

Sexual Discrimination and Misconduct Policy

I. STATEMENT AGAINST DISCRIMINATION ON THE BASIS OF SEX, SEXUAL ORIENTATION, GENDER, AND GENDER IDENTITY

Lake Forest College

measures it deems appropriate to mitigate this risk or as otherwise needed to achieve the goals of this policy. Further information about Title IX and sex discrimination in education is available from the Office of Civil Rights (U.S. Department of Education, Citigroup Center, 500 Madison St., Suite 1475, Chicago, IL 60661-4544, 312-730-3782.)

III. STATEMENT OF COMMITMENT TO TRANSGENDER INDIVIDUALS

When a student or employee notifies the College that the student or employee will assert a gender identity different from previous representations or records, the College will begin treating that individual consistent with the individual's newly asserted gender identity. To that end, the College will use pronouns and names as requested by the transgender individual in person and in student and employment records going forward. Requests to amend previously existing student or employment records will be handled pursuant to the Family Educational Rights and Privacy Act and/or other relevant law and consistent with record amendment requests made by all other students and employees. Moreover, transgender individuals will be permitted access to sex segregated facilities (such as bathrooms, residence halls and/or locker rooms) consistent with their gender identity. Transgender students may participate in NCAA athletics programs as set forth in the NCAA guidelines regarding the same. Transgender students may also participate in non-NCAA athletics programs consistent with their gender identity.

IV. ROLE OF THE TITLE IX COORDINATOR

The College has a designated Title IX Coordinator who is responsible for implementing the College's policies and procedures in accordance with federal law, and other issues related to sexual discrimination and misconduct to manage the College's response to Title IX. Specifically, the Title IX Coordinator:

- Oversees the investigation and/or resolution of all complaints of misconduct under this policy;
- Advises complainants (individuals alleging misconduct), respondents (individuals accused of alleged misconduct), and/or third parties regarding support resources and options available through the College or

V. PROHIBITED CONDUCT

- Leering or staring at someone in a sexual way, such as leering at someone's groin
- Sending sexually explicit emails or text messages
- Giving unwelcome personal gifts that suggest the desire for a romantic relationship
- Giving unwelcome personal gifts that suggest the desire for a romantic relationship
- Social media use that violates this policy
- Sexual violence (as defined below)

In considering whether conduct constitutes sexual harassment, the College will consider the totality of circumstances, including factors such as the actual impact the conduct has had on the conduct at issue, the frequency and duration of the conduct, the relationship between the parties (including accounting for any power differential), the respective ages of the parties, the context in which the conduct occurred, and the number of persons affected. The

of the other sexual misconduct offenses in this policy.

a. Consent. Lack of consent is a critical factor in determining whether sexual violence has occurred. Consent is informed, freely given, and mutually understood. Consent requires an affirmative act or statement by each participant. Consent is:

- Expressed through affirmative and voluntary words or actions that are mutually understandable to all parties involved;
- Freely given for a specific sexual act at a specific time; and
- Can be withdrawn at any time.

Consent cannot be:

- Coerced or compelled by duress, threat, or force, or fraudulently obtained through misrepresentation;
- Given by someone who, for any reason, cannot understand the facts, nature, extent or implications of the sexual situation occurring, including, but not limited to, those who are under the legal age of consent (17 years in Illinois¹), asleep, unconscious, mentally or physically incapacitated through the effects of drugs or alcohol, or mentally impaired due to an intellectual or other disability;
- Assumed based on silence, the absence of verbal or physical resistance, clothing or manner of dress, the existence of a prior or current relationship, consent to prior sexual activity, or consent to sexual activity with another individual; and/or
- Given by a third party.

b. Coercion. Coercion is to force a person to engage in sexual activity that they would not otherwise have engaged in by causing that person to fear significant harm to themselves or others. Means of coercion may include, but are not limited to, severe or persistent pressure, direct or implied threats of force or retribution, or emotional intimidation. Words or conduct are sufficient to constitute coercion if they wrongfully impair a person's ability to consent to sexual activity. Coercion is evaluated based on the intensity, frequency, and duration of the comments or actions.

c. Incapacitation. Incapacitation means the physical, mental, or legal inability to make informed, rational judgments. An individual may be incapacitated due to alcohol or drug use, sleep, lack of consciousness, age under the legal age of consent, intellectual or other disability, or other factors that impair their ability to understand the who, what, why, when, where, or how about specific sexual activity. Where alcohol or other drugs are involved, one does not have to be intoxicated or drunk to be considered incapacitated. Rather, incapacitation is determined by how the alcohol or drugs consumed impact a person's decision-making capacity, awareness of consequences, and ability to make informed judgments. No single factor alone is determinative of incapacitation. Some common signs that someone is incapacitated may include:

- Slurred speech
- Smell of alcohol on breath
- Confusion
- Shaky balance

¹ Except in cases of child sexual abuse as defined by the Illinois Abused and Neglected Child Reporting Act, where the age of majority is 18. See Section X below.

- Stumbling or falling down
- Vomiting
- Combativeness or emotional volatility
- Outrageous or unusual behavior
- Unconsciousness

When determining whether consent was present, the College will consider whether the respondent knew, or a sober, reasonable person in the position of the respondent, knew or should have known that the complainant was incapacitated. Because incapacitation may be difficult to discern (for example, an individual may experience a blackout state in which they appear to give consent, but do not have the ability to make an informed rational decision about sexual activity), individuals are strongly encouraged to err on the side of caution; i.e., when in doubt, assume that another person is incapacitated and therefore unable to give consent. Being intoxicated or under the influence of drugs is never a defense to a complaint of sexual misconduct under this policy.

VI. ACADEMIC FREEDOM

Lake Forest College is committed to the principles of academic freedom. Rigorous discussion and debate are hwpf co gpvri'v"vj g'Eqrngi gø'gf vecvqpcr'o kulkp."cpf "vj ku'r qre{ "ku"pqv'lpvgpf gf "vq'tgutlev'vgaching methods, course content, or the processes of intellectual inquiry and debate. The fact that speech or a particular expression is offensive is not, standing alone, a sufficient basis to establish a violation of this policy. To constitute a violation of this policy, speech or expression taking place in the teaching context must be severe or persistent, not germane to the subject matter, and must impair or impede vj g'Eqrngi gø'gf vecvqpal mission or be used to disguise, or as a vehicle for, prohibited misconduct.

VII. REPORTING OPTIONS AND AVAILABLE RESOURCES

There are various reporting options and resources available to the College community. The College encourages those who have experienced sexual discrimination or misconduct to talk to one or more of the below individuals or agencies.

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not be conducted. However, t

enforcement gathers evidence. During this time period, the

known to them in their professional or official capacity may be an abused or neglected child. This is done by calling the DCFS Hotline at 1-800-252-2873 or 1-800-25ABUSE.

§ 820.10(2)(b) (under 18 unless legally emancipated) whose parent or immediate family member, any person responsible for the child's welfare, any individual residing in the same home as the child, or a paramour of the child's parent:

- Inflicts, causes to be inflicted, or allows to be inflicted upon such child physical injury, by other than accidental means, which causes death, disfigurement, impairment of physical or emotional health or loss or impairment of any bodily function;
- Creates a substantial risk of physical injury to such child by other than accidental means which would be likely to cause death, disfigurement, impairment of physical or emotional health or loss or impairment of any bodily function;
- Commits or allows to be committed any sex offense, act of torture, excessive corporal punishment, female genital mutilation, involuntary servitude, involuntary sexual servitude, or trafficking in persons against such child; or
- Causes to be sold, transferred, distributed or given to such child under 18 years of age, a controlled substance, except for controlled substances that are prescribed

report under the *Illinois Preventing Sexual Violence in Higher Education Act* website.

XII. ANNUAL REPORT

The College prepares an annual report on the previous calendar year's sexual violence complaints, responsive actions, and prevention education in accordance with the *Illinois Preventing Sexual Violence in Higher Education Act*. The report does not mention the name of any individuals or identify details of any complaint.

The report is available on the college website at <http://www.lakeforest.edu/sexualmisconduct/learn/reports.php>.

The Title IX Coordinator may create additional periodic reports for submission to the College PrePission to the College