

Policy on Equal Opportunity, Harassment and Non-Discrimination

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Effective Aug. 14, 2020

1. DEFINITIONS

Adviser: A person chosen by a party or appointed by the college to accompany the party to meetings related to the resolution process, to advise the party on that process, and to conduct cross-examination, or questioning, for the party at the hearing, if any.

Complainant: An individual who is alleged to be the victim of conduct that could constitute sexual harassment or discrimination based on a protected class; or retaliation for engaging in a protected activity.

Complaint (formal): A document submitted or signed by a Complainant or signed by the Title IX Coordinator alleging harassment or discrimination based on a protected class or retaliation for engaging in a protected activity against a Respondent and requesting that the college investigate the allegation.

Confidential Resource: An employee who is not a Mandated Reporter of notice of harassment, discrimination, and/or retaliation (irrespective of Clery Act Campus Security Authority status).

Day: A business day when the College is in normal operation.

Directly Related Evidence: Evidence connected to the complaint, but is neither inculpatory (tending to prove a violation) or exculpatory (tending to disprove a violation) and will not be relied upon by the investigation report.

Education program or activity: Locations, events, or circumstances where the College exercises substantial control over both the Respondent and the context in which the sexual harassment or discrimination occurs and also includes any building owned or controlled by a student organization that is officially recognized by the College.

Final Determination: A conclusion by the preponderance of evidence (standard of proof) that the alleged conduct did or did not violate policy.

Finding: A conclusion by the preponderance of evidence that the conduct did or did not occur as alleged (as in a “finding of fact”).

Formal Grievance Process: “Process A,” a method of formal resolution designated by the college to address conduct that falls within the policies included below, and which complies with the requirements of the Title IX Regulations 34 CFR 106.45.

Grievance Process Pool: Includes any investigators, hearing officers, appeal officers, and advisers who may perform any or all of these roles (though not at the same time or with respect to the same case).

Hearing Decision Panel (Decision-Makers): Refers to those who have decision-making and/or sanctioning authority within the College’s Formal Grievance process.

Investigator: The person or persons charged by the College with gathering facts about an alleged violation of this Policy, assessing relevance and credibility, synthesizing the evidence, and compiling this information into an investigation report and file of directly related evidence.

Mandated Reporter: An employee of the College who is obligated by policy to share knowledge, notice, and/or reports of harassment, discrimination, and/or retaliation with the Title IX Coordinator or a Deputy Coordinator. Refer to sections 7 and 19 for more detailed information about Mandated Reporting.

Notice: Means that an employee, student, or third-party informs the Title IX Coordinator or other Official with Authority of the alleged occurrence of harassing, discriminatory, and/or retaliatory conduct.

Official with Authority (OWA): An employee of the College explicitly vested with the responsibility to implement corrective measures for harassment, discrimination, and/or retaliation on behalf of the College.

Parties: Include the Complainant(s) and Respondent(s), collectively.

Process A: The Formal Grievance Process defined above.

Process B: The administrative resolution procedures that apply only when Process A does not, as determined by the Title IX Coordinator.

Recipient: A postsecondary education program that is a recipient of federal funding, referred to as the "College" throughout this document.

Relevant Evidence: Evidence that tends to prove or disprove an issue in the complaint.

Remedies: Post-finding actions directed to the Complainant and/or the community as mechanisms to address safety, prevent recurrence, and restore access to the College's educational program.

Respondent: An individual who has been reported to be the perpetrator of conduct that could constitute sexual harassment or discrimination based on a protected class; or retaliation for engaging in a protected activity.

Resolution: The result of an informal or Formal Grievance Process.

Sanction: A consequence imposed by the College on a Respondent who is found to have violated this policy.

Sexual Harassment: The umbrella category including the offenses of sexual harassment, sexual assault, stalking, and dating violence and domestic violence. See Section 17. b., for greater detail.

Third-Party Reporter: An individual reporting to the College an incident of sexual harassment that happened to someone else.

Title IX Coordinator: At least one official designated by the College to ensure compliance with Title IX and the College's Title IX program. References to the Coordinator throughout this policy may also encompass a designee of the Coordinator for specific tasks.

Title IX Team: Refers to the Title IX Coordinator and deputy coordinators.

2. STATEMENT OF PURPOSE

Lafayette College is committed to providing a learning and working environment that emphasizes the dignity and worth of every member of its community. Sexual Harassment (which includes Quid Pro Quo Harassment, as well as Sexual Assault, Dating Violence, Domestic Violence, and Stalking, as defined below) in any form or context is contrary to this principle. Sexual Harassment interferes with the expectation that all individuals at the College will learn and work in an environment that is free from discrimination, and it threatens the safety, well-being, educational experience, and career of students, faculty, and staff. It will not be tolerated in any form and is prohibited by this Policy on Equal Opportunity, Harassment, and Nondiscrimination (hereinafter, the "Policy").

Lafayette College is also committed to freedom of thought, discourse, and speech and the attainment of the highest quality of academic and educational pursuits. Consistent with the College's Policy on Academic Freedom (Faculty Handbook, Appendix A), this Policy is not meant to prohibit or inhibit educational content or discussions that include controversial or sensitive subject matters. In articulating this Policy, the College affirms its adherence to the principle of academic freedom as well as its commitment to providing a learning and working environment free of harassment and discrimination.

The College does not discriminate on the basis of sex or gender in any of its education programs and activities, and it does not tolerate discrimination or harassment on the basis of sex or gender. Sexual Harassment may also constitute a form of gender-based harassment. When reported conduct involves a potential violation of both this Policy and any other College policy, the procedures set forth in this Policy will apply.

The College will provide a prompt and equitable response to reports or notice it receives about Sexual Harassment with measures designed to stop the behavior, prevent its recurrence, and address adverse effects of such conduct in College-related programs or

activities. Through processes that address both prevention and remedies, this Policy aims to maintain a campus environment that is free of harassment and discrimination.

This Policy also prohibits Retaliation against individuals for reporting Sexual Harassment or participating in the processes outlined in this Policy. The College will take disciplinary action against persons who retaliate or attempt such retaliation, even if the underlying allegations of prohibited conduct are not established by a preponderance of the evidence.

The College intends to maintain, consistent with this Policy: (1) Processes sensitive to both the Complainant and Respondent in responding to reports of Sexual Harassment, which consist of informing the parties of available resources including medical, counseling, and support services and available alternative remedies; (2) prompt and equitable processes and procedures for determining violations of this Policy which assure fairness to both the Complainant and Respondent; (3) College disciplinary sanctions for those who are found responsible for violating this Policy ; (4) individual and community remedies to address the effects of Sexual Harassment; and (5) an ongoing Presidential Oversight Committee to review and provide input on the College's prevention and education programs and contemplated changes to policies and/or procedures.

General Rule Prohibiting Sexual Harassment

Sexual Harassment are forms of discrimination that violate the standards of conduct expected of every member of the College community and are strictly prohibited. Sexual Harassment, in any form, will not be tolerated in any context or position whether it be between faculty and students, faculty and other faculty, coaches and athletes, supervisors and employees, staff and students, students and other students, workers and coworkers, or others. This general rule prohibiting Sexual Harassment applies equally regardless of the relative status or position of the individuals involved.

3. SCOPE

The core purpose of this policy is the prohibition of all forms of discrimination. Sometimes, discrimination involves exclusion from, or different treatment in, activities, such as admission, athletics, or employment. Other times, discrimination takes the form of harassment or, in the case of sex-based discrimination, can encompass sexual harassment, sexual assault, stalking, sexual exploitation, dating violence or domestic violence. When an

alleged violation of this anti-discrimination policy is reported, the allegations are subject to resolution using the College's "Process A" or "Process B," as determined by the Title IX Coordinator.

When the Respondent is a member of the Lafayette community, a grievance process may be available regardless of the status of the Complainant, who may or may not be a member of the Lafayette community. This community includes, but is not limited to, students, student organizations, faculty, administrators, staff, and third parties such as guests, visitors, volunteers, invitees, and campers. The procedures below may be applied to incidents, to patterns, and/or to the campus climate, all of which may be addressed and investigated in accordance with this policy.

4. THE COLLEGE'S TITLE IX COORDINATOR

The College's Director of Educational Equity serves as the Title IX Coordinator and oversees the College's compliance with this Policy, consistent with the Coordinator's oversight of Title IX and related provisions of the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (Clery Act), as amended by the Violence Against Women Reauthorization Act of 2013 (VAWA). The Title IX Coordinator has the primary responsibility for coordinating the College's efforts related to the intake, investigation, resolution, and implementation of supportive measures to stop, remediate, and prevent discrimination, harassment, and retaliation prohibited under this policy.

The Title IX Coordinator also oversees the College's centralized response to all reports of discrimination and harassment to ensure consistent implementation of this Policy and compliance with federal and state law.

The Title IX Coordinator may delegate responsibilities under this Policy to designated administrators. The Title IX Coordinator is available to address questions or provide additional clarity and guidance about College policy, procedures or available resources.

The College's Title IX Coordinator is:

Amanda Hanincik

202 Feather House

(610) 330-5338

hanincia@lafayette.edu (mailto:hanincia@lafayette.edu)

5. INDEPENDENCE AND CONFLICT-OF-INTEREST

The Title IX Coordinator manages the TIX Team and acts with independence and authority free from bias and conflicts of interest. The Title IX Coordinator oversees all resolutions under this policy 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 College's President, Nicole Hurd. The President's Office is located in 316 Markle Hall and can be reached at (610) 330-5200. Concerns of bias or a potential conflict of interest by any other Title IX Team member should be raised with the Title IX Coordinator.

Reports of misconduct or discrimination committed by the Title IX Coordinator should be reported to the College's President, Nicole Hurd. The President's Office is located in 316 Markle Hall and can be reached at (610) 330-5200. Reports of misconduct or discrimination committed by any other Title IX Team member should be reported to the Title IX Coordinator.

6. ADMINISTRATIVE CONTACT INFORMATION

Complaints or notice of alleged policy violations, or inquiries about or concerns regarding this policy and procedures, may be made internally to:

Amanda Hanincik

Title IX Coordinator

Office of Educational Equity

202 Feather House

(610) 330-5338

hanincia@lafayette.edu (<mailto:hanincia@lafayette.edu>)

<https://sash.lafayette.edu/> (<https://sash.lafayette.edu/>)

Title IX Team members include these Deputy Coordinators:

Lisa Gabel

Deputy Title IX Coordinator

Professor, William C. '67 and Pamela Rappolt Scholar in Neuroscience, and Chair, Program in

Neuroscience

315 Oechsle Hall

610-330-5296

gabell@lafayette.edu (mailto:gabell@lafayette.edu)

Lisa Rex

Deputy Title IX Coordinator

Director of Human Resources-Employment

12 Markle Hall

(610) 330-5060

rexl@lafayette.edu (mailto:rexl@lafayette.edu)

Jennifer Dize

Deputy Title IX Coordinator

Assistant Dean of Students

205 Feather House

(610) 330-5082

dizej@lafayette.edu (mailto:dizej@lafayette.edu)

Terrence Haynes

Deputy Title IX Coordinator

Associate Director of Residence Life

114 Kirby House

(610) 330-5335

haynest@lafayette.edu (mailto:haynest@lafayette.edu)

The College has determined that the TIX Coordinator and TIX Deputy Coordinators listed above are the Officials with Authority to address and correct harassment, discrimination, and/or retaliation.

In addition to the Title IX Team members listed above, these Officials with Authority listed below may also accept notice or complaints on behalf of the College:

The President, Provost, Vice Presidents, and Deans.

The College has also classified most employees as Mandated Reporters of any knowledge they have that a member of the community is experiencing harassment, discrimination, and/or retaliation. The section below on Mandated Reporting details which employees have this responsibility and their duties, accordingly.

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 (mailto:OCR@ed.gov)

Web: <http://www.ed.gov/ocr> (<http://www2.ed.gov/about/offices/list/ocr/index.html>)

Office for Civil Rights (OCR)

U.S. Department of Education

Philadelphia Office

The Wanamaker Building

100 Penn Square East, Suite 515

Philadelphia, PA 19107-3323

Telephone: (215) 656-8541

Fax: (215) 656-8605

Email: OCR.Philadelphia@ed.gov (mailto:OCR.Philadelphia@ed.gov)

For general information about Title IX, visit the Department of Education's website: [U.S. DOE Sex Discrimination](http://www2.ed.gov/policy/rights/guid/ocr/sex.html) (<http://www2.ed.gov/policy/rights/guid/ocr/sex.html>)

For complaints involving employees: [Equal Employment Opportunity Commission](https://www.eeoc.gov/) (<https://www.eeoc.gov/>) (EEOC)

7. REPORTS/NOTICE/ FORMAL COMPLAINTS OF DISCRIMINATION, HARASSMENT, AND/OR RETALIATION

Reports, Notice, and Formal Complaints of discrimination, harassment, and/or retaliation may be made using any of the options described below.

The College recognizes that deciding among these options can be difficult and is a personal decision. Complainants and witnesses are encouraged to seek assistance from resources and to explore all potential reporting and support options. In addition, it is important to understand the different responsibilities of Lafayette College employees. Employees may be designated as an Official With Authority, a Mandated Reporter, a Confidential Resource, or a Private Resource, as defined in this Policy. A Complainant who is unsure of a College employee's reporting obligations and ability to maintain confidentiality may ask about the employee's responsibilities, and an inquiry into an individual's reporting obligations will not, by itself, trigger an investigation.

REPORTING OPTIONS AND NOTICE TO THE COLLEGE

An individual may make a report to the Title IX Coordinator, an Official with Authority, a Mandated Reporter, and/or to law enforcement (the Department of Public Safety or Easton Police Department). An individual may pursue some or all of these options at the same time (e.g., one may simultaneously pursue a Sexual Harassment report under this Policy and a criminal complaint).

Reporting to the Title IX Coordinator, a Deputy Coordinator, or an Official with Authority.

Such a report may be made at any time (including during non-business hours) by using the telephone number or email address, or by mail to the office address, listed for the Title IX Coordinator or any other official listed. In-person reports can be made during regular business hours. Appointments are encouraged.

The College strongly encourages all individuals to report a potential violation of this Policy directly to the Title IX Coordinator or to one of the Deputy Title IX Coordinators:

Amanda Hanincik

Director of Educational Equity and Title IX Coordinator

202 Feather House

(610) 330-5338

hanincia@lafayette.edu (mailto:hanincia@lafayette.edu)

Lisa Gabel

Deputy Title IX Coordinator

Professor, William C. '67 and Pamela Rappolt Scholar in Neuroscience, and
Chair, Program in Neuroscience

315 Oechsle Hall

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gabell@lafayette.edu (<mailto:gabell@lafayette.edu>)

Lisa Rex

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Jennifer Dize

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205 Feather House

(610) 330-5082

dizej@lafayette.edu (<mailto:dizej@lafayette.edu>)

Terrence Haynes

Deputy Title IX Coordinator

Associate Director of Residence Life

114 Kirby House

(610) 330-5335

haynest@lafayette.edu (<mailto:haynest@lafayette.edu>)

Individuals may also report to the Title IX Coordinator through the online reporting tool located at <http://sash.lafayette.edu> (<http://sash.lafayette.edu>), or by using the Universal Reporting form at <http://onepard.lafayette.edu> (<http://onepard.lafayette.edu>). The online reporting tool is only monitored during regular business hours and should not be used in emergencies or situations where an immediate response is required. In such situations call Public Safety at (610) 330-4444 (emergency), or (610) 330-5330 (non-emergency).

A report to the Title IX Coordinator or an Official With Authority constitutes Notice to the College and will trigger the College's obligation to respond to an allegation of Sexual Harassment under Title IX.

Anonymous Reporting

Anyone can make an anonymous report to the Title IX Coordinator by going to <https://sash.lafayette.edu/> (<https://sash.lafayette.edu/>) and clicking on "Report Sexual Harassment", or by going to <https://onepard.lafayette.edu> (<https://onepard.lafayette.edu>) and filling out the Universal Reporting Form. Based on the nature of the information submitted, the College's ability to respond to an anonymous report may be limited, particularly where the identity of a Complainant is not revealed. Because reporting carries no obligation to initiate a formal response, and as the College respects Complainant requests to dismiss 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 the College to discuss and/or provide supportive measures.

Reporting to Law Enforcement and Seeking Emergency Medical Assistance

Emergency medical assistance and campus safety/law enforcement assistance are available both on and off campus. Individuals are encouraged to contact law enforcement and seek medical treatment as soon as possible following an incident that may pose a threat to safety or physical well-being or following a potential criminal offense.

A Complainant or Third-Party Reporter has the right to report, or decline to report, potential criminal conduct to law enforcement or campus authorities, and the College will assist a Complainant or Third-Party Reporter in contacting law enforcement at any time.

Under limited circumstances posing a threat to health or safety of any College community member, the College may independently notify law enforcement.

The Department of Public Safety is available 24 hours a day to receive reports. The Department of Public Safety may be reached at [\(610\) 330-4444](tel:(610)330-4444) (emergency), or [\(610\) 330-5330](tel:(610)330-5330) (non-emergency).

A report to law enforcement does not constitute Notice and does not trigger the College's obligation to respond to a report. In order to trigger the College's response obligation under Title IX, a report must be made to either the Title IX Coordinator or another Official

With Authority.

Reporting to Mandated Reporters at the College

Lafayette College has designated all employees— including **faculty, visiting faculty, full and part-time administrators, and staff**—as Mandated Reporters. The only exceptions are Confidential and Private Resources, as defined below, and most student employees. Note that Resident Advisors are the only category of student employees designated as Mandated Reporters.

For more information about Mandated Reporters visit <http://sash.lafayette.edu> (<http://sash.lafayette.edu>).

Any time a Mandated Reporter is told or becomes aware of any information related to alleged harassment or discrimination, the Mandated Reporter must promptly share all relevant information about the reported incident with the Title IX Coordinator or a Deputy Title IX Coordinator. The Mandated Reporter is only responsible for sharing what was disclosed and will not attempt to investigate the allegations. To the extent possible, information reported to a Mandated Reporter will be shared only with people responsible for handling the College's response to the report.

A Mandated Reporter's receipt of information will not automatically trigger an obligation to respond to an allegation of Sexual Harassment under Title IX. Only a report to the Title IX Coordinator or an Official with Authority will trigger the College's obligation to respond to an allegation of Sexual Harassment under Title IX.

FORMAL COMPLAINTS

A **Formal Complaint** is a document submitted or signed by the Complainant or signed by the Title IX Coordinator alleging a policy violation by a Respondent and requesting that the College investigate the allegation(s). A complaint may be filed with the Title IX Coordinator in person, by mail, or by electronic mail, by using the contact information in the section immediately above, or as described in this section. As used in this paragraph, the phrase "document submitted or filed by a Complainant" means a document or electronic submission (such as by electronic mail or through an online portal provided for this purpose

by the College) that contains the Complainant's physical or digital signature, or otherwise indicates that the Complainant is the person filing the complaint, and requests that the College investigate the allegations.

A **Formal Complaint** is necessary to start a grievance process, which is different than a report that requires a response. If a report is submitted to the Title IX Coordinator in a form that does not constitute a Formal Complaint, the Title IX Coordinator will contact the Complainant to confirm whether the Complainant desires to file a Formal Complaint and, if they do, ensure that it is filed correctly.

8. SUPPORTIVE MEASURES

The College will offer and implement appropriate and reasonable supportive measures upon Notice of alleged harassment, discrimination, and/or retaliation. Supportive measures may be available to the Complainant regardless of whether the Complainant signs a formal complaint and pursues an investigation and grievance process, or pursues the informal resolution process.

Supportive measures are non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the parties to restore or preserve access to the College's education program or activity, including measures designed to protect the safety of all parties or the College's educational environment, and/or deter harassment, discrimination, and/or retaliation.

The Title IX Coordinator promptly makes supportive measures available to the Complainant upon receiving Notice. At the time that supportive measures are offered, the College will inform the Complainant, in writing, that they may file a formal complaint with the College either at that time or in the future, if they have not done so already. The Title IX Coordinator works with the Complainant to ensure that their wishes are taken into account with respect to the supportive measures that are planned and implemented.

Supportive Measures may also be requested by and made available to Respondents, witnesses, and other impacted members of the College community.

The Title IX Coordinator will ultimately serve as the point of contact for any individual requesting Supportive Measures.

The College will maintain the privacy of the supportive measures, provided that privacy does not impair the College's ability to provide the supportive measures. The College will act to ensure as minimal an academic/occupational impact on the parties as possible. The College will implement measures in a way that does not unreasonably burden the other party.

These actions may include, but are not limited to:

Referral to counseling, medical, and/or other healthcare services

Referral to the [Employee Assistance Program](https://hr.lafayette.edu/benefits/employee-assistance-program/)

(<https://hr.lafayette.edu/benefits/employee-assistance-program/>)

Referral to community-based service providers

Visa and immigration assistance

Student financial aid counseling

Education to the institutional community or community subgroup(s)

Altering campus housing assignment(s), and assistance navigating off-campus housing concerns

Altering work arrangements for employees or student-employees

Academic support, extensions of deadlines, or other course/program-related adjustments

Class schedule modifications, withdrawals, or leaves of absence

Safety planning to include: providing campus safety escorts, or other transportation accommodations; and increased security and monitoring of certain areas of the campus

Implementing contact limitations (no contact orders) between the parties

Assistance with No Trespass Letters, or referral to resources which can assist in obtaining a protective order under Pennsylvania law

[Timely warnings \(https://publicsafety.lafayette.edu/category/alerts/\)](https://publicsafety.lafayette.edu/category/alerts/)

Any other actions deemed appropriate by the Title IX Coordinator

The Title IX Coordinator is available to meet with a Complainant or Respondent to address any concerns about the provision of supportive measures. In the event of an immediate health or safety concern, individuals should contact 911 or the Department of Public Safety immediately. The College will take immediate action to enforce a previously implemented measure, and disciplinary penalties can be imposed for failing to abide by a College-imposed supportive measure. Violations of no contact orders will be referred to appropriate student or employee conduct processes for enforcement.

9. EMERGENCY REMOVAL

The College can act to remove a student Respondent entirely or partially from its education program or activities 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 justifies removal. This risk analysis is performed by the Title IX Coordinator in conjunction with the Student Support and Intervention Team (students) or Threat Assessment Group (faculty and staff) using standard objective violence risk assessment procedures.

In all cases in which an emergency removal is imposed, the student will be given notice of the action and the option to request to meet with the Title IX Coordinator and Vice President for Student Life prior to such action/removal being imposed, or as soon thereafter as reasonably possible, to show cause why the action/removal should not be implemented or should be modified.

This meeting is not a hearing on the merits of the allegation(s), but rather is an administrative process intended to determine solely whether the emergency removal is appropriate. When this meeting is not requested within 24 hours of notice, objections to the emergency removal will be deemed waived. A Complainant and their Adviser may be permitted to participate in this meeting if the Title IX Coordinator determines it is equitable to do so. This section also applies to any restrictions that a coach or athletic administrator may place on a student-athlete arising from allegations related to Title IX. There is no appeal process for emergency removal decisions.

A Respondent may be accompanied by an Adviser of their choice when meeting with the Title IX Coordinator and appropriate college official for the show cause meeting. The Respondent will be given access to a written summary of the basis for the emergency removal prior to the meeting to allow for adequate preparation.

The Title IX Coordinator, in consultation with the appropriate college official, has sole discretion under this policy to implement or stay an emergency removal and to determine the conditions and duration. Violation of an emergency removal under this policy will be grounds for discipline, which may include expulsion.

The College will implement the least restrictive emergency actions possible in light of the circumstances and safety concerns. As determined by the Title IX Coordinator, in consultation with the appropriate college official, these actions could include, but are not limited to: removing a student from a residence hall, temporarily reassigning an employee, restricting a student's or employee's access to or use of facilities or equipment, allowing a student to withdraw or take grades of incomplete without financial penalty, authorizing an administrative leave, and suspending a student's participation in extracurricular activities, student employment, student organizational leadership, or intercollegiate/intramural athletics.

At the discretion of the Title IX Coordinator and appropriate college official, alternative coursework options may be pursued to ensure as minimal an academic impact as possible on the parties.

Where the Respondent is an employee, existing provisions for interim action are applicable.

10. PROMPTNESS

All allegations are acted upon promptly by the College once it has received notice or a formal complaint. Complaints can take 60-90 business days to resolve, typically. There are always exceptions and extenuating circumstances that can cause a resolution to take longer, but the College will avoid all undue delays within its control.

Any time the general timeframes for resolution outlined in college procedures will be delayed, the College 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 the College to preserve the privacy of reports. The College will not share the identity of any individual who has made a report or complaint of harassment, discrimination, or retaliation; any Complainant, any individual who has been reported to be the perpetrator of sex discrimination, 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 grievance proceeding arising under these policies and procedures.

The College reserves the right to determine which College officials have a legitimate educational interest in being informed about incidents that fall within this policy, pursuant to the Family Educational Rights and Privacy Act (FERPA).

Only a small group of officials who need to know will typically be told about the complaint, including but not limited to the TIX Team. Information will be shared as necessary with Investigators, Hearing Panel members/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.

The College 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.

For purposes of this policy, privacy and confidentiality have distinct meanings. **Privacy** means that information related to a complaint will be shared with a limited number of College employees who "need to know" in order to assist in the assessment, investigation, and resolution of the report. **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. When information is shared by a Complainant with a Confidential Resource, the Confidential Resource cannot reveal the information to any third party except when an applicable law or a court order requires or permits disclosure of such information.

Confidentiality, Privacy, and Mandated Reporting are addressed more specifically below in **19. Reporting; a. Confidential Resources; b. Private Resources.**

12. JURISDICTION OF THE COLLEGE

This policy applies to the education program and activities of the College, to conduct that takes place on the campus or on property owned or controlled by the College, at College-sponsored events, or in buildings owned or controlled by the College's recognized student organizations. The Respondent must be a member of Lafayette's community in order for its policies to apply.

This policy can also be applicable to the effects of off-campus misconduct that effectively deprive someone of access to the College's educational program. The college may also extend jurisdiction to off-campus and/or to online conduct when the Title IX Coordinator determines that the conduct affects a substantial college interest.

Regardless of where the conduct occurred, the College will address notice/complaints to determine whether the conduct occurred in the context of its employment or educational program or activity and/or has continuing effects on campus or in an off-campus sponsored program or activity. A substantial college interest includes:

- a. Any action that constitutes a criminal offense as defined by law. This includes, but is not limited to, single or repeat violations of any local, state, or federal law;
- b. Any situation in which it is determined that the Respondent poses an immediate threat to the physical health or safety of any student or other individual;
- c. Any situation that significantly impinges upon the rights, property, or achievements of oneself or others or significantly breaches the peace and/or causes social disorder; and/or
- d. Any situation that is detrimental to the educational interests or mission of the College.

If the Respondent is unknown or is not a member of the Lafayette community, the Title IX Coordinator, or designee, will assist the Complainant in identifying appropriate campus and local resources and support options and/or, when criminal conduct is alleged, in contacting local or campus law enforcement if the individual would like to file a police report.

Further, even when the Respondent is not a member of the College's community, supportive measures, remedies, and resources may be accessible to the Complainant by contacting the Title IX Coordinator.

In addition, the College may take other actions as appropriate to protect the Complainant against third parties, such as barring individuals from College property and/or events.

All vendors serving the College 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.

When the Respondent is enrolled in or employed by another institution, the Title IX Coordinator, or designee, can assist the Complainant in liaising with the appropriate individual at that institution, as it may be possible to allege violations through that institution's policies.

Similarly, the Title IX Coordinator, or designee, may be able to assist and support a student or employee Complainant who experiences discrimination in an externship, study abroad program, or other environment external to the College where sexual harassment or nondiscrimination policies and procedures of the facilitating or host organization may give recourse to the Complainant.

13. TIME LIMITS ON REPORTING

There is no time limitation on providing notice/complaints to the Title IX Coordinator. However, if the Respondent is no longer subject to the College's jurisdiction and/or significant time has passed, the ability to investigate, respond, and provide remedies may be more limited or impossible. Complainants are encouraged to report any violation of this Policy as soon as possible in order to maximize the College's ability to respond promptly and effectively.

Acting on notice/complaints significantly impacted by the passage of time (including, but not limited to, the rescission or revision of policy) is at the discretion of the Title IX Coordinator, in consultation with the appropriate college official, 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/complaint is affected by significant time delay, the College will typically apply the policy in place at the time of the alleged misconduct and the procedures in place at the time of notice/complaint.

14. ONLINE HARASSMENT AND MISCONDUCT

The policies of the College are written and interpreted broadly to include online and digital manifestations of any of the behaviors prohibited below, when those behaviors occur in or have an effect on the College's education program and activities or use College networks, technology, or equipment.

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

Members of the community are encouraged to be good digital citizens and to refrain from online misconduct, such as feeding anonymous gossip sites, sharing inappropriate content via social media, unwelcome sexual or sex-based messaging, distributing or threatening to distribute, intimate images, breaches of privacy, or otherwise using the ease of transmission and/or anonymity of the Internet or other technology to harm another member of the Lafayette community.

15. POLICY ON NONDISCRIMINATION

Lafayette College adheres to all federal and state civil rights laws and regulations prohibiting discrimination in private institutions of higher education.

Lafayette College does not discriminate on the basis of race, color, national or ethnic origin, disability, religion, age, military or veteran status, sex, sexual orientation, gender identity or expression, marital or familial status, pregnancy, genetic information, or any other characteristic protected by law in its educational programs and activities, admissions, or employment as required by Title IX of the Educational Amendments of 1972 (which requires that the College not discriminate on the basis of sex); the Americans with Disabilities Act of 1990 and Section 504 of the Rehabilitation Act of 1973 (which requires that the College not discriminate on the basis of disability); Title VI of the Civil Rights Act of 1964 (which requires that the College not discriminate on the basis of race, color, or national origin); and

Title VII of the Civil Rights Act of 1964 (which requires that the College not discriminate in employment on the basis of race, color, religion, sex, or national origin); and other applicable laws and College policies.

This policy covers nondiscrimination in both employment and access to educational opportunities. Therefore, any member of the College community whose acts deny, deprive, or limit the educational or employment, or residential or social, access, benefits, and/or opportunities of any member of the College community, guest, or visitor on the basis of that person's actual or perceived membership in the protected classes listed above is in violation of the College policy on nondiscrimination.

When brought to the attention of the College, any such discrimination will be promptly and fairly addressed and remedied by the College according to the appropriate grievance process described below.

16. POLICY ON DISABILITY DISCRIMINATION AND ACCOMMODATION

Lafayette College is committed to full compliance with the Americans With Disabilities Act of 1990 (ADA), as amended, and Section 504 of the Rehabilitation Act of 1973, which prohibit discrimination against qualified persons with disabilities, as well as other federal and state laws and regulations pertaining to individuals with disabilities.

Under the ADA and its amendments, a person has a disability if they have a physical or mental impairment that substantially limits a major life activity.

The ADA also protects individuals who have a record of a substantially limiting impairment or who are regarded as disabled by the College, regardless of whether they currently have a disability. A substantial impairment is one that significantly limits or restricts a major life activity such as hearing, seeing, speaking, breathing, performing manual tasks, walking, or caring for oneself.

The Director of Educational Equity is responsible for overseeing efforts to comply with ADA/504 disability laws, including responding to grievances and conducting investigations of any allegation of noncompliance or discrimination based on disability.

Grievances related to disability status and/or accommodations will be addressed using the procedures below.

a. Students with Disabilities

The College is committed to providing qualified students with disabilities with reasonable accommodations and support needed to ensure equal access to the academic programs, facilities, and activities of the College.

All accommodations are made on an individualized basis. A student requesting any accommodation should first contact the Academic Resource Hub for Accessibility Services, who coordinates services for students with disabilities.

The Academic Resource Hub for Accessibility Services reviews documentation provided by the student and, in consultation with the student, determines which accommodations are appropriate for the student's particular needs and academic program(s) in accordance with the College's applicable policies.

b. Employees with Disabilities

Pursuant to the ADA, the College will provide reasonable accommodation(s) to all qualified employees with known disabilities when their disability affects the performance of their essential job functions, except when doing so would be unduly disruptive or would result in undue hardship to the College.

An employee with a disability is responsible for submitting a request for an accommodation to the Office of Human Resources and providing necessary documentation. The Office of Human Resources will work with the employee's supervisor to identify which essential functions of the position are affected by the employee's disability and what reasonable accommodations could enable the employee to perform those duties in accordance with the College's applicable policies.

17. POLICY ON DISCRIMINATORY HARASSMENT

Students, staff, administrators, and faculty are entitled to an employment and educational environment that is free of discriminatory harassment. The College's harassment policy is not meant to inhibit or prohibit educational content or discussions inside or outside of the classroom that include germane but controversial or sensitive subject matters protected by academic freedom.

The sections below describe the specific forms of legally prohibited harassment that are also prohibited under College policy. When speech or conduct is protected by academic freedom and/or the First Amendment, it will not be considered a violation of College policy, though supportive measures will be offered to those impacted. All policies encompass actual and/or attempted offenses.

a. Discriminatory Harassment

Discriminatory harassment constitutes a form of discrimination that is prohibited by College policy. Discriminatory harassment is defined as unwelcome conduct by any member or group of the community on the basis of actual or perceived membership in a class protected by policy or law.

The College does not tolerate discriminatory harassment of any employee, student, visitor, or guest. The College will act to remedy all forms of harassment when reported, whether or not the harassment rises to the level of creating a “hostile environment.”

A hostile environment is one that unreasonably interferes with, limits, or effectively denies an individual’s educational or employment access, benefits, or opportunities. This discriminatory effect results from harassing verbal, written, graphic, or physical conduct that is severe or pervasive **and** objectively offensive.

When discriminatory harassment rises to the level of creating a hostile environment, the College may also impose sanctions on the Respondent through application of the appropriate grievance process below.

The College reserves the right, to use the conduct process or other administrative process, to address offensive conduct and/or harassment that 1) does not rise to the level of creating a hostile environment, or 2) that is of a generic nature and not based on a protected status. Addressing such conduct may result in the imposition of discipline under College policy, or it may be addressed through respectful conversation, remedial actions, education, effective Alternative Resolution, and/or other informal resolution mechanisms.

For assistance with Alternative Resolution and other informal resolution techniques and approaches, employees should contact the Office of Human Resources, and students should contact the Office of Student Conduct.

b. Sexual Harassment

The Department of Education's Office for Civil Rights (OCR), the Equal Employment Opportunity Commission (EEOC), and the Commonwealth of Pennsylvania regard Sexual Harassment, a specific form of discriminatory harassment, as an unlawful discriminatory practice.

The College has adopted the following definition of Sexual Harassment in order to address the unique environment of an academic community.

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, as an umbrella category, includes the offenses of sexual harassment, sexual assault, domestic violence, dating violence, and stalking, and is defined as:

Conduct on the basis of sex/gender, or that is sexual, that satisfies one or more of the following:

Quid Pro Quo:

an employee of the college,
conditions the provision of an aid, benefit, or service of the college,
on an individual's participation in unwelcome sexual conduct.

Sexual Harassment:

unwelcome conduct,
determined by a reasonable person,
to be so severe, and
pervasive, and,
objectively offensive,

that it effectively denies a person equal access to the College's education program or activity.

Sexual Assault, defined as:

Sex Offenses, Forcible:

Any sexual act directed against another person,
without the consent of the Complainant,
including instances in which the Complainant is incapable of giving
consent.

Rape:

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 Complainant.

Sodomy:

Oral or anal sexual intercourse with another person,
forcibly,
and/or against that person's will (non-consensually), or
not forcibly or against the person's will in instances in which the
Complainant is incapable of giving consent because of age, per PA state
law, or because of temporary or permanent mental or physical
incapacity.

Sexual Assault with an Object:

The use of an object or instrument to penetrate,
however slightly,
the genital or anal opening of the body of another person,
forcibly,
and/or against that person's will (non-consensually),
or not forcibly or against the person's will in instances in which the
Complainant is incapable of giving consent because of age or because
of temporary or permanent mental or physical incapacity.

Fondling:

The touching of the private body parts of another person (buttocks,
groin, breasts),
for the purpose of sexual gratification,
forcibly,
and/or against that person's will (non-consensually),
or not forcibly or against the person's will in instances in which the
Complainant is incapable of giving consent because of age or because
of temporary or permanent mental or physical incapacity.

Sex Offenses, Non-forcible:

Incest:

Non-forcible sexual intercourse,
between persons who are related to each other,
within the degrees wherein marriage is prohibited by PA state law.

Statutory Rape:

Non-forcible sexual intercourse,
with a person who is under the statutory age of consent of 16

Dating Violence, defined as:

violence,
on the basis of sex,
committed by a person,
who is in or has been in a social relationship of a romantic or intimate
nature with the Complainant.

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.

Domestic Violence, defined as:

violence,
on the basis of sex,
committed by a current or former spouse or intimate partner of the
Complainant,

by a person with whom the Complainant shares a child in common, or
by a person who is cohabitating with, or has cohabitated with, the
Complainant as a spouse or intimate partner, or

by a person similarly situated to a spouse of the Complainant under the
domestic or family violence laws of Pennsylvania, or

by any other person against an adult or youth Complainant who is
protected from that person's acts under the domestic or family
violence laws of Pennsylvania.

*To categorize an incident as Domestic Violence, the relationship between the
Respondent and the Complainant must be more than just two people living together as
roommates. The people cohabitating must be current or former spouses or have an
intimate relationship.

Stalking, defined as:

engaging in a course of conduct,

on the basis of sex,

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.

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.

c. Other Prohibited Conduct under this Policy

There are risks inherent in any romantic or sexual relationship between individuals in unequal positions. Although such relationships may not constitute harassment, they may compromise the integrity of the educational or employment process. The special relationship between students and teachers, coaches, advisers, or other staff members who counsel them, and employees and their supervisors, requires that special additional rules apply as addressed below.

Prohibited Relationships between Faculty/Staff Members and Students

Students of a Particular Instructor/Staff Member

While a student is a student of a particular instructor/staff member, the instructor/staff member is prohibited from engaging in or pursuing a romantic and/or sexual relationship with that student. This rule applies even if the romantic advance or sexual relationship is welcome.

A student is a "student of a particular instructor/staff member" when:

The student is currently enrolled in a course taught by the instructor and/or has not yet received a final grade;

The student is assigned to be advised by a particular instructor/staff member;

The student is an athlete coached by a particular intercollegiate athletic coach or trainer;

The student is advised by a professional advisory committee member, honors committee member, or member of a comparable committee; and

At other times when an instructor/staff member has a relationship with a student such that a student's activities at the College are being supervised or evaluated by the instructor/staff member.

Other Students

Unless prohibited above, if a welcome sexual and/or romantic relationship develops between a student and an instructor/staff member, the instructor/staff member must not thereafter take part in any activity that involves evaluation of the student's work or performance. If a student later becomes a "student of a particular instructor/staff member," the instructor/staff member shall disclose the existence of such a relationship to the Provost or Vice President of Human Resources, as appropriate, who shall make alternative arrangements for the evaluative process.

Prohibited Relationships between Supervisors and Subordinates

Any person (a) who has power, either individually or collectively with others, to dispense or influence rewards or punishments regarding another person, (b) who evaluates the work performance of another person, or (c) to whom another person reports regarding work assignments, may not subject such other person to any unwelcome sexual conduct such as an unwelcome sexual advance or request for sexual favors, regardless of whether submission to such conduct is explicitly or implicitly made a basis for a decision affecting such person or whether such conduct creates a hostile environment.

If a welcome sexual and/or romantic relationship develops between a supervisor and a subordinate, or between faculty in the same department or program, the more senior employee must not thereafter take part in any activity that involves evaluation of the other's work. Under such circumstances, the more senior employee shall disclose the existence of such a relationship to the Provost or the Vice President of Human Resources and the Title IX Coordinator as appropriate, who shall make alternative arrangements for the evaluative process.

The College reserves the right to impose any level of sanction, ranging from a reprimand up to and including suspension or expulsion/termination, for any offense under this policy. More specific sanctions are defined within the Procedures.

d. 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:

knowing, 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 the College to determine whether its policy 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 (Bondage, Discipline/Dominance, Submission/Sadism, and Masochism) 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 the College’s evaluation of communication in kink situations should be guided by reasonableness, rather than strict adherence to policy 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 policy if they engage in sexual activity with someone who is incapable of giving consent.

It is a defense to a sexual assault policy 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 policy 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.

e. Other Civil Rights Offenses

In addition to the forms of sexual harassment described above, which are covered by Title IX, the College additionally prohibits the following offenses as forms of discrimination that may be within or outside of Title IX when the act is based upon the Complainant’s actual or perceived membership in a protected class.

Sexual Exploitation, defined as: taking non-consensual or abusive sexual advantage of another for their own benefit or for the benefit of anyone other than the person being exploited, and that conduct does not otherwise constitute sexual harassment under this policy. Examples of Sexual Exploitation include, but are not limited to:

Sexual voyeurism (such as observing or allowing others to observe a person undressing or using the bathroom or engaging in sexual acts, without the consent of the person being observed).

Invasion of sexual privacy.

Taking pictures, video, or audio recording of another in a sexual act, or in any other sexually-related activity when there is a reasonable expectation of privacy during the activity, without the consent of all involved in the activity, or exceeding the boundaries of consent (such as allowing another person to hide in a closet and observe sexual activity, or disseminating

sexual pictures without the photographed person's consent), including the making or posting of revenge pornography.

Prostituting another person.

Engaging in sexual activity with another person while knowingly infected with human immunodeficiency virus (HIV) or a sexually-transmitted disease (STD) or infection (STI), without informing the other person of the infection.

Causing or attempting to cause the incapacitation of another person (through alcohol, drugs, or any other means) for the purpose of compromising that person's ability to give consent to sexual activity, or for the purpose of making that person vulnerable to non-consensual sexual activity.

Misappropriation of another person's identity on apps, websites, or other venues designed for dating or sexual connections.

Forcing a person to take an action against that person's will by threatening to show, post, or share information, video, audio, or an image that depicts the person's nudity or sexual activity.

Knowingly soliciting a minor for sexual activity.

Engaging in sex trafficking.

Creation, possession, or dissemination of child pornography.

Threatening or causing physical harm, extreme verbal, emotional, or psychological abuse, or other conduct which threatens or endangers the health or safety of any person;

Discrimination, defined as actions that deprive, limit, or deny other members of the community of educational or employment access, benefits, or opportunities;

Intimidation, defined as implied threats or acts that cause an unreasonable fear of harm in another;

Hazing, defined as acts likely to cause physical or psychological harm or social ostracism to any person within the Lafayette community, when related to the admission, initiation, pledging, joining, or any other group-affiliation activity as defined further in the Hazing Policy, [Student Code of Conduct](https://conduct.lafayette.edu/student-handbook/student-code-of-conduct/) (<https://conduct.lafayette.edu/student-handbook/student-code-of-conduct/>).

Bullying, defined as:

Repeated and/or severe.

Aggressive behavior.

Likely to intimidate or intentionally hurt, control, or diminish another person, physically and/or mentally.

That is not speech or conduct otherwise protected by the First Amendment.

Violation of any other College policies may constitute a Civil Rights Offense when a violation is motivated by actual or perceived membership in a protected class, and the result is a discriminatory limitation or denial of employment or educational access, benefits, or opportunities.

Sanctions for the above-listed Civil Rights Offenses range from reprimand through expulsion/termination.

18. RETALIATION

Protected activity under this policy includes reporting an incident that may implicate this policy, 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 Policy.

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

The College and any member of Lafayette's community are prohibited from taking or attempting to take 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 law or policy, 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 policy and procedure.

No one may file a complaint pursuant to Process B for an improper purpose. This includes filing a complaint under Process B when the matter should be filed under Process A, and doing so for the purpose of interfering with or circumventing any right or privilege provided within Process A. Intentionally filing a complaint pursuant to Process B in an attempt to avoid Process A is improper and may be considered retaliatory. The College will vet all complaints for this purpose, and to assure that complaints are tracked to the appropriate process. The Title IX Coordinator will ultimately determine the appropriate process and whether such behavior is considered retaliatory.

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 policy 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

Mandated Reporters are expected to report actual or suspected discrimination or harassment to appropriate officials immediately, though there are some limited exceptions.

In order to make informed choices, it is important to be aware of confidentiality and mandatory reporting requirements when consulting campus resources. On campus, some resources may maintain confidentiality and are not required to report actual or suspected

discrimination or harassment. They may offer options and resources without any obligation to inform an outside agency or campus official unless a Complainant has requested the information be shared.

If a Complainant expects formal action in response to their allegations, reporting to any Mandated Reporter can connect them with resources to report crimes and/or policy violations, and these employees will immediately pass reports to the Title IX Coordinator, or Deputy Coordinator, (and/or police, if desired by the Complainant), who will take action when an incident is reported to them.

The following sections describe the reporting options at the College for a Complainant or third-party (including parents/guardians when appropriate):

a. Confidential Resources

If a Complainant would like the details of an incident to be kept confidential, the Complainant may speak with:

The Counseling Center

Bailey Health Center, 2nd Floor

[\(610\) 330-5005](tel:6103305005)

After hours crisis telephone support available.

Drop-in Consultation Clinic during the academic year:

Monday - Friday, 10:00 am - 11:30 am and 1:00 pm - 3:30 pm

Student Advocacy and Prevention Coordinator

204 Feather House

[610-330-3331](tel:6103303331)

Available during regular business hours. Appointments are encouraged.

College Chaplain

Rev. Alex Hendrickson

107 Farinon

[\(610\) 330-5959](tel:6103305959)

Available during regular business hours. Call to schedule an appointment.

Off-campus (non-employees)

Licensed professional counselors and other medical providers

Local rape crisis counselors

Domestic violence resources

Local or state assistance agencies

Clergy/Chaplains

Attorneys

Additional Resources

The College's website for Sexual Violence Prevention, Education, and Response (<https://sash.lafayette.edu/> (<https://sash.lafayette.edu/>)) provides the most comprehensive and current list of available on- and off-campus resources and support services for Complainants and Respondents.

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.

Campus counselors (and/or the Employee Assistance Program) are available to help free of charge and may be consulted on an emergency basis during normal business hours. For students, after-hours and weekend telephone crisis support is also available.

b. Private Resources

Some College employees, designated as Private Resources, while not meeting the definition of Confidential Resource, are able to talk to a Complainant without being required to disclose personally identifiable information about the Complainant or witnesses to the Title IX Coordinator.

Instead, in order to foster increased reporting and access to resources, these employees are only required to share a limited report to inform the Title IX Coordinator of the date, time, general location, and nature of the allegations. Because of the limited information that is

shared, the Title IX Coordinator's ability to respond may be limited. In addition, unlike Confidential Resources, who have statutorily-protected legal confidentiality, records maintained by Private Resources may be subject to release by court order, search warrant or subpoena.

The following is contact information for those who serve as the College's Private Resources:

Bailey Health Center (Medical)

607 High St.

(S.W. Corner of High & McCartney Sts.)

(610) 330-5001

PASA Adviser: The faculty or staff adviser of the student group Parads Against Sexual Assault (PASA) is designated a Private Resource when acting in the capacity of PASA Adviser.

c. Anonymous Notice to Mandated Reporters

At the request of a Complainant, notice may be given by a Mandated Reporter to the Title IX Coordinator anonymously, without identification of the Complainant. The Mandated Reporter cannot remain anonymous themselves.

If a Complainant has requested that a Mandated Reporter maintain the Complainant's anonymity, the Mandated Reporter may do so unless it is reasonable to believe that a compelling threat to health or safety could exist. The Mandated Reporter can consult with the Title IX Coordinator on that assessment without revealing personally identifiable information.

Anonymous notice will be investigated by the College to the extent possible, both to assess the underlying allegation(s) and to determine if supportive measures or remedies can be provided.

However, anonymous notice typically limits the College's ability to investigate, respond, and provide remedies, depending on what information is shared.

When a Complainant has made a request for anonymity, the Complainant's personally identifiable information may be withheld by a Mandated Reporter, but all other details must be shared with the Title IX Coordinator. Mandated reporters may not be able to maintain

requests for anonymity for Complainants who are minors, elderly, and/or disabled, depending on state reporting of abuse requirements.

d. Mandated Reporters and Formal Notice/Complaints

Mandated Reporters must promptly share with the Title IX Coordinator all known details of a report made to them in the course of their employment.

Mandated Reporters must also promptly share all details of behaviors under this policy that they observe or have knowledge of, even if not reported to them by a Complainant or third-party.

Complainants may want to carefully consider whether they share personally identifiable details with non-confidential Mandated Reporters, as those details must be shared with the Title IX Coordinator.

Generally, disclosures in climate surveys, classroom writing assignments or discussions, human subjects research, or at events such as “Take Back the Night” marches or speak-outs do not provide notice that must be reported to the Coordinator by Mandated Reporters, unless the Complainant clearly indicates that they desire a report to be made or seek a specific response from the College.

Supportive measures may be offered as the result of such disclosures without formal College action.

Failure of a Mandated Reporter, as described above in this section, to report an incident of harassment or discrimination of which they become aware is a violation of College policy and can be subject to disciplinary action for failure to comply.

Though this may seem obvious, when a Mandated Reporter is engaged in harassment or other violations of this policy, they still have a duty to report their own misconduct, though the College is technically not on notice when a harasser is also a Mandated Reporter unless the harasser does in fact report themselves.

Finally, it is important to clarify that a Mandated Reporter who is themselves a target of harassment or other misconduct under this policy 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 the College 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 upon completion of an appropriate violence risk assessment.

The Title IX Coordinator's decision should be based on results of the violence risk assessment that show a compelling risk to health and/or safety that requires the College 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. The College may be compelled to act on alleged 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 the College's ability to pursue a Formal Grievance Process fairly and effectively.

When the Title IX Coordinator executes the written 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 policy.

When the College proceeds, the Complainant (or their Adviser) may have as much or as little involvement in the process as they wish. The Complainant retains all rights of a Complainant under this Policy irrespective of their level of participation. Typically, when the Complainant chooses not to participate, the Adviser may be appointed as proxy for the Complainant throughout the process, acting to ensure and protect the rights of the Complainant, though this does not extend to the provision of evidence or testimony.

Note that the College's ability to remedy and respond to notice may be limited if the Complainant does not want the College to proceed with an investigation and/or grievance process. The goal is to provide the Complainant with as much control over the process as possible, while balancing the College's obligation to protect its community.

In cases in which the Complainant requests confidentiality/no formal action and the circumstances allow the College to honor that request, the College will offer informal resolution options (included in the procedures), supportive measures, and remedies to the Complainant and the community, 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 the College, and to have the incidents investigated and properly resolved through these procedures. Please consider that delays may cause limitations on access to evidence, or present issues with respect to the status of the parties.

21. FEDERAL TIMELY WARNING OBLIGATIONS

Parties reporting sexual assault, domestic violence, dating violence, and/or stalking should be aware that under the Clery Act, the College 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.

The College 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 policy 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 policy 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 College policy.

23. AMNESTY FOR COMPLAINANTS AND WITNESSES*

The Lafayette community encourages the reporting of misconduct and crimes by Complainants and witnesses. Sometimes, Complainants or witnesses are hesitant to report to College 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 the College community that Complainants choose to report misconduct to College 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, the College maintains a policy of offering parties and witnesses amnesty from minor policy 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 within a progressive discipline system, and the rationale for amnesty – the incentive to report serious misconduct – is rarely applicable to Respondent with respect to a Complainant.

Students: Sometimes, students are hesitant to assist others for fear that they may get in trouble themselves (for example, an underage student who has been drinking or using marijuana might hesitate to help take an individual who has experienced sexual assault to Public Safety).

The College maintains a policy of amnesty for students who offer help to others in need. Although policy violations cannot be overlooked, the College may provide purely educational options with no official disciplinary finding, rather than punitive sanctions, to those who offer their assistance to others in need.

Employees: Sometimes, employees are hesitant to report harassment or discrimination they have experienced for fear that they may get in trouble themselves. The College may, at its discretion, offer employee Complainants amnesty from such policy violations (typically more minor policy violations) related to the incident. Amnesty may also be granted to Respondents and witnesses on a case-by-case basis.

*For Spring 2021: The amnesty statement above also covers potential violations of the COVID addendum.

24. FEDERAL STATISTICAL REPORTING OBLIGATIONS

Certain campus officials – those deemed Campus Security Authorities – have a duty to report the following for federal statistical reporting purposes (Clery Act):

- 1.** All “primary crimes,” which include homicide, sexual assault, robbery, aggravated assault, burglary, motor vehicle theft, and arson;
- 2.** Hate crimes, which include any bias-motivated primary crime as well as any bias motivated larceny or theft, simple assault, intimidation, or destruction/damage/vandalism of property;
- 3.** VAWA (Violence Against Women Act)-based crimes, which include sexual assault, domestic violence, dating violence, and stalking; and
- 4.** Arrests and referrals for disciplinary action for weapons-related law violations, liquor-related law violations, and drug abuse-related law violations.

All personally identifiable information is kept private, but statistical information must be shared with Public Safety regarding the type of incident and its general location (on or off-campus or in the surrounding area, but no addresses are given) for publication in the Annual Security Report and daily campus crime log.

Campus Security Authorities include: student affairs/student conduct staff, public safety, local police, coaches, athletic directors, residence life staff, student activities staff, human resources staff, advisers to student organizations, and any other official with significant responsibility for student and campus activities.

25. PRESERVATION OF EVIDENCE

The preservation of evidence in incidents of sexual assault is critical to potential criminal prosecution and to obtaining restraining orders, and particularly time-sensitive. The College will inform the Complainant of the importance of preserving evidence by taking the following actions:

- 1.** Seek forensic medical assistance at one of these locations, ideally within 120 hours of the incident (sooner is better):

Lehigh Valley Hospital – Muhlenberg
484 Schoenersville Rd.
Bethlehem, PA
484-884-2521

Lehigh Valley Hospital – Cedar Crest
1200 South Cedar Crest Blvd.
Allentown, PA
610-402-8027

Lehigh Valley Hospital – 17th Street
17th and Chew St.
Allentown, PA
610-969-2226

St. Luke's Hospital – Anderson Campus
1872 St. Luke's Blvd.
Easton, PA
484-503-3000

- 2.** Avoid showering, bathing, washing hands or face, or douching, if possible, but evidence may still be collected even if you do.

3. Try not to urinate.
4. If oral sexual contact took place, refrain from smoking, eating, drinking, or brushing teeth.
5. If clothes are changed, place each soiled item in a separate **paper bag** (plastic destroys evidence) -i.e. underpants in its own bag, shoes in their own bag, bra, tissues, bed sheet, pillow case etc., or secure evidence container, available from Public Safety.
6. Seeking medical treatment can be essential even if it is not for the purposes of collecting forensic evidence. The Bailey Health Center, located at 607 High St., [\(610\) 330-5001](tel:6103305001), does provide medical care after a sexual assault, but does not provide SAFE exams.

During the initial meeting between the Complainant and the Title IX Coordinator, the importance of taking these actions will be reiterated, if timely.

26. POLICY DISTRIBUTION AND REVIEW

This Policy will be widely distributed on campus to all students, faculty, and staff at the beginning of each academic year so that all community members are informed of College policies, procedures and resources. The most current version of this Policy can be found online at sash.lafayette.edu.

The Title IX Coordinator and the Presidential Oversight Committee on Sexual Misconduct will review this Policy and related procedures on a periodic basis in order to capture evolving legal requirements, align with best practices, and improve the delivery of services.

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