

# Lee College Sexual Misconduct Procedures - An Introduction

## Introduction

Lee College is committed to maintaining a safe campus environment free from threats of violence. Harming another person by committing any form of sexual harassment, domestic violence, dating violence, sexual assault, or stalking is strictly prohibited. In addition, any form of retaliation against any person opposing discrimination or participating in any discrimination investigation or complaint process is prohibited.

Any person may report sex discrimination (whether or not the person reporting is the person alleged to have experienced the conduct) by telephone, email, in person, or through the online reporting form.

## Board Policy

The following procedures are based on Board Policy FFDA (Local) which addresses complaints of sex discrimination, sexual harassment, sexual assault, dating violence, domestic violence, stalking, and retaliation targeting students and perpetrated by students, employees, or third parties under the control of the College. Such sexual misconduct are forms of sex discrimination which are prohibited under Title IX as well as state and local policies.

Board Policy DIAA addresses complaints of sex discrimination or sexual misconduct targeting employees. For discrimination, harassment, and retaliation targeting employees based on race, color, national origin, religion, age, or disability, see DIAB.

## What is Title IX?

Title IX is a federal civil rights law passed as part of the Education Amendments of 1972. This law protects people from discrimination based on sex in education programs or activities that receive federal financial assistance. Title IX states 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.”*

Title IX applies to any institution receiving federal financial assistance from the Department of Education, including state and local educational agencies. Educational programs and activities that receive federal funds from the Department of Education must operate in a nondiscriminatory manner.

Also, a recipient may not retaliate against any person for opposing an unlawful educational practice or policy, or because a person made charges, testified or participated in any complaint action under Title IX.

## Policies and Procedures (2020 Regulations)

The 2020 Title IX regulations required all colleges to revise or rewrite their policies and procedures for addressing sex offenses, including sexual harassment, sexual assault,

domestic violence, dating violence, and stalking. Lee College has updated current policies and procedures to ensure the College complies. Based on the new regulations, the College's policies are not all that different than before; however, the procedures for resolution of complaints are substantially changed.

To summarize:

- Title IX protects students who are impacted by sexual harassment, sexual assault, domestic violence, dating violence, and stalking. When these behaviors occur, and a formal complaint is made, the college is obligated to address and remedy them and ensure that no one is denied effective access to the educational program of the college.
- Colleges have jurisdiction requirements that they must follow to determine whether a complaint falls within Title IX or is to be addressed within other college policies and procedures.
- Complainants are well-protected by the regulations in terms of supportive measures that are offered by colleges to try to address the impact of sex offenses.
- Complainants and Respondents (the accused) are each entitled to an advisor of their choosing (who can be an attorney) throughout the resolution process, and the College can provide this advisor to each party, if needed.
- The regulations have now created options for informal resolution that were discouraged previously.
- To protect the due process rights of Respondents, colleges are required to use a formal grievance process for certain types of allegations. That formal process includes an investigation, a live hearing, questioning of the parties through their advisors, a determination by an objective decision-maker, and an appeal.

## Lee College Title IX Team

Lee College has a dedicated team of employees who have been trained to respond quickly to any sexual misconduct behavior which may impede the student's education. General information on our Title IX Policy can be found at [www.lee.edu/titleix](http://www.lee.edu/titleix) or email at [TitleIXSupport@lee.edu](mailto:TitleIXSupport@lee.edu). Reports of Sexual Misconduct can be made online at [www.lee.edu/go/titleix-report](http://www.lee.edu/go/titleix-report).

## Definitions

Definitions of sexual harassment and other offenses are based on federal and state regulations and provide guidance in the process of reporting and remedying any type of sexual misconduct and the grievance processes.

### *Sex Discrimination*

The act of applying a different academic standard to students based on their sex or denying a student participation in an activity because of the student's sexual orientation.

### *Sexual Misconduct*

Collectively refers to sexual harassment, sexual assault, domestic violence, dating violence, and stalking.

### *Sexual Harassment (Title IX)*

The regulations of Title IX specifically define sexual harassment as conduct on the basis of the student's sex, sexual orientation, gender identity, and/or gender expression that constitutes the following:

- Physical, verbal, or nonverbal conduct by an employee in which the employee conditions the provision of an aid, benefit, or service of the College on the student's participation in unwelcome sexual conduct ("quid pro quo" harassment);
- Unwelcome conduct directed toward a student on the basis of their sex, sexual orientation, gender identity, and/or gender expression by an employee, student, or third party that is to be so severe, pervasive, and objectively offensive that it effectively denies the student's ability to participate in educational program or activities; or
- Conduct that constitutes "sexual assault," "dating violence," "domestic violence," or "stalking" as defined in this policy.

Examples of sexual harassment can include the following: sexual advances; touching intimate body parts or coercing physical contact that is sexual in nature; jokes or conversations of a sexual nature; rape; sexual assault as defined by law; sexual battery; sexual coercion; and other sexually motivated conduct, communications, or contact.

#### *Sexual Assault*

Refers to sex offenses that are forcible and non-forcible. Forcible sex offenses are any sexual act directed against another person, without consent, including instances where the victim is incapable of giving consent. Forcible sex offenses include rape, sodomy, sexual assault with an object, and fondling. Non-forcible sex offenses include incest and statutory rape.

Sexual assault may include any intentional sexual touching, however slight, including with any object. It may also include intentional contact with the breasts, groin, genitals, mouth, or touching another with any of these body parts, or making another touch the Respondent or themselves with or on any of these body parts.

#### *Dating Violence*

Dating Violence Is violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim. Includes felony or misdemeanor crimes of violence committed by a current or former spouse, a current or past intimate partner, a person that the victim shares a child with, or by a person similarly situated to a spouse or intimate partner of the victim under the domestic or family violence laws of the State of Texas. In Texas, a person commits an assault against a family member, household member, or current or past dating partner if the assault consists of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship.

#### *Domestic Violence*

Domestic Violence includes felony or misdemeanor crimes of violence committed by a current or former spouse, a current or past intimate partner, a person that the victim shares a child with, or by a person similarly situated to a spouse or intimate partner of the victim.

#### *Stalking*

Stalking is defined as engaging in conduct directed at a specific person that would cause a reasonable person to fear for the person's safety or the safety of others or suffer substantial emotional distress.

Examples of stalking may include cyberstalking or use of a phone or computer to harass, intimidate or frighten another person.

## Options in Reporting Sexual Misconduct

This policy is intended to make complainants of sexual misconduct aware of the various reporting and confidential disclosure options available to them, in order to make informed choices about reporting such offenses.

It is the right of those who believe they have experienced sexual misconduct to choose whether or not to report the matter to the College and/or law enforcement. The College, however, urges anyone who has experienced sexual assault, domestic, dating violence, or stalking to seek support as soon as possible to minimize and treat physical and emotional harm and to understand the options for reporting.

It is also important to obtain medical treatment following sexual assault or other acts of violence. A hospital exam to collect evidence for potential criminal prosecution should be done as soon as possible after the incident. The [Campus Sexual Assault Victims' Bill of Rights](#) exists as a part of the campus security reporting requirements, commonly known as the Jeanne Clery Act and provides information on the rights of those who report sexual violence on a college campus.

## Understanding Confidentiality

Anyone making a report should be aware that all Lee College employees are mandatory reporters and are required to report to a Title IX Coordinator any information of sexual misconduct brought to their attention. Individuals reporting through the online form have the option of remaining anonymous; however, such reports limit the College's ability to meaningfully investigate the incident and pursue disciplinary action against the alleged perpetrator(s).

Confidential Employee — The College has designated a specific employee to serve as the confidential employee. This individual may provide support in a secure environment in which questions can be asked, information provided, and guidance offered should the student wish to report the sexual misconduct to the College. Confidential Employees are not required to report any information about an incident of sexual misconduct to the Title IX Coordinator without the student's written permission unless there is 1) concern the individual will likely cause serious physical harm to self or others; or 2) the information concerns conduct involving suspected abuse or neglect of a minor or elder. The following employee serves as the College's Confidential Employee.

- Linda Torrez-Mann, LPC, LCDC — [ltorrezmann@lee.edu](mailto:ltorrezmann@lee.edu)

## Understanding Retaliation

Retaliation of any kind against any person for reporting, providing information, exercising one's rights or responsibilities under this policy, or otherwise being involved in the process of responding to, investigating, or addressing allegations of sexual misconduct is a serious offense and strictly prohibited. Any retaliatory actions such

as intimidation, threats, or coercion against any such individual will be subject to disciplinary action that may include but is not limited to suspension or dismissal from the College and/or termination of employment.

## **How to Report**

Anyone can report incidences of sexual misconduct through our online reporting system or directly to the Title IX Coordinator. If the report is made to another college employee, the employee will assist the student in reporting the incident to the Title IX Coordinator. The person also has the right to report to law enforcement for legal action. Both processes can happen simultaneously.

## **Determination of Policy Violation**

Once reported, the Title IX Coordinator evaluates the complaint to determine what policy, if any, has been violated based on the reported behavior. Based on this determination, the grievance procedures will differ and will follow either Process A (official Title IX Grievance Procedures) or Process B (Other Sexual Misconduct Complaints that do not meet the criteria of Title IX based on federal regulations).

- Process A (Title IX) — The behavior must meet the definition as outlined in federal regulations which includes behavior that is severe, pervasive, AND objectively offensive so that it effectively denies the student's ability to participate in their educational program.
- Process B (Other Sexual Misconduct Complaints) — The complaint involves sexual misconduct and includes sex discrimination and other inappropriate conduct or retaliation that does not meet the criteria as defined by the Title IX regulations. This would also include complaints that fall within the definition of Title VII.

Based on terminology defined by the Office of Civil Rights (OCR) and found in Lee College Board Policy ([FFDA Local](#)), the person who reports an experience of sexual misconduct is referred to as the Complainant. The person who is accused of committing inappropriate sexual misconduct is referred to as the Respondent. Both the Complainant and the Respondent are encouraged to participate in the investigation and decision process.

## **Dismissal of the Complaint**

Dismissal of the complaint will occur if the Title IX Coordinator determines that the complaint did not violate Lee College policy. In addition, dismissal may happen if circumstances prevent the College from gathering evidence to reach a determination. This may include situations in which one or both of the parties are no longer affiliated with the College. The complaint could also be dismissed if the Complainant requests the dismissal in writing, which may be denied by a Title IX Coordinator based on the severity of the accusations.

## **Additional Information:**

### **Bias and Conflict of Interest**

Any individual who has been recognized by the College as part of the Title IX team (or those involved with the informal resolution process) must not have a conflict of interest or bias for or against either the Complainant or the Respondent.

### **Timelines**

When the policy does not have mandated timelines, all processes will be done in a timely manner. For official Title IX complaints, a grievance ordinarily will be completed within 150 business days from the filing of the formal complaint, with the investigation phase taking approximately 60 to 90 business days and the hearing and appeal phase taking approximately 45 to 60 business days. Most cases should be resolved in less than 150 business days, while some cases may take additional time due to extenuating circumstances such as a party's illness, a concurrent law enforcement proceeding, witness unavailability, a public health emergency, or the need to arrange for language assistance or technology or disability-related accommodations. The College may extend the timeframes for good cause and with written notice to the parties of the delay, the reason for the delay, and the length of the extension of time.

### **Failure to Report (Mandatory Reporting)**

Any employee who observes or receives information regarding an incident that the employee reasonably believes constitutes sexual harassment or other sexual misconduct committed by or against a Lee College student or employee must promptly report the incident or allegation to a Title IX Coordinator. The duty to report applies if, at the time of the incident, the Complainant or Respondent was enrolled at or employed by Lee College. The employee shall report all known information regarding the incident, including, if available, the name of the alleged victim, respondent, location, and nature of the incident. If the alleged victim has expressed a desire for confidentiality, the employee should provide this information to a Title IX Coordinator.

Employees who failed to make a mandatory report are subject to termination. Additionally, the employee is subject to criminal prosecution based on Texas law (Section 51.255 of the Texas Education Code). An employee who makes a report under this policy may have additional reporting obligations under other law. Employees who are Campus Security Authorities (CSA) under the Clery Act have an obligation to report incidents to the Lee College Security Office in accordance with the Clery Act.

### **Exceptions to Mandatory Reporting**

Employees who may be exempt from mandatory reporting include victims of an alleged incident (individuals are not required to report their own incident). Also, a person who received the information from public awareness event sponsored by the College (for example, Take Back the Night) is not required to report the prohibited conduct unless the person has the authority to institute corrective measures on behalf of the College.

## **Formal Complaints against The President or the Title IX Coordinator**

A formal complaint against the College President should be submitted to the Chairperson of the Board of Regents who will appoint an external investigator to conduct the investigation. An allegation against the Title IX Coordinator should be reported to the College President.

## **Records Retention**

All records of sexual harassment or sexual misconduct complaints and investigations (including appeal information and informal resolutions) will be maintained for at least seven years.

## **Contact information**

More information on Title IX and other sexual misconduct policies and procedures can be found online at [www.lee.edu/titleix](http://www.lee.edu/titleix) or by email ([TitleIXSupport@lee.edu](mailto:TitleIXSupport@lee.edu)) or by contacting a Title IX Coordinator.

### **Title IX Coordinator**

Jose Martinez — [josmartinez@lee.edu](mailto:josmartinez@lee.edu)

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