

# Title IX Grievance Process (Process B)

## Other Inappropriate Conduct / Complaints of Sex Discrimination (Process B)

Process B procedures will be used for complaints that do not meet the definition required by Title IX federal regulations. In general, this process is less formal than the Title IX (Process A) procedures. ([Board Policy FFDA](#))

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

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

For Title IX the behavior defined as sexual harassment must be sufficiently severe, persistent, AND pervasive. For complaints that do not rise to the level of all three requirements, sexual harassment can occur with only one or more of these qualifiers (severe, persisted, OR pervasive). This document describes the procedures for investigating other sexual misconduct complaints that do not meet the definition of sexual harassment based on federal Title IX regulations. This is known as Process B procedures and is described in this document.

The following are examples of behaviors which would be investigated under Process B or Other Inappropriate Conduct:

- Unwelcome sexual advances or requests for sexual favors; sexual voyeurism; unwelcome sexual gestures; public exposure of one's sexual organs on campus or at a College sponsored event; displaying obscene materials in a public place on campus; forwarding obscene material via email or text message to non-consenting recipients; recording or photographing sexual activity or a person's genital area or breast area; and allowing a third party to view consensual sex without the knowledge of the other participant(s).
- Unwelcome comments of a sexual nature that a reasonable person would view as gratuitous, intimidating, offensive, and/or degrading and that adversely impacts an individual's educational environment.

- A consensual sexual or romantic relationship between a student and employee when the student is under the supervision of the employee such as in a classroom, tutoring, student employment, etc.
- Conduct of a sexual nature that is consensual between two or more individuals but that is nonetheless inappropriate in an educational environment, such as engaging in sexual acts in a campus building.

## **Process B — Investigation Process**

As with Process A, the Title IX Coordinator will promptly evaluate whether the allegation, assumed to be true, describes a violation of this policy. The Title IX Coordinator will provide written notice to the parties regarding receipt of the complaint. A trained investigator conducts a thorough investigation and prepares a written report with findings of fact.

## **Process B — The Decision-Making Process**

If the Respondent is a student, the written investigation report shall be submitted to the Vice President of Student Affairs or designee. If the investigation does not establish a violation of this policy, the Vice President of Student Affairs or designee will dismiss the complaint. If the Vice President of Student Affairs or designee determines that there is a violation of policy, appropriate disciplinary action will be taken.

If the Respondent is an employee, the written investigation report shall be submitted to the College President or designee, and the Respondent's dean, director, or next level supervisor who was not involved in the underlying dispute. If the investigation does not establish a violation of this policy, the President or designee shall dismiss the complaint. If it is determined that reasonable grounds establish a violation of this policy, appropriate disciplinary or corrective action to address the conduct will be taken.

If the Respondent is a third party, the investigation report shall be submitted to the President or designee using the same process as noted above. While there is no appeal for a third-party Respondent, they have the option of appearing before the Board of Regents during the open comment portion of the board meeting.

## **Potential Remedies and Sanction**

Factors considered when determining a sanction/responsive action may include, but are not limited to:

- The nature, severity of, and circumstances surrounding the violation(s)
- The Respondent's disciplinary history
- Previous allegations or allegations involving similar conduct
- The need for sanctions/responsive actions to bring an end to the discrimination, harassment, and/or retaliation
- The need for sanctions/responsive actions to prevent the future recurrence of discrimination, harassment, and/or retaliation
- The need to remedy the effects of the discrimination, harassment, and/or retaliation on the Complainant and the community
- The impact on the parties
- Any other information deemed relevant by the decision maker(s)

The sanctions will be implemented as soon as is feasible, either upon the outcome of any appeal or the expiration of the window to appeal without an appeal being requested.

The sanctions described in this policy are not exclusive of, and may be in addition to, other actions taken, or sanctions imposed by external authorities. The College will record or transcribe the live hearing and make it available to the parties for inspection and review.

## **Process B — Appeal Process**

All appeals related to Other Complaints under this policy may be submitted through the applicable grievance policy beginning at the appropriate level. See DGBA (Local) for employees, FLD (Local) for students, and GB (Local) for community members.

## **Contact information**

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

### **Title IX Coordinator**

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