Lake Area Technical College Sexual Harassment & Title IX Guidance

Created:	July 20, 2022
Created by:	Erin Meland, (former) Retention & Title IX Coordinator (Updated 1/24) Eric Schultz, Director of Enrollment Jennifer Severson, Grants & Compliance Manager
Approved:	12/96 (Watertown School District)
Reviewed:	
Updated:	August 21, 2026 (Personnel change, web page update) August 13, 2024 (Personnel change, WSD policy update) November 30, 2023 (Personnel change) March 2023 (WSD policy update)
Effective Date:	12/96 (Watertown School District)
Web Page:	https://www.lakeareatech.edu/life-at-lake-area-tech/campus-info-safety/title-ix-sexual-misconduct/
Related Policies:	Watertown School District Policy ACAA: Sexual Harassment (Updated 3/23)

Purpose: To define policies and procedures that ensure compliance with federal and state civil rights laws and to provide a prompt, fair, and impartial process for those involved in an allegation of sexual harassment.

Scope: This Lake Area Technical College (may be referred to as LATC or Lake Area Tech) guidance and its related procedures apply to all allegations of sexual harassment as defined in this guidance occurring in connection with LATC's education program or activity within the United States. Alleged incidents of sexual discrimination or harassment not covered by this guidance may be covered under other LATC or Watertown School Board policies.

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 LATC, and the Respondent must be a member of the LATC community. This community includes, but is not limited to, students, employees, and third parties such as guests, visitors, volunteers, and others on campus and at campus sponsored activities.

WSD Policy: It is the Watertown School District's (WSD) policy that sexual harassment is illegal, unacceptable and shall not be tolerated. No employee of the District may sexually harass any other person. Any employee will be subject to disciplinary action including possible termination for violation of this policy.

It is the District's policy that sexual harassment of students by other students or other individuals is unacceptable and shall not be tolerated. No student or employee of the school district may sexually harass any other person. Every person will be subject to disciplinary actions, including possible suspension or expulsion, for violation of this policy.

If LATC guidance conflicts with Watertown School District policy, WSD policy prevails.

LATC is committed to providing a workplace and educational environment, as well as other benefits, programs, and activities, which are free from sexual harassment. LATC values and upholds the equal dignity of all members of its community and strives to balance the rights of the parties during what is often a difficult time for all those involved.

1. Title IX Coordinator

The Dean of Student Services serves as the Title IX Coordinator and oversees implementation of this guidance. The Title IX Coordinator has the primary responsibility for coordinating LATC's efforts related to the intake, the implementation of supportive measures, and the Grievance Process. The Title IX Coordinator also has the primary responsibility for the design and implementation of remedies to stop, remediate, and prevent sexual harassment prohibited under this guidance.

Reports of alleged sex discrimination or sexual harassment and inquiries or concerns regarding this guidance may be made internally to:

Dean of Student Services
Title IX Coordinator
Lake Area Tech
1201 Arrow Ave, Watertown SD 57201
(605) 882-5284 ext 332

2. Independence and Conflict-of-Interest

The Title IX Coordinator acts with independence and authority free from bias and conflicts of interest. The Title IX Coordinator oversees all resolutions under this guidance and these procedures.

The members of the Title IX Team are vetted and trained to ensure they are not biased for or against any party in a specific case, or for or against Complainants and/or Respondents, generally.

To raise any concern involving bias or conflict of interest by the Title IX Coordinator, contact the LATC Vice President. Concerns of bias or a potential conflict of interest by a member of the Grievance Process Pool should be raised with the Title IX Coordinator.

Reports of misconduct committed by the Title IX Coordinator should be reported to the LATC Vice President. Reports of misconduct committed by a member of the Title IX Grievance Process Pool should be reported to the Title IX Coordinator.

3. Required Training of the Title IX Team

The Title IX Team consists of the Title IX Coordinator and the Title IX Grievance Process Pool (the Pool) who may neither have nor demonstrate a conflict of interest or bias for a party generally, or for a specific Complainant or Respondent. The Title IX Coordinator is trained annually, and Pool members will be trained in their role before participating in the Grievance Process.

4. Notice and Formal Complaints of Sexual Harassment

Notice - Any person may report (give Notice of) sex discrimination, including sexual harassment (whether or not the person reporting is the person alleged to be the victim of conduct that could constitute sex discrimination or sexual harassment), in person, by mail, by telephone, or by electronic mail, using the contact information listed for the LATC Title IX Coordinator, or by any other means that results in the LATC Title IX Coordinator receiving the person's verbal or written report. Such a report may be made at any time (including during non-business hours) by using the telephone number, electronic mail address, or by mail to the office address listed for the LATC Title IX Coordinator in section 1. Reports may also be made to an Official with Authority (see section 18). Upon Notice, LATC's Title IX Coordinator will immediately contact the Complainant, if identified, to offer supportive measures and explain the process to file a Formal Complaint.

Anonymous reports are accepted but can give rise to a need to investigate. LATC tries to provide supportive measures to all Complainants, which may be impossible with an anonymous report. Because Notice carries no obligation to a Complainant to file a Formal Complaint, and as LATC respects Complainant requests to dismiss Formal Complaints unless there is a compelling threat to health and/or safety, the Complainant is largely in control and should not fear a loss of privacy by making a report that allows LATC to discuss and/or provide supportive measures.

Formal Complaint - A Complainant may file a Formal Complaint with the Title IX Coordinator in person, by mail, or by electronic mail by using the contact information for the Title IX Coordinator in section 1. A Formal Complaint must contain the Complainant's physical or digital signature and requests that LATC investigate the allegations and initiate the Grievance Process. If a Formal Complaint is submitted in a form that does not meet this standard, the Title IX Coordinator will contact the Complainant to ensure that it is filed correctly. Formal Complaints may also be filed with an Official with Authority (see section 19).

The Title IX Coordinator may sign a Formal Complaint when it is deemed necessary for the safety and security of the campus. Where the Title IX Coordinator signs a Formal Complaint, the Title IX Coordinator is not a Complainant or otherwise a party.

8. Supportive Measures

Upon Notice or a Formal Complaint of alleged sexual harassment, LATC's Title IX Coordinator will promptly contact the Complainant to offer and implement appropriate and reasonable supportive measures. The Title IX Coordinator will work with the Complainant to ensure that their wishes are

considered with respect to the supportive measures that are planned and implemented and inform the Complainant that supportive measures are available with or without filing a Formal Complaint. At the time that supportive measures are offered, LATC will inform the Complainant, in writing, of the process to file a Formal Complaint with LATC either at that time or in the future, if they have not done so already. If a Complainant refuses supportive measures, the Title IX Coordinator will document the refusal.

Supportive measures may be offered to a Respondent upon the filing of a Formal/Informal Complaint.

All supportive measures offered and implemented will be documented. LATC will maintain the privacy of the supportive measures, provided that privacy does not impair LATC's ability to provide the supportive measures. LATC will act to ensure as minimal an academic impact on the parties as possible. LATC will implement supportive measures in a way that does not unreasonably burden the other party.

These actions may include, but are not limited to:

- Timely Warning
- Referral to counseling, medical, and/or other healthcare services
- Class schedule modifications
- Student Emergency Fund information
- Academic support, extensions of deadlines, or other course/program-related adjustments
- Referral to community-based service providers
- Education to the institutional community or community subgroup(s)
- Altering work arrangements for employees or student-employees
- Visa and immigration assistance
- Any other actions deemed appropriate by the Title IX Coordinator

Violations of no contact orders will be referred to appropriate student or employee conduct processes for enforcement.

9. Emergency Removal

Nothing contained in this guidance shall preclude LATC from removing a student Respondent entirely or partially from its education program or activity on an emergency basis when an individualized safety and risk analysis has determined that an immediate threat to the physical health or safety of any student or other individual arising from the allegations of sexual harassment justifies removal.

A Formal Complaint and Grievance Process do not need to be in place for an Emergency Removal to occur.

Where the Respondent is a non-student employee, the employee may be placed on administrative leave (with or without pay) while a Grievance Process is pending, without needing to meet the emergency removal standards.

10. Promptness

All allegations are acted upon promptly by LATC once it has received Notice or a Formal Complaint. Formal Complaints can take up to 90 business days to resolve, typically. There are always exceptions and extenuating circumstances that can cause a resolution to take longer, but LATC will avoid all undue delays within its control.

Any time the general timeframes for the Grievance Process will be delayed, LATC will provide written notice to the parties of the delay, the cause of the delay, and an estimate of the anticipated additional time that will be needed as a result of the delay.

11. Privacy

Every effort is made by LATC to preserve the privacy of reports. LATC will not share the identity of any individual who has made a report or complaint of sex discrimination, including any individual who has made a report or Formal Complaint of sexual harassment, any Complainant, any individual who has been reported to be the perpetrator of sexual harassment, any Respondent, or any witness, except as permitted by the Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. 1232g; FERPA regulations, 34 CFR part 99; or as required by law; or to carry out the purposes of 34 CFR Part 106, including the conducting of any investigation, hearing, or other grievance proceeding arising under these policies and procedures.

For the purpose of this guidance, privacy and confidentiality have distinct meanings.

- Privacy means that information related to Notice, a Formal Complaint, supportive measures, and the Title IX Grievance Process will be shared with a limited number of LATC employees and the Title IX Team who "need to know" in order to assist in the assessment, investigation, and resolution of the report. All employees and Title IX Team members who are involved in LATC's response to Notice under this guidance receive specific training and guidance about sharing and safeguarding private information in accordance with state and federal law. The privacy of student education records will be protected in accordance with the Family Educational Rights and Privacy Act ("FERPA"), as outlined in LATC's FERPA Policy. The privacy of employee records will be protected in accordance with Human Resources processes.
- Confidentiality exists in the context of laws that protect certain relationships, including those who provide services related to medical and clinical care, mental health providers, counselors, and ordained clergy. The law creates a privilege between certain health care providers, mental health care providers, attorneys, clergy, and others, with their patients, clients, and parishioners.

LATC reserves the right to determine which LATC officials have a legitimate educational interest in being informed about incidents that fall within this guidance, pursuant to the Family Educational Rights and Privacy Act (FERPA). Information will be shared as necessary with Investigators, Advisors, Decision-makers, witnesses, and the parties. The circle of people with this knowledge will be kept as tight as possible to preserve the parties' rights and privacy.

LATC may contact parents/guardians to inform them of situations in which there is a significant and

articulable health and/or safety risk but will usually consult with the student first before doing so.

Confidentiality and obligated reporting are addressed more specifically in section 18.

12. Jurisdiction of LATC

This guidance applies to locations, events, or circumstances within the United States where LATC exercises substantial control over the Respondent and the context in which the sexual harassment occurs.

If the Respondent is unknown or is not a member of the LATC community, the Title IX Coordinator will assist the Complainant with supportive measures and, when criminal conduct is alleged, in contacting local law enforcement if the individual would like to file a police report.

All vendors serving LATC through third-party contracts are subject to the policies and procedures of their employers or to these policies and procedures to which their employer has agreed to be bound by their contracts.

13. Time Limits on Reporting

There is no time limitation on providing Notice/Formal Complaints to the Title IX Coordinator. However, if the Respondent is no longer subject to LATC's jurisdiction and/or significant time has passed, the ability to investigate, respond, and provide remedies may be more limited or impossible.

Acting on Notice/Formal Complaints significantly impacted by the passage of time (including, but not limited to, the rescission or revision of) is at the discretion of the Title IX Coordinator, who may document allegations for future reference, offer supportive measures and/or remedies, and/or engage in informal or formal action, as appropriate.

When Notice/Formal Complaint is affected by significant time delay, LATC will typically apply the guidance in place at the time of the alleged misconduct and the procedures in place at the time of Notice/Formal Complaint.

14. Online Sexual Harassment

The guidance of LATC is written and interpreted broadly to include online harassment, when the harassment occurs in or has an effect on LATC's education program or activity, or use LATC networks, websites, email, technology, or equipment.

Any online posting or other electronic communication occurring completely outside of the LATC's control (e.g., not occurring in an education program or activity or not on LATC networks, websites, technology, equipment, or using LATC email accounts) will only be subject to this guidance when such online conduct can be shown to cause a substantial disruption to LATC's education program or activity.

Although LATC may not control websites, social media, and other venues in which harassing communications are made, when such communications are reported to LATC, it will engage in a variety of means to address and mitigate the effects, and supportive measures will be offered to the Complainant.

15. Non-Discrimination Statement

Lake Area Technical College does not discriminate on the basis of race, color, national origin, sex, disability, or age in its programs, activities, and employment. The following person has been designated to handle inquiries regarding the non-discrimination policies: Vice President, PO Box 730, Watertown, SD 57201, or (605) 882-5284 x 225. Those in need of accommodations should notify their instructor and make appropriate arrangements with the Office of Disability Services at (605) 882-5284 x 216.

16. Guidance on Nondiscrimination

LATC will respond promptly to allegations of sexual harassment in a manner that is not deliberately indifferent. LATC will treat Complainants and Respondents equitably by offering supportive measures to every Complainant and following the Grievance Process before imposition of any disciplinary sanctions or other actions that are not supportive measures, against a Respondent. LATC will pursue every Formal Complaint filed by a Complainant or signed by a Title IX Coordinator using the Grievance Process and will effectively implement remedies designed to restore or preserve a Complainant's equal educational access any time a Respondent is found responsible for sexual harassment.

LATC will not tolerate racism, discrimination, harassment, exploitation or victimization of students by other students, employees, or third parties such as guests, visitors, volunteers, and others. This includes but is not limited to race, color, ethnic background, national origin, pregnancy, marital status, religion, creed, age, sex, citizenship, political affiliation, mental and/or physical challenge, disability, sexual orientation, genetic information, gender identity, gender expression, status as a veteran, or any other status protected under applicable federal, state or local law. LATC is committed to providing an environment free from harassment and other forms of discrimination for students, employees, non-employees and its invitees.

17. Definitions of Sexual Harassment, Force, Coercing, Consent, and Incapacitation

The Department of Education's Office for Civil Rights (OCR), the Equal Employment Opportunity Commission (EEOC), and the State of South Dakota regard sexual harassment as an unlawful discriminatory practice.

Acts of sexual harassment may be committed by any person upon any other person, regardless of the sex, sexual orientation, and/or gender identity of those involved.

Sexual Harassment

LATC has adopted the following definition of sexual harassment, as applied to this guidance, in order to address the unique environment of an academic community.

Sexual Harassment means conduct on the basis of sex that satisfies one or more of the following:

1. An employee of LATC conditioning the provision of an aid, benefit, or service of LATC on the individual's participation in unwelcome sexual conduct. (i.e. quid pro quo)

2. Unwelcome conduct that a reasonable person would determine is so severe, pervasive, and objectively offensive that it effectively denies a person equal access to LATC's education program or activity.

3. Sexual assault meaning any sexual act directed against another person, without the consent of the victim, including instances where the victim is incapable of giving consent.

    a) Rape (Except Statutory Rape) – The carnal knowledge of a person, without the consent of the victim, including instances where the victim is incapable of giving consent because of their age or because of their temporary or permanent mental or physical incapacity.

    b) Sodomy - Oral or anal sexual intercourse with another person, without the consent of the victim, including instances where the victim is incapable of giving consent because of their age or because of their temporary or permanent mental or physical incapacity.

    c) Sexual Assault with An Object – To use an object or instrument to unlawfully penetrate, however slightly, the genital or anal opening of the body of another person, without the consent of the victim, including instances where the victim is incapable of giving consent because of their age or because of their temporary or permanent mental or physical incapacity.

    d) Incest – Non-forcible sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.

    e) Statutory Rape – Sexual intercourse with a person who is under the statutory age of consent.

4. Dating Violence meaning violence committed by a person who is in or has been in a social relationship of a romantic or intimate nature with the victim. 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.

    For the purposes of this definition—

    - Dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse.
    - Dating violence does not include acts covered under the definition of domestic violence.

5. Domestic Violence meaning felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with, or has cohabitated with, the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred.
6. Stalking meaning engaging in a course of conduct on the basis of sex directed at a specific

person that would cause a reasonable person to

a) Fear for the person's safety or the safety of others; or
b) Suffer substantial emotional distress.

For the purposes of this definition—

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

LATC reserves the right to impose any level of disciplinary sanction, ranging from a reprimand up to and including suspension or expulsion/termination, for any offense under this guidance.

Force, Coercion, Consent, and Incapacitation

As used in the offenses above, the following definitions and understandings apply:

Force: Force is the use of physical violence and/or physical imposition to gain sexual access. Force also includes threats, intimidation (implied threats), and coercion that is intended to overcome resistance or produce consent (e.g., "Have sex with me or I'll hit you," "Okay, don't hit me, I'll do what you want.").

Sexual activity that is forced is, by definition, non-consensual, but non-consensual sexual activity is not necessarily forced. Silence or the absence of resistance alone is not consent. Consent is not demonstrated by the absence of resistance. While resistance is not required or necessary, it is a clear demonstration of non-consent.

Coercion*:* Coercion is unreasonable pressure for sexual activity. Coercive conduct differs from seductive conduct based on factors such as the type and/or extent of the pressure used to obtain consent. When someone makes clear that they do not want to engage in certain sexual activity, that they want to stop, or that they do not want to go past a certain point of sexual interaction, continued pressure beyond that point can be coercive.

Consent is *kn*owing, and voluntary, and clear permission by word or action to engage in sexual activity.

Individuals may experience the same interaction in different ways. Therefore, it is the responsibility of each party to determine that the other has consented before engaging in the activity.

If consent is not clearly provided prior to engaging in the activity, consent may be ratified by word or action at some point during the interaction or thereafter, but clear communication from the outset is strongly encouraged.

For consent to be valid, there must be a clear expression in words or actions that the other individual consented to that specific sexual conduct. Reasonable reciprocation can be implied. For example, if someone kisses you, you can kiss them back (if you want to) without the need to explicitly obtain their consent to being kissed back.

Consent can also be withdrawn once given, as long as the withdrawal is reasonably and clearly communicated. If consent is withdrawn, that sexual activity should cease within a reasonable time.

Consent to some sexual contact (such as kissing or fondling) cannot be presumed to be consent for other sexual activity (such as intercourse). A current or previous intimate relationship is not sufficient to constitute consent.

Proof of consent or non-consent is not a burden placed on either party involved in an incident. Instead, the burden remains on LATC to determine whether its guidance has been violated. The existence of consent is based on the totality of the circumstances evaluated from the perspective of a reasonable person in the same or similar circumstances, including the context in which the alleged incident occurred and any similar, previous patterns that may be evidenced.

Consent in relationships must also be considered in context. When parties consent to BDSM[7] or other forms of kink, non-consent may be shown by the use of a safe word. Resistance, force, violence, or even saying "no" may be part of the kink and thus consensual, so LATC's evaluation of communication in kink situations should be guided by reasonableness, rather than strict adherence to guidance that assumes non- kink relationships as a default.

Incapacitation: A person cannot consent if they are unable to understand what is happening or is disoriented, helpless, asleep, or unconscious, for any reason, including by alcohol or other drugs. As stated above, a Respondent violates this guidance if they engage in sexual activity with someone who is incapable of giving consent.

It is a defense to a sexual assault guidance violation that the Respondent neither knew nor should have known the Complainant to be physically or mentally incapacitated. "Should have known" is an objective, reasonable person standard that assumes that a reasonable person is both sober and exercising sound judgment.

Incapacitation occurs when someone cannot make rational, reasonable decisions because they lack the capacity to give knowing/informed consent (e.g., to understand the "who, what, when, where, why, or how" of their sexual interaction).

Incapacitation is determined through consideration of all relevant indicators of an individual's state and is not synonymous with intoxication, impairment, blackout, and/or being drunk.

This guidance also covers a person whose incapacity results from a temporary or permanent physical or mental health condition, involuntary physical restraint, and/or the consumption of incapacitating drugs.

18. Retaliation

Protected activity under this guidance includes reporting an incident that may implicate this guidance, participating in the grievance process, supporting a Complainant or Respondent, assisting in providing

information relevant to an investigation, and/or acting in good faith to oppose conduct that constitutes a violation of this guidance.

Acts of alleged retaliation should be reported immediately to the Title IX Coordinator and will be promptly investigated. LATC will take all appropriate and available steps to protect individuals who fear that they may be subjected to retaliation.

LATC and any member of LATC's community are prohibited from taking materially adverse action by intimidating, threatening, coercing, harassing, or discriminating against any individual for the purpose of interfering with any right or privilege secured by Title IX or this guidance, or because the individual has made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under this guidance.

Intimidation, threats, coercion, or discrimination, including charges against an individual for code of conduct violations that do not involve sex discrimination or sexual harassment, but arise out of the same facts or circumstances as a report or complaint of sex discrimination, or a report or Formal Complaint of sexual harassment, for the purpose of interfering with any right or privilege secured by Title IX or this guidance, constitutes retaliation.

The exercise of rights protected under the First Amendment does not constitute retaliation.

Charging an individual with a code of conduct violation for making a materially false statement in bad faith in the course of a grievance proceeding under this guidance and procedure does not constitute retaliation, provided that a determination regarding responsibility, alone, is not sufficient to conclude that any party has made a materially false statement in bad faith.

19. Reporting Options

In order to make informed choices, it is important to be aware of confidentiality and reporting requirements when consulting campus resources.

a. Title IX Coordinator

Any person may report (give notice of) sex discrimination, including sexual harassment (whether or not the person reporting is the person alleged to be the victim of conduct that could constitute sex discrimination or sexual harassment), in person, by mail, by telephone, or by electronic mail, using the contact information listed for the LATC Title IX Coordinator in section 4 of this guidance. Such a report may be made at any time (including during non-business hours) by using the telephone number, electronic mail address, or by mail to the office address listed for the LATC Title IX Coordinator.

b. Official with Authority (OWA)

Any person may report (give Notice of) sex discrimination, including sexual harassment (whether or not the person reporting is the person alleged to be the victim of conduct that could constitute sex discrimination or sexual harassment), in person, by mail, by telephone, or by electronic mail to an OWA to include the following:

- LATC President
- Vice President
- Dean of Academics
- Assistant Dean of Academics
- Dean of Student Services

c. Confidential Resources

If a Complainant would like the details of an incident to be kept confidential and the incident not to be reported to the Title IX Coordinator or to an OWA to trigger action under this guidance, the Complainant may do the following:

- Students may request to speak to a campus mental health therapist. Through their advisor without revealing the alleged sexual harassment. If the student informs the advisor of the alleged sexual harassment, the advisor will be obligated to inform the Title IX Coordinator.
- Complainants may also identify community resources on the Title IX page of the LATC website. Community resources may include:
    - Licensed professional counselors and other medical providers
    - Local rape crisis counselors
    - Domestic violence resources
    - Local or state assistance agencies
    - Attorneys

All of the above-listed individuals will maintain confidentiality when acting under the scope of their licensure, professional ethics, and/or professional credentials, except in extreme cases of immediacy of threat or danger or abuse of a minor/elder/individual with a disability, or when required to disclose by law or court order.

d. Obligated Reporter

Obligated Reporters are LATC employees who are expected to report actual or suspected sexual harassment to the Title IX Coordinator or to an OWA immediately upon knowledge. Obligated Reporters must also promptly share all details of behaviors under this guidance that they observe or have knowledge of, even if not reported to them by a Complainant or third-party.

The following are designated by LATC as Obligated Reporters:

- Administrators
- Academic Program Supervisors
- Disability Services Coordinator
- Student Activities Coordinator

Generally, disclosures in surveys, classroom writing assignments or discussions, human subjects research, or at events do not provide “knowledge” that must be reported to the Title IX Coordinator or an OWA by Obligated Reporters, unless the Complainant clearly indicates that they desire a report to be made or seek a specific response from LATC.

Failure of an Obligated Reporter, as described above in this section, to report an incident of sexual harassment of which they become aware is a violation of LATC guidance and can be subject to disciplinary action for failure to comply. If an Obligated Reporter fails to report an incident of sexual harassment of which they become aware of to the Title IX Coordinator or an OWA, LATC is not on Notice.

Finally, it is important to clarify that an Obligated Reporter who is themselves a target of harassment or other misconduct under this guidance is not required to report their own experience, though they are, of course, encouraged to do so.

20. When a Complainant Does Not Wish to Proceed

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

The Title IX Coordinator has ultimate discretion over whether LATC proceeds when the Complainant does not wish to do so, and the Title IX Coordinator may sign a Formal Complaint to initiate a grievance process. The Title IX Coordinator's decision should be based on a compelling risk to health and/or safety that requires LATC to pursue formal action to protect the community. A compelling risk to health and/or safety may result from evidence of patterns of misconduct, predatory conduct, threats, abuse of minors, use of weapons, and/or violence. LATC may also be compelled to act on alleged employee misconduct irrespective of a Complainant's wishes.

The Title IX Coordinator must also consider the effect that non-participation by the Complainant may have on the availability of evidence and LATC's ability to pursue a Formal Grievance Process fairly and effectively.

When the Title IX Coordinator executes the written Formal Complaint, they do not become the Complainant. The Complainant is the individual who is alleged to be the victim of conduct that could constitute a violation of this guidance.

When LATC proceeds, the Complainant may have as much or as little involvement in the process as they wish. The Complainant retains all rights of a Complainant under this guidance irrespective of their level of participation.

Note that LATC's ability to remedy and respond to Notice may be limited if the Complainant does not want LATC to proceed with a Formal Complaint. The goal is to provide the Complainant with as much control over the process as possible, while balancing LATC's obligation to protect its community.

In cases in which the Complainant requests confidentiality/no formal action and the circumstances allow LATC to honor that request, LATC will offer supportive measures to the Complainant, but will not otherwise pursue formal action.

If the Complainant elects to take no action, they can change that decision if they decide to pursue a Formal Complaint at a later date. Upon making a Formal Complaint, a Complainant has the right, and

can expect, to have allegations taken seriously by LATC, and to have the incidents investigated and properly resolved through the Grievance Process. Please consider that delays may cause limitations on access to evidence or may present issues with respect to the status of the parties.

21. Federal Timely Warning Obligations

Parties reporting sexual assault, dating violence, domestic violence, and/or stalking should be aware that under the Clery Act, LATC must issue timely warnings for incidents reported to them that pose a serious or continuing threat of bodily harm or danger to members of the campus community.

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

22. False Allegations and Evidence

Deliberately false and/or malicious accusations under this guidance are a serious offense and will be subject to appropriate disciplinary action. This does not include allegations that are made in good faith but are ultimately shown to be erroneous or do not result in a guidance violation determination.

Additionally, witnesses and parties knowingly providing false evidence, tampering with or destroying evidence, or deliberately misleading an official conducting an investigation can be subject to discipline under LATC guidance.

23. Amnesty for Complainants and Witnesses

LATC community encourages the reporting of misconduct and crimes by Complainants and witnesses. Sometimes, Complainants or witnesses are hesitant to report to LATC officials or participate in grievance processes because they fear that they themselves may be in violation of certain policies, such as underage drinking or use of illicit drugs at the time of the incident. Respondents may hesitate to be forthcoming during the process for the same reasons.

It is in the best interests of LATC community that Complainants choose to report misconduct to LATC officials, that witnesses come forward to share what they know, and that all parties be forthcoming during the process.

To encourage reporting and participation in the process, LATC maintains a practice of offering parties and witnesses amnesty from minor guidance violations – such as underage consumption of alcohol or the use of illicit drugs – related to the incident.

Amnesty does not apply to more serious allegations such as physical abuse of another or illicit drug distribution. The decision not to offer amnesty is based on neither sex nor gender, but on the fact that collateral misconduct is typically addressed for all students and employees within a progressive discipline system, and the rationale for amnesty – the incentive to report serious misconduct – is rarely applicable to a Respondent with respect to a Complainant.

24. External Administrative Contact Information

Inquiries may be made externally to:

Office for Civil Rights (OCR)
U.S. Department of Education
400 Maryland Avenue, SW, Washington, D.C. 20202-1100
Customer Service Hotline: (800) 421-3481
Facsimile: (202) 453-6012; TDD: (877) 521-2172
Email: OCR@ed.gov
Web: http://www.ed.gov/ocr

The EEOC has jurisdiction over Title IX Employment Claims. For Title IX concerns involving employees, inquiries may be made externally to:

Minneapolis Area Office
Towle Building
330 South Second Avenue, Suite 720
Minneapolis, MN 55401-2224
Phone: 612-552-7306
TTY: 1-800-669-6820
ASL Video Phone: 844-234-5122

25. Revision of this Guidance and Related Procedures

This guidance and related procedures supersede any previous LATC guidance addressing harassment, sexual misconduct and/or retaliation under Title IX and will be reviewed and updated annually by the Title IX Coordinator. LATC reserves the right to make changes to this document as necessary, and once those changes are posted online, they are in effect.

During the resolution process, the Title IX Coordinator may make minor modifications to procedures that do not materially jeopardize the fairness owed to any party, such as to accommodate summer schedules. The Title IX Coordinator may also vary procedures materially with notice (on the institutional website, with the appropriate effective date identified) upon determining that changes to law or regulation require guidance or procedural alterations not reflected in this guidance and procedures.

If government laws or regulations change – or court decisions alter – the requirements in a way that impacts this document, this document will be construed to comply with the most recent government regulations or holdings.

This document does not create legally enforceable protections beyond the protection of the background state and federal laws which frame such policies and codes, generally.

Legal references: Title IX of the US Education Amendments of 1972; 34 CFR Part 106; 20 U.S.C. 1092(f)(6)(A)(v); 34 U.S.C. 12291(a)(10); 34 U.S.C. 12291(a)(8); U.S.C. 12291(a)(30); Jeanne Clery Disclosure of Campus Security; Policy and Campus Crime Statistics Act (Clery Act); Violence Against Women Act (VAWA); Family Educational Rights and Privacy Act (FERPA); 20 U.S.C. 1232g; FERPA regulations; 34 CFR part 99