/conduct affairs, campus law enforcement, local police, coaches, athletic directors, residence life staff, student activities staff, human resources staff, advisors to student organizations, and any other official with significant responsibility for student and campus activities.

### **Federal Timely Warning Reporting Obligations**

The Clery Act requires that University administrators issue timely warnings for incidents reported to them that pose a danger to members of the campus community. The University will make every effort to ensure that a victim's name and other identifying information is not disclosed.

### **Procedures**

1. The Title IX Coordinator, or designee, shall provide for the adequate, reliable, and impartial investigation of all complaints.
2. Complainant and/or respondent may each select one advisor, who may also be legal counsel, to accompany them during the investigation process, Informal Resolution and Formal Procedures. If the complainant and/or respondent does not have an advisor, the university shall provide a trained employee, free of charge, to conduct cross-examination on their behalf. The advisor may be present with their respective party for all meetings, hearings and appeals. The advisors may ask questions on a party's behalf during hearings but is otherwise not permitted to actively participate in meetings or appeals. The advisor may, however, attend meetings and appeals. When scheduling any meetings, hearings and/or appeals, primary consideration will be given to the parties and any witnesses.
3. Only trained investigators designated by the University will conduct an investigation; both parties will have the opportunity to review and provide comments to the investigator about their statements before the investigation report is finalized.
4. The University will conduct an investigation to the extent of the information available. If the University obtains independent corroborating information of the discrimination, it may determine it necessary to move forward with the investigation procedures and/or remedial measures without the involvement of a complainant.
5. The University must dismiss complaints prior to conducting an investigation where a) the facts alleged do not constitute a violation of this policy; b) the complainant chooses to withdraw a formal complaint or any portion of the allegations; c) the respondent is no longer enrolled or employed; d) circumstances prevent the University from gathering evidence sufficient to reach a determination regarding the complaint; or e) the facts alleged did not occur in a University's education program or activity. The Title IX Coordinator shall notify the parties in writing of the dismissal of any formal complaint and the reason for such dismissal.
6. Criminal investigations, separate from the process outlined in this policy, are conducted by the Longwood University Police or appropriate law enforcement agency in parallel with the University's investigation.
7. Informal Resolution  
Some complaints can be resolved through informal resolution between the parties. The Title IX Coordinator and/or designee may arrange for or facilitate informal resolution between the parties.
  - a. Informal resolution is voluntary and requires the written consent of the parties and the University.



- b. Once the informal resolution is complete, written notification of the agreed upon resolution shall be given to both parties by the Title IX Coordinator or designee.
- c. The involved parties will sign a voluntary agreement specifying the behavioral expectations resulting from the mediation. If re-occurrence takes place, those responsible for such behavior will be subject to additional action, with greater penalties, under this policy.
- d. If the parties are unable to reach an informal resolution, the Title IX Coordinator may initiate the formal resolution procedure.

#### 8. Formal Procedures

- a. Once the University has received a formal complaint of sex discrimination or retaliation, an investigation shall commence within five business days unless the parties have agreed to participate in informal resolution
- b. To ensure a prompt and thorough investigation, the complainant should provide as much of the following information as possible:
  - The name, department, and position of the person or persons allegedly committing the discrimination or retaliation.
  - A description of the incident(s), including the date(s), location(s), and the presence of any witnesses.
  - The impact of the incident(s) on the complainant's educational opportunities, living situation, position, salary, benefits, promotional opportunities, or other terms or conditions of employment.
  - Any steps the complainant has taken to address the discrimination.
  - Any other information the complainant believes to be relevant to the misconduct.
- c. The investigator(s) shall determine, by a preponderance of evidence, whether the respondent violated this policy. Preponderance of evidence means that it is more likely than not that a violation occurred. If the investigator(s) determines that the respondent did not violate this policy, the matter will be closed.
- d. Prior to completion of the investigative report, the University will send to each party and the party's advisor, if any, the evidence subject to inspection and review in an electronic format or a hard copy, and the parties must have at least ten business days to submit a written response, which the investigator will consider prior to completion of the investigative report.
- e. At the completion of the investigation, both the respondent and complainant and their advisors will be informed within ten business days, in writing, of the outcome of the investigation. If the complainant is deceased as the result of the alleged violation, the next of kin of such complainant shall be treated as the complainant for purposes of this paragraph upon written request.
- f. Both the complainant and respondent are entitled to a copy of the investigators' report, redacted of any personally identifiable information. The redacted report shall be provided to the complainant or respondent within two business days after the Title IX Coordinator or designee has received a written request. The non-redacted report may be viewed by the parties at any time during normal business hours.
- g. If it is determined by a preponderance of the evidence that a violation did occur, the respondent may accept findings of the investigation and the sanctions / measures determined by the University to prevent the violation's recurrence; or challenge the findings and request a hearing. The respondent must, within three business days from the written notification of

the outcome of the investigation, make a decision to, accept the findings or challenge the findings and sanctions / measures, and request a hearing.

- h. The complainant may decide, subsequent to the filing of formal charges against the respondent, to withdraw the complaint.

### **Procedures for Hearings on Violations of the Title IX Policy**

1. The University Hearing Board will conduct hearings regarding alleged violation(s) of this policy.
2. A University Hearing Board hearing will proceed in the following manner:
  - a. Hearings conducted by the University Hearing Board are closed to the public. The only individuals allowed to be present are active participants in the hearing process: the complainant, the respondent, an advisor for each, the investigator (s), the University Hearing Board, witnesses, and necessary University administrators. Either the complainant or the respondent may dispute the presence of individuals in the hearing room. The hearing board will make the final decision.
  - b. At the request of either party, the University must provide for the live hearing to occur with the parties located in separate rooms with technology enabling the decision-maker(s) and parties to simultaneously see and hear the party or the witness answering questions.
  - c. The University will create an audio or audiovisual recording, or transcript, of any live hearing and make it available to the parties for inspection and review.
  - d. The hearing will be non-adversarial and respectful. Strict rules of evidence will not be applied. The Board will ensure that only relevant questions are posed during cross-examination.
  - e. The hearing board members and all aforementioned participants are introduced.
  - f. Participants state any questions they have concerning rights or procedures.
  - g. The statement of charges is presented.
  - h. The respondent enters a plea of responsible, not responsible or no plea.
  - i. Testimony phase: During the testimony phase of the hearings, cross-examination may be conducted by the party's advisor in the presence of the University and complainant, the respondent, and their respective advisors. Witnesses may only be present when actively giving testimony. Advisors may be present with their respective parties for all testimony. Advisors may question witnesses on a party's behalf. If either party does not provide their own advisor, the University will provide an advisor to fulfill the cross-examination role.
  - j. Each party may present an opening statement and a closing statement before the Board.
  - k. Each party may present evidence and witnesses. Witnesses may be cross-examined by the hearing board in the opposing party's presence.
  - l. 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. Demonstration of pattern, repeated, and/or predatory behavior by the respondent in the form of previous findings in any University, judicial, or student conduct proceeding will be admissible.
  - m. After all of the evidence has been introduced, the parties will be excused from the room so that the Board may deliberate.

- n. The University Hearing Board shall determine, by a preponderance of evidence, whether the respondent violated this policy. The University has the burden of demonstrating by a preponderance of evidence that the respondent violated this policy. A preponderance of evidence means that it is more likely than not that a violation occurred. If the University Hearing Board determines that the respondent violated this policy, the complainant will be allowed to submit a statement regarding the impact that the misconduct has had on the complainant's educational, living, and/or working environment.
  - o. When the board has made a decision regarding responsibility, the parties will be invited back into the room for a reading of the decision and any recommended sanctions.
3. The outcome of the hearing and any recommended sanctions will be forwarded to the applicable Vice President or designee immediately following the hearing if no appeal is filed: The Director of Student Conduct and Integrity in the case of a student respondent, the Provost and Vice President of Academic Affairs in the case of a faculty respondent, and the Vice President of Administration and Finance in the case of a classified staff or administrative employee.
4. Both the respondent and complainant will be informed within five working days, in writing, of the outcome of the hearing and the appeal (if an appeal is filed) and of any sanctions being recommended to the applicable Vice President or designee. If the complainant is deceased as the result of the alleged violation, the next of kin of such complainant shall be treated as the complainant for purposes of this paragraph, upon written request.

#### **Composition of the University Hearing Board**

1. A three-member University Hearing Board will be appointed by the Title IX Coordinator on a per-case basis from a pool of trained members: no less than five faculty and five staff. The chair of the hearing board is a non-voting member, except in cases of a tie, who leads the hearings and facilitates discussion among board members. The Title IX Coordinator will serve as a non-voting advisor to the chair. All Board members are appointed annually and serve from October 1 - September 30.
2. The pool of candidates for the University Hearing Board shall be nominated by:
  - Faculty Senate, Executive Committee (faculty members).
  - Vice President for Student Affairs and Vice President for Finance and Administration (staff).
3. In the case of a faculty respondent, at least two members of the University Hearing Board shall be faculty, in the case of a professional staff respondent; at least two members of the University Hearing Board shall be staff (except in cases where there is not sufficient availability in the pool of trained members).
4. Either party can request Board members to recuse themselves from the hearing for actual or perceived bias or other conflict of interest. The Title IX Coordinator will make the final decision regarding this request based on the information provided by the requesting party. Board members may also recuse themselves if they feel they cannot or should not hear a particular case.
5. The University Hearing Board panel will be trained by the Title IX Coordinator regarding hearing procedures, evaluation of relevant evidence, Title IX requirements, and other subjects, as needed.

## **Appeals**

1. Appeals will be reviewed by a three-person panel of trained investigators designated by the University.
2. Respondents and complainants have the right to appeal:
  - a. The University Hearing Board's decision, or
  - b. The University's decision to dismiss a complaint.
3. Appeals must be filed within three business days of the University Hearing Board's written decision, or the University's decision to dismiss the complaint. To file an appeal, students and employees must fill out the appeal form provided with written notice of the University Hearing Board's decision, or the University's decision to dismiss the complaint. The University will provide a copy of the appeal to the other parties.
4. Appeals may only proceed based on the following reasons:
  - a. Procedural irregularity that materially affected the outcome of the matter. A procedural irregularity may include a failure to objectively evaluate or admit relevant evidence, including inculpatory and exculpatory evidence;
  - b. New evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made, that could affect the outcome of the matter; and
  - c. The Title IX Coordinator or designee, 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 of the matter.
5. The appeal panel will convene within five business days of the receipt of the appeal.
6. All parties will receive notice of the appeal and will have the opportunity to submit a written statement in support or opposition to the appeal.
7. Within ten business days, the appeal panel shall issue a written decision to the parties: 1) denying the appeal and upholding the decision of the University Hearing Board, or 2) granting the appeal and remanding the issue to the Title IX Coordinator or designee or the University Hearing Board. If the complainant is deceased as the result of the alleged violation, the next of kin of such complainant shall be treated as the complainant for purposes of this paragraph, upon written request.

## **Postponement of Hearings and Appeals**

A respondent or complainant may request one postponement of a hearing by contacting the Title IX Coordinator at least two (2) business/working days prior to the scheduled hearing unless extenuating circumstances exist. Postponement will be allowed only under the following conditions:

- The respondent/complainant has an academic conflict;
- The respondent/complainant is unable to produce necessary witnesses on the scheduled date of the hearing;
- The respondent/complainant has a family emergency;
- The respondent/complainant is too ill to attend the hearing;
- The respondent/complainant cannot attend because of a religious holiday.

The Title IX Coordinator may require written verification of the reason claimed.

### **Rights of the Complainant**

1. The right to have an advisor throughout the process, who may also be legal counsel.
2. The right to remain present throughout the entire hearing (not including the deliberative process).
3. The right to attend a pre-hearing meeting with the Title IX Coordinator or
4. The right to have access to supportive measures.
5. The right to supportive measures to prevent reoccurrence of the behavior.
6. The right to freedom from retaliation by the respondent (or supporters of the respondent).
7. The right to be notified of the time, date and place of the scheduled hearing and appeal, if applicable, at least 72 hours prior to the hearing or appeal.
8. The right to submit a statement of how the misconduct has impacted the educational, living and/or working environment of the complainant.
9. The right to present relevant evidence during the investigation and a statement of how the discrimination has impacted the educational comma living and/or working environment of the complainant period.
10. The right to sufficient time, at least two business days, to prepare a response to the written notice of investigation before any initial interview.
11. The right to know the outcome of the investigation, the outcome of the hearing, appeal and the sanctions, remedies and corrective actions taken by the University.
12. The right to be informed of the ability to request changes in academic, employment and living situations.
13. The right to request a single appeal of the outcome of the University Hearing Board's decision and recommended sanctions (if necessary).

### **Rights of the Respondent**

1. The right to an advisor throughout the process, who may also be legal counsel.
2. The right to remain present during the entire hearing (not including the deliberative process).
3. The right to attend a pre-hearing meeting with the Title IX Coordinator or designee.
4. The right to have access to supportive measures.
5. The right to freedom from retaliation by the complainant (or supporters of the complainant).
6. The right to written notice of the specific allegations and the opportunity to provide information in response during the investigation.
7. The right to sufficient time, at least two business days, to prepare their response to the written notice of investigation before any initial interview.
8. The right to be presumed not responsible unless shown responsible by a preponderance of the evidence until a determination regarding responsibility is made at the conclusion of the grievance process.
9. The right to a timely hearing.
10. The right to notification of the charges, the specific rule or policy violated, and the time, date, and place of the scheduled hearing and, if applicable, at least three business days prior to the hearing.
11. The right to present relevant evidence.
12. The right to notification of any information that may be used in the hearing.
13. The right to request a single appeal of the outcome of the University Hearing Board's decision and recommended sanctions (if necessary).

### **Sanctions, Remedies and Corrective Actions**

Violations of this policy will be addressed through the sanctions, remedies, and corrective actions listed below. The severity of sanctions, remedies, or corrective action depends on the facts and circumstances of the offense and/or any history of past conduct that violates this policy. Sanctions, remedies, and corrective actions could include (but are not limited to):

- A requirement not to repeat or continue the conduct.
- Reprimand.
- Reassignment.
- Disciplinary Probation.
- Disciplinary Suspension.
- Termination of employment.
- Expulsion.

### **Records and Release of Documents and Information**

Under federal and state privacy laws, investigation reports, witness statements and any documents prepared by the University constitute education and/or personnel records which may not be disclosed outside of the proceedings, except as may be required or authorized by law. Records created regarding students may be education records subject to protection under the Family Educational Rights and Privacy Act (FERPA). Longwood student records policies comply fully with FERPA; the accumulation, processing, and maintenance of student data by the University are limited to that information, which is necessary and relevant to the purposes of the University. Personal data of students will be used only for the purpose for which it is collected. The University does not release personnel records related to specific employees or employment matters as personnel matters and records are generally considered private or exempted by law from disclosure. See Va. Code § 2.2-3700, et seq. The University will take reasonable steps to prevent and address the parties' unauthorized disclosure of information and evidence obtained. The University does not, however, impose any restrictions on the parties regarding re-disclosure of the incident or their participation in proceedings under this policy.

### **Records Retention**

The Title IX coordinator is responsible for overseeing the management and storage of Title IX records, which will be maintained for at least seven years. Following the last day of the specified time interval, these records will remain active until June 1 each year; thereafter, they will be expunged. Should there be any subsequent alleged discrimination or retaliation, the retention expiration date for each existing prior record will be nullified and changed to meet the new deadline parameters established by the most recent alleged discrimination or retaliation.

### **Academic Transcripts – Pursuant to Virginia Code § 23.1-900**

A prominent notation shall be placed on the academic transcript of any student who has been found responsible and expelled or suspended for sexual violence, which includes the following as defined by this policy: unwelcome sexual contact, coerced sexual intercourse, and dating and relationship violence. The language will read as follows: Expelled – For a Violation of the University's Code of Conduct Standards and Regulations, or, Suspended – For a Violation of the University's Code of Conduct Standards and Regulations. The notation shall be removed from the transcript when the student has completed the term of the disciplinary suspension, completed any conditions of the disciplinary suspension, and has been determined by Longwood University to be in good disciplinary standing.

A prominent notation shall be placed on the academic transcript of any student who withdraws prior to the final outcome of an investigation, hearing and/or appeal that alleges sexual violence, which includes the following as defined by this policy: unwelcome sexual contact, coerced sexual intercourse, and dating and relationship violence. The language will read as follows: Withdrawal while under Investigation – For a Violation of the University’s Code of Conduct Standards and Regulations. The notation shall be removed from the transcript when the student is subsequently found not responsible for a violation of this policy, or not suspended or expelled as a result of a violation of this policy.

A student may petition for a notation to be removed from the academic transcript after a period of three years from the final outcome or resolution of the case if the student can show good cause. Removal of the notation is not the same as removal of the violation(s) from the student’s educational record.

The Title IX Coordinator or designee will review petitions for transcript notation removal. The decision will be based upon the following criteria:

1. The violation(s)
2. The student’s behavior subsequent to the violations(s)
3. The student’s demonstrated reflection and growth

After a petition has been evaluated, the student will receive written notification of the decision, which will be final.

### **Academic Freedom and Free Speech**

This policy does not allow censorship of constitutionally protected speech. In addressing all complaints and reports of alleged violations of this policy, Longwood University will take all permissible actions to ensure the safety of students and employees while ensuring the free speech rights of students and employees. This policy does not, in any way, apply to curriculum and curriculum decisions or limit the use of particular textbooks or curricular materials.