

Lyon College Sexual Misconduct and Title IX Policy

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A. Title IX Sexual Misconduct Policy and Procedures

Section 1: Introduction

1.1 Policy Statement: Lyon College (hereinafter, “Lyon College” or “the College”) is committed to creating and maintaining a learning and working environment that is free from unlawful discrimination based on sex in accordance with Title IX of the Higher Education Amendments of 1972 (Title IX), which prohibits discrimination on the basis of sex in education programs or activities; Title VII of the Civil Rights Act of 1964 (Title VII), which prohibits sex discrimination in employment; and the Campus Sexual Violence Elimination Act, Clery Act, and the Violence Against Women Act (VAWA). Sexual misconduct and retaliation under this Policy will not be tolerated by Lyon College and is grounds for disciplinary action, up to and including, permanent dismissal from Lyon College and/or termination of employment.

1.2 Purpose: Lyon College takes all reported sexual misconduct and sexual harassment seriously. Lyon College will initiate a prompt, thorough, and impartial grievance process into alleged violations of this Policy. The grievance process includes an investigation and hearing. The College will discipline any individuals within its control who are found responsible for violating this Policy. Additionally, reported sexual misconduct, sexual harassment, and retaliation that does not meet the definitions and jurisdiction of this Policy will be referred for review under the Student Handbook, the Employee Policy Handbook, or other applicable Lyon College policies.

1.3 Applicability: Part A of this Policy applies to students, employees, and third parties as follows:

- a. **To Students:** Where the Respondent is a student at Lyon College at the time of the alleged conduct, the alleged conduct includes Sexual Misconduct under this Policy, the alleged conduct occurs in Lyon College’s Education Program or Activity, the conduct occurs against a person in the United States, and the Complainant is participating in or attempting to participate in Lyon College’s Education Program or Activity.
- b. **To Employees:** Where the Respondent is an employee at Lyon College at the time of the alleged conduct, the alleged conduct includes Sexual Misconduct under this Policy, the alleged conduct occurs in Lyon College’s Education Program or Activity, the conduct occurs against a person in the United States, and the Complainant is participating in or attempting to participate in Lyon College’s Education Program or Activity.
- c. **To Third-Parties:** Where the Respondent is a contractor, vendor, visitor, or guest of Lyon College at the time of the alleged conduct, the alleged conduct includes Sexual Misconduct under this Policy, the alleged conduct occurs in the College’s Education Program or Activity, the alleged conduct occurs against a person in the United States, and the Complainant is participating in or attempting to participate in the College’s Education Program or Activity.

1.4 Title IX Coordinator and Key Title IX Officials: The Title IX Coordinator is the Lyon College administrator who oversees Lyon College’s compliance with Title IX. The Title IX Coordinator is responsible for administrative response to reports and Formal Complaints of Sexual Misconduct. The Title IX Coordinator is available to discuss the grievance process, coordinate supportive measures, explain Lyon College’s policies and procedures, and provide education on relevant issues.

The Title IX Coordinator may designate Deputy Title IX Coordinators to facilitate these responsibilities.

Any member of the Lyon College's community may contact the Title IX Coordinator with questions. Title IX Coordinator and Deputy Title IX Coordinator contact information is as follows:

Lindsay Hatzis, Interim Title IX Coordinator

Email: lindsay.hatzis@lyon.edu

Phone: (423) 667-1838

Online: www.lyon.edu/file-a-title-ix-report

Michael Peckham, Deputy Title IX Coordinator - Athletics

Email: michael.peckham@lyon.edu

Phone: (870) 307-7538

Office: Becknell Gymnasium, Lower Level Floor

Deanna Taylor, Deputy Title IX Coordinator - Employees

Email: deanna.taylor@lyon.edu

Phone: (870) 307-7324

Office: Nichols Administration Building

Deborah Baysinger, Deputy Title IX Coordinator - Students

Email: deborah.baysinger@lyon.edu

Phone: (870) 307-7317

Office: Edwards Commons Building, Student Life Suites, Office 103(D)

Dr. Jennifer Daniels, Deputy Title IX Coordinator – School of Dental Medicine

Email: jennifer.daniels@lyon.edu

Phone: (870) 307-7497

Office: School of Dental Medicine, Little Rock

In addition to the Title IX Coordinator, Lyon College appoints investigators, hearing officers, and informal resolution facilitators who have roles in the formal grievance process more fully explained in Sections 6 through 8 of this Policy. Individuals who serve in these roles may be internal or external to the College.

The Title IX Coordinator, Deputy Title IX Coordinator, investigators, hearing officers, and informal resolution facilitators will receive annual training in compliance with Title IX. All administrators in these roles will not rely on sex stereotypes and will provide impartial investigations and adjudications of Formal Complaints of Sexual Misconduct. All materials used to train these administrators will be made publicly available on Lyon College's website in accordance with Title IX requirements.

The Title IX Coordinator, Deputy Title IX Coordinator, investigators, hearing officers, and informal resolution facilitators shall not have a conflict of interest or bias for or against Complainants or Respondents generally or an individual Complainant or Respondent.

1.5 Notification: Lyon College will use email communication for purposes of communication and

notification under this Policy.

1.6 Free Speech: Freedom of speech and principles of academic freedom are central to the mission of institutions of higher education. Constitutionally protected expression cannot be considered Sexual Misconduct under this Policy.

1.7 Dissemination of Policy: This Policy will be made available to all Lyon College administrators, faculty, staff, and students online at [Lyon College's Title IX web page](#) and in Lyon College's Student Handbook and Employee Policy Handbook.

1.8 Effective Date: The effective date of this Policy is September 19, 2025.

1.9 False Statements Prohibited: Individuals who participate in the grievance process are prohibited from knowingly making false statements or knowingly submitting false information.

1.10 Retaliation: Neither Lyon College nor any other person may intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by Title IX or this 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.

- a. Alleged violations of Retaliation will be referred to the Lyon College Student Handbook and/or Employee Policy Handbook.
- b. The exercise of rights protected under the First Amendment does not constitute Retaliation prohibited under this Policy.
- c. Charging an individual with a Student or Employee Policy Handbook violation for making a materially false statement in bad faith in the course of a grievance proceeding under this Policy does not constitute Retaliation prohibited under this Policy. However, a determination regarding responsibility, alone, is not sufficient to conclude that any party or witness made a materially false statement in bad faith.

1.11 Amnesty: Reporting sexual misconduct and related inappropriate conduct is encouraged at Lyon College. Thus, it is imperative that Complainants and witnesses share information without fear of potential consequences for certain minor policy violations including, but not limited to, underage consumption of alcohol, the use of illicit drugs, or violations of other Lyon College policies that do not cause harm or place the health or safety of any other person at risk.

Lyon College offers Complainants, Respondents, and witnesses amnesty from such violations, but they may be responsible for other, more serious conduct that does harm or place the health or safety of any other person at risk. After granting amnesty, Lyon College may include educational opportunities for individuals in lieu of a finding of responsibility or punitive sanctions with the individual regarding alcohol or drugs. This Section does not apply to reports to the police; rather, it applies only to discipline for violations of Lyon College's Student Handbook and/or Employee Policy Handbook.

1.12 Other Policies: This Policy takes precedence over other Lyon College policies and procedures concerning Sexual Misconduct under Title IX in the event of a conflict.

1.13 Modification and Review of this Policy: Lyon College reserves the right to modify this Policy to take into account applicable legal requirements. Lyon College will regularly review this Policy to determine whether modifications should be made.

1.14 Additional Handbook and Code of Conduct or Lyon College Policy Violations: Alleged violations of Lyon College's Student Handbook, Employee Policy Handbook, or other policies that arise from the same events as alleged Sexual Misconduct under this Policy will be investigated and resolved under the grievance process in this Policy unless the Sexual Misconduct has been dismissed under Section 5.2 of this Policy.

Section 2: Definitions

2.1 Definitions of Prohibited Conduct Under this Policy¹

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

- (1)** An employee of Lyon College conditioning the provision of an aid, benefit, or service of Lyon College on an individual's participation in unwelcome sexual conduct;
- (2)** Unwelcome conduct determined by a Reasonable Person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to Lyon College education program or activity²; or
- (3)** Sexual Assault, Dating Violence, Domestic Violence, or Stalking as defined in this Policy.

2.1.2 Sexual Assault means an offense classified as a forcible or non-forcible sex offense under the Uniform Crime Reporting system of the Federal Bureau of Investigation, including Rape, Non-Consensual Sexual Contact, Incest, and Statutory Rape as defined in this Policy.

2.1.3 Rape means the 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, or by a sex-related object, without the Consent of the victim.

2.1.4 Non-Consensual Sexual Contact means the intentional touching of the clothed or unclothed body parts without the Consent of the victim for the purpose of sexual degradation, sexual gratification, or sexual humiliation. It also means the forced touching by the victim of the actor's clothed or unclothed body parts, without Consent of the victim for the purpose of sexual degradation, sexual gratification, or sexual humiliation.

2.1.5 Incest means sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.

2.1.6 Statutory Rape means sexual intercourse with a person who is under the statutory age of Consent.

¹ See Appendix A of this Policy for applicable state laws.

² A severe, pervasive, and objectively offensive assessment includes, but is not limited to, a consideration of the frequency of the offensive conduct, the nature of the unwelcome sexual acts or words, such as whether the harassment was physical, verbal or both; whether the harassment was merely an offensive utterance; and the number of Complainants involved and the relationship between the parties including, but not limited to, the ages of the Respondent and the Complainant. In evaluating whether conduct is severe, pervasive, and objectively offensive, Lyon College will look at the totality of the circumstances, expectations, and relationships.

2.1.7 Dating Violence means violence committed by a person:

- (1) who is or has been in a social relationship of a romantic or intimate nature with the victim; and
- (2) where the existence of such a relationship shall be determined based on a consideration of the following factors:
 - The length of the relationship,
 - The type of relationship,
 - The frequency of interaction between the persons involved in the relationship.
 - Dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse.

2.1.8 Domestic Violence includes felony or misdemeanor crimes of violence committed by:

- a current or former spouse or intimate partner of the victim,
- a person with whom the victim shares a child in common,
- a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner,
- a person similarly situated to a spouse of the victim under the State's domestic or family violence laws, or
- any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the State.

2.1.9 Stalking means engaging in a Course of Conduct directed at a specific person that would cause a Reasonable Person to:

- fear for his or her safety or the safety of others; or
- suffer Substantial Emotional Distress.

2.1.10 Sexual Misconduct is a general term used to reference all prohibited conduct within this Policy.

2.2 Definitions Related to Sexual Misconduct: Consent, Course of Conduct, Incapacitation, Reasonable Person, Substantial Emotional Distress

2.2.1 Consent is affirmative, clear, conscious, knowing, voluntary, and revocable. Consent to sexual activity requires of each person an affirmative, conscious, and voluntary agreement to engage in sexual activity. Consent can be given by words or actions, as long as those words or actions create mutually understandable permission regarding willingness to engage in (and the conditions of) sexual activity. Consent cannot be obtained through coercion, force, or the threat of force.

It is the responsibility of each person to ensure they have the affirmative Consent of the other to engage in the sexual activity. Lack of protest, lack of resistance, or silence do not, alone, constitute Consent. Affirmative Consent must be ongoing and can be revoked at any time during sexual activity.

The existence of a previous or current dating relationship or past sexual relations between the Complainant and Respondent will never by itself be assumed to be an indicator of Consent (nor will subsequent sexual relations or dating relationship alone suffice as

evidence of Consent to prior conduct).

The Respondent's belief that the Complainant Consented will not provide a valid defense unless the belief was actual and reasonable. In making this determination, the hearing officer will consider all of the facts and circumstances the Respondent knew, or reasonably should have known, at the time. In particular, the Respondent's belief is not a valid defense where:

- (1) The Respondent's belief arose from the Respondent's own intoxication or recklessness;
- (2) The Respondent did not take reasonable steps, in the circumstances known to the Respondent at the time, to ascertain whether the Complainant affirmatively Consented; or
- (3) The Respondent knew or a reasonable person should have known that the Complainant was unable to Consent because the Complainant was incapacitated, in that the Complainant was:
 - asleep or unconscious;
 - unable to understand the fact, nature, or extent of the sexual activity due to the influence of drugs, alcohol, or medication; or
 - unable to communicate or understand the fact, nature, or extent of the sexual activity due to a mental or physical condition.

2.2.2 Course of Conduct means two or more acts, including, but not limited to, acts in which the individual 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.

2.2.3 Incapacitation means that a person lacks the ability to actively agree to sexual activity because the person is asleep, unconscious, under the influence of alcohol or other drugs/medication such that the person does not have control over their body, is unaware that sexual activity is occurring, or their mental, physical or developmental abilities render them incapable of making rational informed decisions. Incapacitation is a state beyond drunkenness or intoxication. A person is not necessarily Incapacitated merely as a result of drinking, using drugs, or taking medication.

A person violates this Policy when they engage in sexual activity with another person who is Incapacitated and a Reasonable Person in the same situation would have known that the person is Incapacitated. Incapacitation can be voluntary or involuntary. Signs of Incapacitation may include, without limitation: sleep; total or intermittent unconsciousness; lack of control over physical movements (e.g., inability to dress/undress without assistance; inability to walk without assistance); lack of awareness of circumstances or surroundings; emotional volatility; combativeness; vomiting; incontinence; unresponsiveness; and inability to communicate coherently. Incapacitation is an individualized determination based on the totality of the circumstances.

2.2.4 Reasonable Person means a reasonable person under similar circumstances and with

similar identities to the victim.

2.2.5 Substantial Emotional Distress means significant mental suffering or anguish that may but does not necessarily require medical or other professional treatment or counseling.

2.3 Other Defined Terms

2.3.1 Actual Knowledge means notice of Sexual Misconduct or allegations of Sexual Misconduct to Lyon College's Title IX Coordinator or Officials with Authority, except that Actual Knowledge is not met when the only individual with Actual Knowledge is the Respondent.

2.3.2 Advisor means a person of the Complainant's or Respondent's choosing, who may be, but is not required to be, an attorney, who may accompany the Complainant or Respondent during interviews and meetings related to the formal grievance process. The advisor may not appear in lieu of the party and may not speak on the party's behalf. During the live hearing process, both parties are required to have an Advisor, who is responsible for conducting the cross examination of parties and witnesses.

2.3.3 Business Day means any weekday not designated by Lyon College as a holiday or administrative closure day. When calculating a time period of Business Days specified in this Policy, the Business Day of the event that triggers a time period is excluded.

2.3.4 Complainant means an individual who is alleged to be the victim of conduct that could constitute Sexual Misconduct. Complainants and Respondents are referred to collectively as "parties" throughout this Policy.

2.3.5 Confidential Employee means an individual who has been designated as confidential and will therefore not report any information about a potential violation of this Policy to the Title IX Coordinator without the Complainant's permission.

2.3.6 Disciplinary Sanctions are sanctions imposed on a Respondent only after a finding of responsibility through the grievance process.

2.3.7 Education Program or Activity includes locations, events, or circumstances over which Lyon College exercises substantial control over both the Respondent and the context in which the Sexual Misconduct occurs, and also includes any building owned or controlled by a student organization that is officially recognized by Lyon College. This also includes conduct that occurs on Lyon College's property or during any Lyon College activity.

2.3.8 Employee means an individual who is employed by Lyon College either full-time or part-time, including temps.

2.3.9 Formal Complaint means a document filed by a Complainant (or parent or guardian of the Complainant) or signed by the Title IX Coordinator alleging Sexual Misconduct against a Respondent and requesting that Lyon College investigate the allegation of Sexual Misconduct.

2.3.10 Official with Authority means an individual who has the authority to institute corrective measures and is required to report Sexual Misconduct to the Title IX Coordinator

to initiate Lyon College's response to the Sexual Misconduct allegations. Officials with Authority include:

- Title IX Coordinator
- Deputy Title IX Coordinators
- Human Resources Director
- Director of Campus Safety
- Director of Student Accountability and Wellbeing
- Vice President for Student Life and Dean of Students
- Vice President for Enrollment Services and Dean of Admissions
- Vice President for Business and Finance
- Director of Finance
- Vice President for Advancement
- Director of College Communications and Marketing
- Director of Information Technology
- Director of Institutional Research
- Executive Director of Institutional Affairs
- Athletic Director
- Provost and Dean of Faculty
- Founding Dean, School of Dental Medicine
- Associate Dean of Academic Affairs, School of Dental Medicine
- Assistant Dean of Student Affairs and Admissions, School of Dental Medicine
- Associate Dean of Clinical Affairs, School of Dental Medicine
- Assistant Dean of the Liberal Arts Experience
- Associate Dean of the Faculty
- Associate Dean of Curriculum Development and Assessment
- President

2.3.11 Remedies are designed to restore or preserve equal access to the Education Program or Activity of Lyon College. Remedies may include, but are not limited to, the same individualized services as Supportive Measures; however, Remedies need not be non-disciplinary or non-punitive and need not avoid burdening the Respondent.

2.3.13 Respondent means an individual who has been reported to be the perpetrator of conduct that could constitute Sexual Misconduct. Complainants and Respondents are referred to collectively as "parties" throughout this Policy.

2.3.14 Responsible Employee means any individual who is employed by Lyon College and not deemed to be a Confidential Employee or Official with Authority. Responsible Employees are expected by Lyon College to report Sexual Misconduct to the Title IX Coordinator promptly upon receiving a report of Sexual Misconduct.

2.3.15 Retaliation means intimidation, threats, coercion, or discrimination, including charges against an individual for Student Handbook or Employee Policy Handbook violations that do not involve sex discrimination or Sexual Misconduct, but arise out of the same facts or circumstances as a report or complaint of sex discrimination, or a report or Formal Complaint of Sexual Misconduct, for the purpose of interfering with any right or

privilege secured by Title IX or this Policy.

2.3.16 Student means any individual who is registered or enrolled for credit- or non-credit bearing coursework.

2.3.17 Supportive Measures means non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the Complainant or the Respondent before or after the filing of a Formal Complaint or where no Formal Complaint has been filed.

Such measures are designed to restore or preserve equal access to Lyon College's Education Programs or Activities without unreasonably burdening the other party, including measures designed to protect the safety of all parties or Lyon College's educational environment, or deter Sexual Misconduct.

Supportive Measures may include, but are not limited to, counseling, extensions of deadlines or other course-related adjustments, modifications of work or class schedules, campus escort services, mutual restrictions on contact between the parties, changes in work or housing locations, leaves of absence, increased security and monitoring of certain areas of the campus, and other similar measures.

Lyon College will maintain as confidential any Supportive Measures provided to the Complainant or Respondent, to the extent that maintaining such confidentiality would not impair the ability of the College to provide the Supportive Measures.

2.3.18 Third-parties means individuals who are contractors, vendors, visitors, or guests of Lyon College.

Section 3: Reporting Sexual Misconduct & Preservation of Evidence

3.1 Reporting to Lyon College

3.1.1 Reporting to Title IX Coordinator: Reports of Sexual Misconduct may be made to the Title IX Coordinator in any of the following ways, by anyone, at any time: email, phone, online electronic form, or mail. Reports may also be made to the Title IX Coordinator in person or by video conference. After Sexual Misconduct has been reported to the Title IX Coordinator, the Title IX Coordinator will promptly offer supportive measures to the Complainant, regardless of whether the Complainant was the reporter of the Sexual Misconduct. The contact information for the Title IX Coordinator is as follows:

Lindsay Hatzis, Interim Title IX Coordinator

Email: titleix@lyon.edu

Phone: (423) 667-1838

Online: www.lyon.edu/file-a-title-ix-report

3.1.2 Reporting to Officials with Authority: If Officials with Authority are notified of allegations of Sexual Misconduct, they must promptly report such Sexual Misconduct to the Title IX Coordinator, who will take immediate action under this Policy. To the extent possible, information reported to Officials with Authority will be shared only with the individuals responsible for handling the College's response to the report.

3.1.3 Reporting to Confidential Employees: Lyon College employees who work in the below offices are considered Confidential Employees when they are operating under their respective licenses at the time they learn of allegations of Sexual Misconduct:

Name: Counseling Center
Phone: (870) 307-7277
Email: counseling@lyon.edu
Location: 1st floor of Edwards Commons

Name: Campus Clinic
Phone: (870) 307-7277
Email: campusclinic@lyon.edu
Location: 1st floor of Edwards Commons

Additionally, the Lyon College Chaplain is also a Confidential Employee when operating in the role as a Chaplain at the time they learn of allegations of Sexual Misconduct:

Name: Rev. Maggie Alsup (Chaplain)
Phone: (870) 307-7474
Email: chaplain@lyon.edu
Location: Edwards Commons, Student Life 103H

Reports of Sexual Misconduct made to Confidential Employees under this definition are considered confidential reports and will not be reported to the Title IX Coordinator without the Complainant's permission and will not constitute actual notice to Lyon College.

However, when the Complainant or Respondent are minors (under the age of 18), the Confidential Employee must still follow reporting guidelines established by the State of Arkansas.

3.1.4 Reporting to Responsible Employees: Lyon College employees who are not Confidential Employees or Officials with Authority are defined as Responsible Employees and are expected to report alleged Sexual Misconduct to the Title IX Coordinator promptly upon receiving a report of Sexual Misconduct.

3.1.5 Reporting to Campus Safety: Reports of an act of violence in progress and taking place on campus are to be made directly and immediately to Campus Safety at any time by phone at (870) 307-SAFE (7233). Reports made to Campus Safety alleging Sexual Misconduct as defined in this Policy will be shared with the Title IX Coordinator.

3.1.6 Anonymous or Confidential Reporting: Anonymous reports may be made to the Title IX Coordinator by email, phone, online electronic form, or mail. A decision to remain anonymous, however, may greatly limit the College's ability to stop the alleged conduct, collect evidence, or take action against parties accused of violating this Policy.

Individuals may file a report with the Title IX Coordinator and request to remain confidential. The College will evaluate the ability to afford confidentiality. However, doing so may greatly limit the College's ability to stop the alleged conduct, collect evidence, or take action against parties accused of violating this Policy.

3.2 Reporting to Law Enforcement: Reports may be filed with local law enforcement agencies. The Title IX Coordinator or the Campus Safety Office can assist with contacting law enforcement agencies. Law enforcement investigations are separate and distinct from Lyon College investigations.

Batesville Police Department

710 S. St. Louis Street, Batesville, Arkansas 72501

Emergency Phone: 9-1-1

Non-Emergency Phone: (870) 569-8111

3.3 Reporting to Outside Agencies: Students and employees may report to external agencies:

• **Students:**

Office for Civil Rights

U.S. Department of Education

Website: <http://www.ed.gov/about/offices/list/ocr/complaintintro.html>

Email: OCR@ed.gov

Phone: 800.421.3481

Address: U.S. Department of Education

Office for Civil Rights

Lyndon Baines Johnson Department of Education Bldg

400 Maryland Avenue, SW

Washington, DC 20202-1100

Office for Civil Rights, Local Office

Email: OCR.KansasCity@ed.gov

Phone: 816-268-0550

Address: Office for Civil Rights, Kansas City Office

One Petticoat Lane

1010 Walnut Street, 3rd Floor, Suite 320

Kansas City, MO 64106

• **Employees:**

Equal Employment Opportunity Commission, Field Office

Phone: 800-669-4000

Address: EEOC Field Office

820 Louisiana Street

Suite 200

Little Rock, AR 72201

Equal Employment Opportunity Commission

Phone: 800-669-4000

Address: EEOC Headquarters

131 M Street, NE

Washington, DC 20507

3.4 Outside Agency Confidential Support and Resources:

- Batesville Family Violence Prevention Hotline: (870) 793-8111
- Batesville Rape Crisis Center: (870) 698-0006
- National Sexual Assault Hotline: (800) 656-4673
- National Domestic Violence Hotline: (800) 799-7233

3.5 Time Limits on Reporting: There are no time limits on reporting Sexual Misconduct to the Title IX Coordinator or Lyon College. However, if the Respondent is no longer subject to the Education Program or Activity of Lyon College or significant time has passed, Lyon College will have limited ability to investigate, respond and/or provide disciplinary Remedies and Sanctions.

3.6 Lyon College's Federal Reporting Obligations: Certain Lyon College employees, called Campus Security Authorities, have a duty to report certain incidents of misconduct to comply with the Clery Act. Campus Security Authorities are not required to report personally identifiable information for Clery Act purposes, but statistical information must be sent regarding the type of incident that occurred and its general location (e.g., on or off-campus) for publication in an annual report of crime statistics, called the Annual Security Report. Statistics published in the Annual Security Report help to provide the campus community with a clearer picture of the extent and nature of campus crime, but the statistics do not personally identify Complainants or Respondents. Reports by Campus Security Authorities are not official police reports and do not initiate criminal investigations.

When Sexual Assault, Domestic Violence, Dating Violence, and/or Stalking are reported under the Clery Act, Lyon College must issue timely warnings for such incidents that pose a serious or continuing threat of bodily harm or danger to members of the campus community.

Lyon College will not disclose a Complainant's name or other identifying information in a timely warning but will provide sufficient information for Lyon College community members to make informed safety decisions in response to potential danger.

3.7 Preservation of Evidence: Lyon College recognizes that a Complainant may need time to decide whether to report an incident of Sexual Misconduct to the police and/or Lyon College. The purpose of this section is to provide Complainants with suggestions on preserving evidence while they decide whether to report an incident.

Preserving evidence is important as it may assist in proving that an alleged criminal offense occurred or may be helpful in obtaining a protection order.

If you have been sexually assaulted, you may obtain a forensic exam, which is administered by a hospital to collect evidence. If possible, don't bathe, shower, douche, wash your hands, use the restroom, eat, drink, smoke, change clothes, or brush your teeth before seeking a forensic exam or medical attention. A forensic exam may be obtained at White River Medical Center.

You are also encouraged to preserve evidence by saving text/social media messages, phone call logs, pictures, and other copies of documents related to the crime that occurred or is occurring. If you have physical injuries, photograph them or have them photographed, with a date stamp on the photo. Try to remember details (e.g., physical description, names, location, etc.), or even better, write notes to remind you of details, if you have time and the ability to do so.

Section 4: Initial Response to Reported Sexual Misconduct

Upon receipt of a report of Sexual Misconduct, the Title IX Coordinator will promptly contact the Complainant, regardless of whether the Complainant was the individual who initiated the report. During the initial contact with the Complainant, the Title IX Coordinator will:

- Provide the Complainant with notice of their rights and options;
- Explain the Complainant's reporting options, including the process for filing a Formal Complaint;
- Explain the Grievance Process;
- Provide a list of on and off campus resources;
- Discuss the availability of Supportive Measures regardless of whether a Formal Complaint is filed;
- Consider the Complainant's wishes with respect to Supportive Measures.

In addition, the Title IX Coordinator will determine whether the report must be reported for Clery Act compliance purposes and if so, notify the appropriate College officials. The Title IX Coordinator will also determine the ages of the parties, if known, and contact the appropriate child protective service agency if either party is a minor (under 18).

Section 5: Formal Complaint

When a Formal Complaint is submitted to the Title IX Coordinator it initiates the grievance process, which includes an investigation and hearing.

5.1 Filing a Formal Complaint: A Formal Complaint must:

1. Contain an allegation of Sexual Misconduct against a Respondent;
2. Request that Lyon College investigate the allegation; and
3. Be signed by the Complainant or Title IX Coordinator.

Please contact the Title IX Coordinator to be provided with a formal complaint form.

In limited circumstances, if a Complainant does not sign a Formal Complaint, the Title IX Coordinator may sign a Formal Complaint. In determining whether to sign a Formal Complaint, the Title IX Coordinator will consider factors that include but are not limited to:

- Whether there have been other reports of Sexual Misconduct or other relevant misconduct concerning the same Respondent;
- Whether or not the incidents occurred while the Respondent was a Lyon College student or employee;
- Whether the Respondent threatened further Sexual Misconduct or other misconduct against the Complainant or others;
- Whether the alleged Sexual Misconduct was committed by multiple perpetrators;
- The nature and scope of the alleged Sexual Misconduct including whether the Sexual Misconduct was perpetrated with a weapon;
- The ages and roles of the Complainant and the Respondent;
- Whether Lyon College can pursue the investigation without the participation of the Complainant (e.g., whether there are other available means to obtain relevant evidence of the alleged Sexual Misconduct such as security cameras or physical evidence);

- Whether the report reveals a pattern of perpetration (e.g., perpetration involving illicit use of drugs or alcohol) at a given location or by a particular group.

If a Complainant has requested not to move forward with a Formal Complaint, and the Title IX Coordinator has determined that filing a Formal Complaint is necessary, the Title IX Coordinator will notify the Complainant prior to filing the Formal Complaint.

5.2 Dismissal of a Formal Complaint

5.2.1 Required Dismissal: The Title IX Coordinator will dismiss a Formal Complaint for purposes of Sexual Misconduct under Title IX if:

1. The conduct alleged in the Formal Complaint would not constitute Sexual Misconduct as defined in this Policy even if proved;
2. The conduct alleged did not occur in Lyon College's Education Program or Activity; or
3. The conduct alleged in the Formal Complaint did not occur against a person in the United States.

Dismissal of a Formal Complaint for the purposes of Sexual Misconduct under Title IX does not preclude action under the provisions of other Lyon College policies and procedures. If a Formal Complaint is dismissed as a Title IX matter, the matter will be reviewed to determine whether it will be referred for review under Part B of this Policy or another Lyon College Policy.

5.2.2 Permissive Dismissal: The Title IX Coordinator may dismiss a Formal Complaint or any allegations within the Formal Complaint, if at any time during the investigation or hearing:

1. A Complainant notifies the Title IX Coordinator in writing that the Complainant would like to withdraw the Formal Complaint or any allegations within the Formal Complaint,
2. The Respondent is no longer enrolled or employed by Lyon College, or
3. Specific circumstances prevent Lyon College from gathering evidence sufficient to reach a determination as to the Formal Complaint or allegations within the Formal Complaint.

5.2.3 Appeal of Dismissal: Either party may appeal the dismissal of a Formal Complaint or any allegations therein. See Section 7 for bases and process for appeals.

5.2.4 Consolidation of Formal Complaints: The Title IX Coordinator may consolidate Formal Complaints as to allegations of Sexual Misconduct against more than one Respondent or by more than one Complainant against one or more Respondents where the allegations arise out of the same facts or circumstances.

Section 6: Grievance Process

The grievance process within this Policy is designed to treat Complainants and Respondents equitably. Remedies are provided to a Complainant where a determination of responsibility for Sexual Misconduct has been made against the Respondent, and Disciplinary Sanctions are not imposed against a Respondent prior to the completion of the grievance process.

6.1 General Grievance Process Information:

6.1.1 Burden of Proof and Burden of Gathering Evidence: All investigations and proceedings, including hearings, relating to Sexual Misconduct will be conducted using a “preponderance of the evidence” (more likely than not) standard. The burden of proof and the burden of gathering evidence sufficient to reach a determination regarding responsibility rest on Lyon College, not the parties.

6.1.2 Presumption of Not Responsible: The Respondent is presumed to be not responsible for the alleged conduct until a determination regarding responsibility is made at the end of the grievance process.

6.1.3 Timeframes for Grievance Process: Lyon College strives to complete the grievance process within one hundred and twenty (120) Business Days. Temporary delays and/or extensions of the timeframes within this Policy may occur for good cause. Written notice will be provided to the parties of the delay and/or extension of the timeframes with an explanation of the reasons for such action. Examples of good cause for delay/extensions include, but are not limited to, considerations such as the absence of a party, a party’s advisor, or a witness; concurrent law enforcement activity; or the need for language assistance or accommodation of disabilities.

6.1.4 Medical Records: Lyon College will not access, consider, disclose, or otherwise use a party’s records that are made or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in the professional’s or paraprofessional’s capacity, or assisting in that capacity, and which are made and maintained in connection with the provision of treatment to the party, unless Lyon College obtains that party’s voluntary, written permission to do so for the grievance process within the Policy.

6.1.5 Privileged Information: Lyon College will not require, allow, rely upon, or otherwise use questions or evidence that constitute, or seek disclosure of, information protected under a legally recognized privilege, unless the person holding the privilege has waived the privilege.

6.1.6 Release of Documents: Any documents, reports, and recordings prepared by Lyon College in investigating and resolving a Formal Complaint under this Policy constitute education and/or personnel records, which are subject to state and federal privacy laws. Lyon College shall only release these documents to the parties, or as may be permitted by FERPA, as required by law, or to carry out the purposes of Title IX and this Policy.

While Lyon College does not restrict the ability of either party to discuss the allegations under investigation or to gather and present relevant evidence, the parties shall not redistribute any documents, reports, or recordings prepared by Lyon College.

Records collected and retained by Lyon College under this Policy may be obtained by contacting the Title IX Coordinator, who will determine if the records may be released. It shall be the Policy of Lyon College that any records leaving the custody of the Title IX Coordinator shall include redactions of any personal or identifying information of involved individuals, unless such redactions are prohibited by law or court order.

6.1.7 Range of Disciplinary Sanctions: Sanctions that may be required if an individual is found responsible for violating this Policy include:

For Students:

- Written reprimand
- Probation
- Suspension
- Deferred Suspension
- Expulsion
- Restrictions related to access to certain campus locations, activities, or events, including but not limited to:
 - Restriction from offices open to the general student vote and/or SGA appointments
 - Restriction from attending or hosting College social activities
 - Restriction or loss of visitation privileges in living areas
 - Restriction or loss of alcohol privileges
 - Restrictions from entering certain buildings on campus
- Revocation of certain privileges (e.g., membership in campus organizations) for a defined period of time
- Revocation or withholding of diploma
- Revocation of admission
- Educational and developmental sanctions, including but not limited to, reflection papers, counseling, classes, or restorative practices
- Eviction from a campus residence
- Restitution for property damage
- Dismissal from student worker jobs
- Community service assignment that directly relates to the nature of the violation

For Employees:

- Suspension
- Discharge
- Termination
- Being barred or removed from campus
- Cancellation of contract
- Other appropriate institutional sanctions

For Campus Organizations:

- Deactivation or derecognition
- Loss of privileges
- Loss of funding for a defined period of time

6.1.8 Notice of Meetings, Interviews, and Hearings: Parties and witnesses will be provided notice of any meeting, interview, and/or hearing with sufficient time to prepare to participate. This notice will include the date, time, location, participants, and purposes of the meeting, interview, and/or hearing.

6.1.9 Withdrawal, Graduation, or Resignation Prior to Determination: Lyon College may continue its grievance process regardless of the end of the term, graduation, or the withdrawal or resignation of the Complainant and/or Respondent. Additionally, the following may apply.

1. **Students:** For Student Respondents who are scheduled to graduate while the outcome of a Formal Complaint is pending, the College will assess their eligibility to participate in commencement-related events. In the event that the sanction is suspension from the College, the student Respondent's degree will be conferred after the suspension period is completed and only after any additional sanctions have been satisfied. If the sanction imposed is expulsion, the student Respondent would no longer be eligible to receive their degree or diploma.
2. **Employees:** Employee Respondents who choose to resign or who are terminated during a pending investigation who are found in violation of this Policy may be ineligible for rehire. The College reserves the right to take additional actions against a former employee who is found in violation of this Policy, such as placing restrictions on participation in College events to ensure the safety of the College community.

6.2 Notice of Allegations: Upon receipt of a Formal Complaint, the Title IX Coordinator or investigator will provide Notice of Allegations to the parties who are known. The Notice of Allegations will include:

1. Notice of the party's rights and options.
2. Notice of the Grievance Process.
3. Notice of the informal resolution process and options.
4. Notice of the allegations of Sexual Misconduct including:
 - a. The identities of the parties involved in the incident, if known,
 - b. The conduct allegedly constituting Sexual Misconduct, and
 - c. The date and location of the incident, if known.
5. Notice that the Respondent is presumed not responsible of the alleged conduct and that a determination regarding responsibility is made at the conclusion of the grievance process.
6. Notice that the parties may have an advisor of their choice, who may be, but is not required to be, an attorney, and that the advisor may inspect and review evidence as explained in Section 6 of this Policy.
7. Notice of the Lyon College policy provision that prohibits knowingly making false statements or knowingly submitting false information during the grievance process.

The Notice of Allegations will be updated, and written notice provided to the parties if at any time during the investigation, Lyon College decides to investigate allegations about the Complainant or Respondent that are not included in the initial Notice of Allegations.

6.3 Investigation of Formal Complaint: After the Notice of Allegations has been provided to the parties, Lyon College will conduct an investigation of the Formal Complaint. During all meetings and interviews, the parties may be accompanied by an advisor of their choice, which may be, but is not required to be, an attorney. During the investigation stage of the grievance process, the advisor's role is limited to assisting, advising, and/or supporting a Complainant or Respondent.

An advisor is not permitted to speak for or on behalf of a Complainant or Respondent or appear in lieu of a Complainant or Respondent during the investigation phase of the grievance process.

6.3.1 Opportunity to Provide Information and Present Witnesses: Each party will be provided an equal opportunity to provide information to the investigator and present witnesses for the investigator to interview. The information provided by the parties can include inculpatory and exculpatory evidence. The witnesses can include both fact witnesses and expert witnesses.

6.3.2 Opportunity to Inspect and Review Evidence: Each party will be provided an equal opportunity to inspect and review any evidence obtained as part of the investigation that is directly related to the allegations raised in the Formal Complaint, including evidence which Lyon College does not intend to rely upon in reaching a determination regarding responsibility. This review includes inculpatory and exculpatory evidence that is obtained by a party, witness, or other source. Each party and their advisor (if any) will be provided an electronic copy of the evidence for inspection and review. The parties will have ten (10) Business Days to review and submit a written response to the investigator. The investigator will consider the written responses prior to completing an investigative report. All evidence provided during the inspection and review phase will be available for the parties to use during the hearing, including for purposes of cross examination.

6.3.3 Investigative Report: Following the opportunity to inspect and review evidence directly related to the allegations raised in the Formal Complaint, the investigator will create an investigative report that fairly summarizes relevant evidence obtained during the investigation.

6.3.4 Review of the Investigative Report: At least ten (10) Business Days prior to the hearing, the investigator will provide each party and the party's advisor (if any) an electronic copy of the investigative report for their review and written response.

6.3.5 Investigation Timeframe: The investigation of a Formal Complaint will be concluded within ninety (90) Business Days of the filing of a Formal Complaint. The parties will be provided updates on the progress of the investigation, as needed.

6.4 Live Hearing After the investigation has concluded, Lyon College will provide for a live hearing for all Formal Complaints of Sexual Misconduct that have not been dismissed per Section 5.2 or resolved by informal resolution under Section 8. At the request of either party, or at the discretion of the Title IX Coordinator, Lyon College will provide for the live hearing to occur with the parties located in separate rooms with technology enabling the hearing officer and parties to simultaneously see and hear the other party or witness answering questions.

6.4.1 Information at the Hearing: The following information/evidence will be available in electronic form at the hearing:

1. Evidence from the investigation, including the evidence directly related to the allegations that was reviewed by the parties, regardless of whether it was incorporated into the investigative report.
2. The investigative report and any attachments/appendices.

6.4.2 Hearing Officer: The hearing officer will be an employee of Lyon College or third

party appointed by Lyon College and will not be the Title IX Coordinator or investigator. The hearing officer will be trained, impartial, and without conflict of interest.

6.4.3 Challenge to a Hearing Officer: Either party may challenge the appointment of a hearing officer, based on conflict of interest or bias, in writing to the Title IX Coordinator, no less than two (2) Business Days after being provided with the name of the hearing officer.

6.4.4 Advisor's Role at the Hearing: Each party must have an advisor present at the hearing. The advisor's role is limited to supporting, advising, and assisting the party during the hearing and conducting questioning (cross-examination) of participants. The advisor may not answer questions for the party or provide opening or closing statements. Advisors are required to follow rules of decorum enforced by the hearing officer. Failure to follow the rules of decorum by an advisor may result in removal of an advisor from the hearing. If a party does not have an advisor present at the live hearing, Lyon College will appoint the party with an advisor without fee or charge.

6.4.5 Recording of the Hearing: Lyon College will create an audio or audiovisual recording of all live hearings and make the recording available to the parties for inspection or review. No other recording of the hearing is permitted.

6.4.6 Hearing Process Facilitator: Lyon College may designate a hearing process facilitator to coordinate the hearing, including, but not limited to, coordination and scheduling of the hearing; the logistics of physical or virtual rooms for parties and/or witnesses, including separation of the parties; ensuring all technology is working appropriately; ensuring the parties have access to electronic documents during the hearing; distributing materials; etc. The facilitator may also be the Title IX Coordinator. The facilitator may invite the parties and their advisors, separately, to a meeting prior to the hearing to review the hearing process for the purpose of ensuring a smooth hearing. This meeting is separate from the pre-hearing conference discussed below.

6.4.7 Pre-Hearing Matters: In order to streamline the hearing process, the hearing officer may request the submission of questions prior to the hearing through electronic submission and/or a pre-hearing conference.

- 1. Pre-Hearing Submission of Questions:** The hearing officer may request the parties to submit questions, in writing, prior to the hearing. This submission does not preclude the Advisor from asking additional questions live during the hearing. The hearing officer may allow for the pre-hearing submission of questions regardless of whether a pre-hearing conference occurs.
- 2. Pre-Hearing Conference:** The hearing officer may hold a pre-hearing conference. During the pre-hearing conference, parties and their Advisors will be asked to submit, in writing, any questions they wish to ask during the live hearing so that the hearing officer can be prepared to respond to relevancy at the hearing. This conference does not preclude the Advisor from asking additional questions live during the hearing.

At the pre-hearing conference, the hearing officer may also hear arguments regarding the relevance of the evidence identified in the investigative report as relevant or not relevant

and/or directly related to the allegations.

6.4.8 Participants in the Hearing: Participants at the hearing include the hearing officer(s), the investigator(s) who conducted the investigations, the parties, advisors to the parties, witnesses, and anyone providing authorized accommodations. In addition, Lyon College may have a hearing facilitator present. Any witnesses scheduled to participate in the hearing must have been first interviewed by the investigator(s) or, if agreed to by the investigator, have provided a written statement or answered questions from the investigator in writing.

6.4.9 Hearing Process and Phases: The live hearing will include the following phases:

1. **Notice of Hearing:** After the investigative report has been completed and at least ten (10) Business Days prior to the date set for the hearing, the parties and their Advisors (if any) will be provided with a Notice of the Hearing. The Notice will include the date, time, location (virtual or in person), name of the hearing office, and names of all participants in the hearing.
2. **Opening Statements:** Each party will have the opportunity to provide an opening statement to the hearing officer, not to exceed five (5) minutes.
3. **Questioning of Hearing Participants (Parties and Witnesses):**
 - a. **Questions by the Hearing Officer:** The hearing officer will ask initial questions of the participants at the hearing.
 - b. **Questions by the Advisors:** After the hearing officer asks questions of a participant, each party's advisor will be permitted to ask relevant questions and follow-up questions orally, directly, and in real time of the participant. The parties are never permitted to ask questions of participants directly. The questioning of participants by advisors will be conducted in the following manner:
 - A question is asked by an advisor
 - Before a participant answers the questions, the hearing officer determines whether the question is relevant
 - If the question is determined relevant by the hearing officer, the participant answers the question
 - If the question is determined not to be relevant by the hearing officer, the hearing officer must explain the decision to exclude a question as not relevant.
 - c. **Evidence and Questions Excluded:**
 - **Sexual Predisposition or Prior Sexual Behavior of the Complainant:** Questions and evidence about the Complainant's sexual predisposition or prior sexual behavior are not relevant, unless such questions and evidence about the Complainant's prior sexual behavior are offered to prove that someone other than the Respondent committed the conduct alleged by the Complainant, or if the questions and evidence concern specific incidents of the Complainant's prior sexual behavior with

respect to the Respondent and are offered to prove Consent.

- **Privileged Information:** No person will be required to disclose information protected under a legally recognized privilege. The hearing officer must not allow into evidence or rely upon any questions or evidence that may require or seek disclosure of such information, unless the person holding the privilege has waived the privilege. This includes information protected by the attorney-client privilege.
- **Medical Records:** Evidence or records that are made or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in the professional's or paraprofessional's capacity, or assisting in that capacity, and which are made and maintained in connection with the provision of treatment to the party, are not permitted to be used during a hearing unless the party provides voluntary, written permission to do so for the grievance process within this Policy.

4. Closing Statements: Each party will have the opportunity to present a closing statement to the hearing officer, not to exceed five (5) minutes.

6.4.10 Determination Regarding Responsibility: After the live hearing, the hearing officer will deliberate in private. The hearing officer will issue a written determination regarding responsibility using the preponderance of the evidence standard. The hearing officer will provide the Title IX Coordinator with the written determination without fourteen (14) Business Days of conclusion of the live hearing. The Title IX Coordinator will provide the Complainant and the Respondent with the written determination simultaneously within two (2) Business Days of receiving the final determination.

The written determination will include:

- Identification of the allegations potentially constituting Sexual Misconduct;
- A description of the procedural steps taken from the receipt of the Formal Complaint through the determination, including any notifications to the parties, interviews with parties and witnesses, site visits, methods used to gather other evidence, and hearings held;
- Findings of fact supporting the determination;
- Conclusions regarding the application of this Policy to the facts;
- A statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility, any disciplinary sanctions that Lyon College imposes on the Respondent, and whether remedies designed to restore or preserve equal access to Lyon College's education program or activity will be provided by Lyon College to the Complainant³; and
- The procedures and permissible bases for the Complainant and Respondent to appeal.

The determination regarding responsibility becomes final either on the date that Lyon College provides the parties with the written determination of the result of the appeal, if an

³ The Title IX Coordinator is responsible for the implementation of any Remedies.

appeal is filed, or, if an appeal is not filed, the date on which an appeal would no longer be considered timely. Once the determination is final, the Title IX Coordinator may forward the written determination to the Director of Human Resources or the Dean of Students for assistance in implementing sanctions or remedies.

Section 7: Appeals

Either party may appeal the determination regarding responsibility, or the dismissal of a Formal Complaint or any allegations therein within three (3) Business Days of the receipt of the determination regarding responsibility or dismissal. If a party wishes to file an appeal, they should contact the Title IX Coordinator to obtain a copy of the Appeal form. The Appeal form must be made in writing and delivered to the Title IX Coordinator.

7.1 Bases for Appeal: Appeals of the determination of responsibility or the dismissal of a Formal Complaint may be made on the following bases:

- Procedural irregularity that affected the outcome of the matter;
- New evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made, that could affect the outcome of the matter; or
- The Title IX Coordinator, investigator, or hearing officer had a conflict of interest or bias for or against Complainants or Respondents generally or the individual Complainant or Respondent that affected the outcome of the matter.

7.2 Appeal Procedures: If an appeal is submitted, Lyon College will:

1. Notify the other party in writing when an appeal is filed and implement appeal procedures equally for both parties.
2. Ensure that the appeals officer is not the same person as the hearing officer that reached the determination regarding responsibility or dismissal, the investigator, or the Title IX Coordinator.
3. Provide the non-appealing party with three (3) Business Days from receipt of the notification of appeal to submit a written statement in support of the outcome of the determination or dismissal.
4. Issue a written decision describing the result of the appeal and the rationale for the result.
 - a. Results of an appeal of the dismissal of a Formal Complaint are limited to the following:
 - Affirm the dismissal of the Formal Complaint;
 - Reverse the dismissal of the Formal Complaint and notify the Title IX Coordinator to initiate the grievance process.
 - b. Results of appeal of the determination regarding responsibility may be one of the following:
 - Affirm the hearing officer's determination regarding the Respondent's responsibility and affirm the disciplinary sanctions and remedies, if applicable;
 - Remand the process back to the investigation or hearing stage for the investigator or hearing officer to remedy any procedural irregularity or consider any new evidence; or
 - Reverse the hearing officer's determination of the Respondent's responsibility and amend the disciplinary sanctions and remedies, if

applicable.

5. Provide the written decision simultaneously to both parties.

7.3 Appeal Timeframe: The appellate officer will provide to the Title IX Coordinator the written decision within twenty (20) Business Days of receiving the appeal. The Title IX Coordinator will provide the appeal decision to the parties within two (2) Business Days of receiving the appeal decision.

Section 8: Informal Resolution Process

At any time after a Formal Complaint has been signed and before a determination regarding responsibility has been reached, the parties may voluntarily agree to participate in an informal resolution facilitated by Lyon College, that does not involve a full investigation and hearing. Types of informal resolution include, but are not limited to, mediation, educational training, mutual no contact orders, restrictions on access to campus locations, probation, mediation, restorative justice, and resolution by agreement of the parties.

8.1 Informal Resolution Notice: Prior to entering the informal resolution process, Lyon College will provide the parties a written notice disclosing:

1. The allegations;
2. The requirements of the informal resolution process, including the right of any party to withdraw from the informal resolution process and resume the grievance process and the circumstances which preclude parties from resuming a Formal Complaint arising from the same allegations;
3. Consequences resulting from the informal resolution process, including that the records will be maintained for a period of seven (7) years but will not be used by investigators or hearing officers if the formal grievance process resumes.

8.2 Informal Resolution Process: Prior to entering the informal resolution process, the parties must voluntarily agree, in writing, to the use of the informal resolution process. After the parties have agreed to this in writing, the Title IX Coordinator, or another individual trained to facilitate the informal resolution process who is not the investigator(s), will meet separately with the parties to discuss options for informal resolution. The parties will not be required to meet at the same time during the informal resolution process.

After terms to an informal resolution have been agreed to by the parties, the Title IX Coordinator must approve the terms. If the Title IX Coordinator approves the terms, the terms of the informal resolution will be documented and provided to the parties. Failure to comply with an informal resolution agreement may result in disciplinary action.

8.3 Informal Resolution Availability: The informal resolution process is not permitted to resolve allegations that an employee committed Sexual Misconduct against a student.

8.4 Informal Resolution Timeframe: Informal resolutions of a Formal Complaint will generally be concluded within forty-five (45) Business Days of notice to Lyon College that both parties wish to proceed with the informal resolution process. Such notice that the parties wish to proceed with an informal resolution process will “pause” the counting of the timeframe to conclude the grievance process of this Policy, should the informal resolution process fail and the parties

continue with the grievance process.

8.5 Informal Resolution Documentation: Any final resolution pursuant to the informal resolution process will be documented and kept for seven (7) years. However, no recording of the informal resolution process will be made, and all statements made during the informal resolution process will not be used for or against either party (and the hearing officer and/or appeals officer may not consider any such statement made during informal resolution) should the parties resume the grievance process.

Section 9: Emergency Removal and Administrative Leave

9.1 Emergency Removal: At any time after the Title IX Coordinator is on notice of Sexual Misconduct, Lyon College may remove a Respondent on an emergency basis. Lyon College will only conduct an emergency removal after:

1. Undertaking an individualized safety and risk analysis,
2. Determining that an immediate threat to the physical health or safety of any student or other individual arising from the allegations of Sexual Misconduct justifies removal, and
3. Providing the Respondent with notice and an opportunity to challenge the decision to the Title IX Coordinator, within three (3) Business Days following the removal. Challenges of emergency removal under this Policy will follow the appeal requirements in the Student Handbook under the Social System's Extraordinary Procedures.

At the discretion of the Title IX Coordinator, alternative coursework options may be pursued, as requested, during an emergency removal to ensure as minimal an impact as possible on the Respondent. Violation of an emergency removal under this Policy will be grounds for immediate expulsion or termination.

9.2 Administrative Leave: Lyon College may place an employee Respondent on administrative leave during the pendency of the grievance process in this Policy.

Section 10: Recordkeeping

Lyon College will maintain all of the documentation related to reports of Sexual Misconduct, Formal Complaints, the grievance process, and informal resolution process for seven (7) years in accordance with state and federal records laws and requirements. The documentation of all records is private and confidential to the extent possible under law. Student records of the grievance process are disciplinary records under the Family Education Rights and Privacy Act (FERPA). Employee records of the grievance process are subject to the Freedom of Information Act (FOIA) and applicable state laws, and included in the employee's official employment record.

Section 11: Additional Conduct Violations Related to This Policy

Alleged violations of the terms in this section will be referred to the Student Handbook or Employee Policy Handbook process for investigation and adjudication. Retaliation, providing false information in the grievance process, interfering with the grievance process, and/or violating a directive from a Lyon College official (including violating a No-Contact Order) are prohibited under the Lyon College Student Handbook and Employee Policy Handbook.

The Student Handbook can be found here: <https://www.lyon.edu/student-handbook>
The Employee Policy Handbook can be found online through BambooHR.

B. Grievance Process for Sexual Misconduct Outside of Title IX

Section 1: Applicability

Part B of this Policy addresses Sexual Misconduct as defined in Part A that does not meet the applicability requirements of Part A, Section 1.4. Part B of this Policy also addresses additional forms of sexual misconduct, as defined in Section 2 of this Part. The procedures in Part B shall be used in conjunction with Part A for purposes of identification of Key Title IX Officials (Part A, Section 1.4), definitions (Part A, Section 2), and reporting options (Part A, Section 3).

Part B applies to students, employees, and third parties as follows:

- When the Respondent is a student, employee, contractor, vendor, or guest at Lyon College at the time of the alleged conduct;
- The alleged conduct includes Sexual Misconduct as defined under this Part, or, Sexual Misconduct as defined under Part A when the Sexual Misconduct occurred outside the College's Education Program or Activity, or outside the United States, but may have the effect of interfering with, denying, or limiting an individual's ability to participate in or benefit from the College's education or work programs or activities; and
- The Complainant is participating in or attempting to participate in the College's Education Program or Activity.

Supportive Measures and resources will be provided where the Complainant is a student or employee regardless of whether the Respondent is affiliated with Lyon College.

Section 2: Definitions

2.1 Definitions of Sexual Misconduct Outside of Title IX. In addition to prohibited conduct defined in Part A, Section 1 of this Policy, procedures in this Part shall be used to investigate and resolve reported matters that allege the following prohibited conduct:

2.1.1 Non-Title IX Sexual Harassment means unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature or based on sex when:

1. Submission to such conduct is made either explicitly or implicitly a term or condition of an individuals' employment or academic performance;
2. Submission to or rejection of such conduct by an individual is used as the basis of employment or academic decisions affecting such individuals; or
3. Such conduct has the purpose or effect on unreasonably interfering with an individual's work or academic performance or creating an intimidating, hostile, or offensive working or academic environment

Examples of conduct that can constitute sexual harassment include, but are not limited to:

- Unwelcome jokes or comments;
- Disparaging remarks about sex;
- Displaying negative or offensive posters or pictures about sex;

- Electronic communications, such as e-mail, text messaging, and Internet use, that violate this Policy.

2.1.2 Non-Consensual Physical Contact with a Private Body Part means the deliberate touching of another person's private body parts (including genitalia, groin, breasts, or buttocks), or to cause a person to touch his or her own or another person's private body parts, without the person's Consent. This includes touching above or below the clothing that is covering the private body part with any object or body part.

2.1.3 Sexual Exploitation means taking non-consensual or abusive advantage of another person including but not limited to:

- Causing or attempting to cause the incapacitation of another person in order to gain a sexual advantage over such other person;
- Recording, photographing, or transmitting identifiable images of private sexual activity and/or the intimate parts (including genitalia, groin, breasts, or buttocks) of another person;
- Allowing third parties to observe private sexual acts;
- Engaging in voyeurism (such as watching a person undress, shower, or engage in sexual activity without the consent of the person being observed);
- Knowingly or recklessly exposing another person to a significant risk of sexually transmitted infection, including HIV, without informing the other person of the infection.

Section 3: Initial Response to Reports of Sexual Misconduct Outside of Title IX

Upon receipt of a report of Sexual Misconduct, the Title IX Coordinator will promptly contact the Complainant, regardless of whether the Complainant was the individual who initiated the report. During the initial contact with the Complainant, the Title IX Coordinator will:

- Provide the Complainant with notice of their rights and options;
- Explain the Complainant's reporting options, including the process for filing a Formal Complaint;
- Explain the Grievance Process;
- Provide a list of on and off campus resources;
- Discuss the availability of Supportive Measures regardless of whether a Formal Complaint is filed;
- Consider the Complainant's wishes with respect to Supportive Measures and limited action.

In addition, the Title IX Coordinator will determine whether the report must be reported for Clery Act compliance purposes and if so, notify the appropriate College officials. The Title IX Coordinator will also determine the ages of the parties, if known, and contact the appropriate child protective service agency if either party is a minor (under 18).

Section 4: Filing a Formal Complaint

When a Formal Complaint is submitted to the Title IX Coordinator it initiates the grievance process, which includes an investigation and hearing.

4.1 Filing a Formal Complaint: A formal complaint must:

1. Contain an allegation of Sexual Misconduct against a Respondent;
2. Request that Lyon College investigate the allegation; and
3. Be signed by the Complainant or Title IX Coordinator.

Complainants can contact the Title IX Coordinator to be provided with the Formal Complaint form.

In limited circumstances, if a Complainant does not sign a Formal Complaint, the Title IX Coordinator may sign a Formal Complaint. In determining whether to sign a Formal Complaint, the Title IX Coordinator will consider factors that include but are not limited to:

- Whether there have been other reports of Sexual Misconduct or other relevant misconduct concerning the same Respondent;
- Whether or not the incidents occurred while the Respondent was a Lyon College student or employee;
- Whether the Respondent threatened further Sexual Misconduct or other misconduct against the Complainant or others;
- Whether the alleged Sexual Misconduct was committed by multiple perpetrators;
- The nature and scope of the alleged Sexual Misconduct including whether the Sexual Misconduct was perpetrated with a weapon;
- The ages and roles of the Complainant and the Respondent;
- Whether Lyon College can pursue the investigation without the participation of the Complainant (e.g., whether there are other available means to obtain relevant evidence of the alleged Sexual Misconduct such as security cameras or physical evidence);
- Whether the report reveals a pattern of perpetration (e.g., perpetration involving illicit use of drugs or alcohol) at a given location or by a particular group.

If a Complainant has requested not to move forward with a Formal Complaint, and the Title IX Coordinator has determined that filing a Formal Complaint is necessary, the Title IX Coordinator will notify the Complainant prior to filing the Formal Complaint.

4.2 Dismissal of a Formal Complaint: The Title IX Coordinator may dismiss a Formal Complaint or any allegations within the Formal Complaint, if at any time during the investigation or hearing:

1. The conduct alleged in the Formal Complaint would not constitute Sexual Misconduct as defined in this Policy even if proved;
2. A Complainant notifies the Title IX Coordinator in writing that the Complainant would like to withdraw the Formal Complaint or any allegations within the Formal Complaint;
3. The Respondent is no longer enrolled or employed by Lyon College; or
4. Specific circumstances prevent Lyon College from gathering evidence sufficient to reach a determination as to the Formal Complaint or allegations within the Formal Complaint.

4.3 Appeal of Dismissal: Either party may appeal the dismissal of a Formal Complaint or any allegations therein. See Section 6 for bases and process for appeals.

4.4 Consolidation of Formal Complaints: The Title IX Coordinator may consolidate Formal Complaints as to allegations of Sexual Misconduct against more than one Respondent or by more than one Complainant against one or more Respondents where the allegations arise out of the same facts or circumstances.

Section 5: Investigation and Resolution Process

5.1. Notice of Allegations: The Respondent and Complainant will be provided with a Notice of Allegations prior to the initiation of an investigation under this Part. The Notice of Allegations will include:

1. Notice of the party's rights and options.
2. Notice of the Grievance Process under Part B of this Policy.
3. Notice of the College's informal resolution process and options
4. Notice of the allegations of Sexual Misconduct including:
 - a. The identities of the parties involved in the incident, if known,
 - b. The conduct allegedly constituting Sexual Misconduct, and
 - c. The date and location of the incident, if known.
5. Notice that the Respondent is presumed not responsible of the alleged conduct and that a determination regarding responsibility is made at the conclusion of the grievance process.
6. Notice that the parties may have an advisor of their choice.
7. Notice of the College's handbook provisions that prohibit knowingly making false statements or knowingly submitting false information during the grievance process.

The Notice of Allegations will be updated and written notice provided to the parties if, at any time during the investigation, the College decides to investigate allegations about the Complainant or Respondent that are not included in the initial Notice of Allegations.

5.2 Investigation: During the investigation, both parties have equal rights to participate, present information, and provide the names of witnesses to be interviewed. The witnesses are limited to fact witnesses. Following the investigation and at least ten (10) Business Days prior to a hearing, the parties will be provided with an investigative report that summarizes the investigation and includes an electronic file of any evidence obtained during the investigation that is directly related to the allegations.

During all meetings and interviews the parties may be accompanied by an advisor of their choice, which can be, but is not required to be an attorney. During the investigation stage of the grievance process, the advisor's role is limited to assisting, advising, and/or supporting a Complainant or Respondent. An advisor is not permitted to speak for or on behalf of a Complainant or Respondent or appear in lieu of a Complainant or Respondent during the investigation phase of the grievance process.

5.3 Hearing: At the conclusion of the investigation, the Title IX Coordinator will appoint a hearing officer who will oversee the hearing and make a determination regarding responsibility based on the preponderance of the evidence standard (more likely than not), and issue disciplinary sanctions, if any.⁴

5.6 Hearing Process: Part A, Section 6.4 of this Policy will be used in conjunction with these procedures for the purposes of facilitating a live hearing for all allegations of Sexual Misconduct.

5.8 Determination Regarding Responsibility: After the hearing, the hearing officer will

⁴ See Part A, Section 6.1.7 for the range of disciplinary sanctions.

deliberate privately. The decision maker will issue a written determination to the Complainant and Respondent simultaneously. The determination regarding responsibility becomes final either on the date that the College provides the parties with the written determination of the result of the appeal, if an appeal is filed, or, if an appeal is not filed, the date on which an appeal would no longer be considered timely. The written notice will include:

- Identification of the allegations potentially constituting Prohibited Conduct;
- A statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility, any disciplinary sanctions that the College imposes on the Respondent, and whether remedies designed to restore or preserve equal access to the College's education program or activity will be provided by the College to the Complainant; and
- The procedures and permissible bases for the Complainant and Respondent to appeal.

Section 6: Appeals

Either party may appeal the determination regarding responsibility, or the dismissal of a Formal Complaint or any allegations therein within three (3) Business Days of the receipt of the determination regarding responsibility or dismissal. If a party wishes to file an appeal, they should contact the Title IX Coordinator to obtain a copy of the Appeal form. The Appeal form must be made in writing and delivered to the Title IX Coordinator.

6.1 Bases for Appeal: Appeals of the determination of responsibility or the dismissal of a Formal Complaint may be made on the following bases:

- Procedural irregularity that affected the outcome of the matter;
- New evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made that could affect the outcome of the matter; or
- The Title IX Coordinator, investigator, or hearing officer had a conflict of interest or bias for or against Complainants or Respondents generally or the individual Complainant or Respondent that affected the outcome of the matter.

6.2 Appeal Procedures: If an appeal is submitted, the College will:

1. Notify the other party in writing when an appeal is filed and implement appeal procedures equally for both parties.
2. Ensure that the hearing officer for the appeal is not the same person as the decision- maker that reached the determination regarding responsibility or dismissal, the investigator, or the Title IX Coordinator.
3. Provide the non-appealing party with five (5) Business Days from receipt of the notification of appeal to submit a written statement in support of the outcome of the determination or dismissal.
4. Issue a written decision describing the result of the appeal and the rationale for the result which can be one of the following:
 - Affirm the hearing officer's determination regarding the Respondent's responsibility and affirm the disciplinary sanctions and remedies, if applicable;
 - Remand the process back to the hearing stage for the hearing officer to remedy any procedural irregularity or consider any new evidence; or
 - Reverse the hearing officer's determination of the Respondent's responsibility and amend the disciplinary sanctions and remedies, if applicable.

5. Provide the written decision simultaneously to both parties.

6.3 Appeal Timeframe: The appellate officer will provide to the Title IX Coordinator the written decision within twenty (20) Business Days of receiving the appeal. The Title IX Coordinator will provide the appeal decision to the parties within two (2) Business Days of receiving the appeal decision.

Section 7: Informal Resolution Process

For prohibited conduct falling under Part B of this Policy, informal resolution may occur regardless of whether a formal complaint has been filed, so long as it is agreed to by the Title IX Coordinator and the parties. Informal resolution does not involve a full investigation and hearing. In order to resolve the allegations through an informal resolution, the parties must provide voluntary, written agreement to participate in the informal resolution process. The Title IX Coordinator, or designee, will then have separate meetings with the parties to determine informal resolution terms. At any time prior to agreeing to a resolution, any party has the right to withdraw from the informal resolution process. Agreed resolutions through the informal resolution process cannot be appealed. Types of informal resolution include, but are not limited to, mediation, educational training, mutual no contact orders, restrictions on access to campus locations, probation, mediation, restorative justice, and resolution by agreement of the parties. Failure to comply with an informal resolution agreement may result in disciplinary action.

Section 8: Emergency Removal & Administrative Leave

8.1 Emergency Removal: At any time after the Title IX Coordinator is on notice of Sexual Misconduct, the College may remove a Respondent on an emergency basis. Lyon College will only conduct an emergency removal after:

1. Undertaking an individualized safety and risk analysis,
2. Determining that an immediate threat to the physical health or safety of any student or other individual arising from the allegations of Prohibited Conduct justifies removal, and
3. Providing the Respondent with notice and an opportunity to challenge the decision to the Title IX Coordinator, within three (3) Business Days following the removal.

8.2 Administrative Leave: Lyon College may place a non-student employee Respondent on administrative leave during the pendency of the grievance process in this Policy.

Appendix A: Applicable State Laws

Conduct prohibited by this Policy may also be in violation of the criminal laws in the State of Arkansas. The definitions of prohibited conduct in this Policy may differ from the criminal law definitions.

Below are relevant criminal laws in the State of Arkansas:

Rape - Ark. Code. Ann. § 5-14-103

Sexual Assault, First Degree - Ark. Code Ann. § 5-14-124

Sexual Assault, Second Degree - Ark. Code Ann. § 5-14-125

Sexual Assault, Third Degree - Ark. Code Ann. § 5-14-126

Sexual Assault, Fourth Degree - Ark. Code Ann. § 5-14-127

Incest - Ark. Code Ann. § 5-26-201

Stalking - Ark. Code Ann. § 5-71-229

Domestic Battery, First Degree - Ark. Code Ann. § 5-26-303

Domestic Battery, Second Degree - Ark. Code Ann. § 5-26-304

Domestic Battery, Third Degree - Ark. Code Ann. § 5-26-305

Sexual Extortion - Ark. Code Ann. § 5-14-113

Voyeurism - Ark. Code Ann. § 5-16-102

Harassment - Ark. Code Ann. § 5-71-208

Harassing Communications - Ark. Code Ann. § 5-71-209

Cyberbullying - Ark. Code Ann. § 5-71-217

Reports of criminal law violations must be made to the local law enforcement agency with jurisdiction over the conduct. The Title IX Coordinator or the Campus Safety Office can assist with contacting law enforcement agencies. Law enforcement investigations are separate and distinct from the College's investigations into potential policy violations.