LINFIELD EXTENDED SEXUAL MISCONDUCT & RELATIONSHIP VIOLENCE PROCEDURES

These procedures apply to disclosures and formal reports that meet the scope and jurisdiction of the Linfield University Extended Sexual Misconduct and Relationship Violence Procedures as defined in the relevant provisions (Scope and Jurisdiction) of this policy.

Reporting Disclosures

A. A person may make a disclosure of any prohibited conduct under this policy to the Title IX Coordinator or any of the following individuals:

- Mindy Larson, Professor Education Department
- Keri Dixon, Assistant Athletic Director/Senior Woman Administrator
- Jeff Mackay, Vice President for Student Affairs/Dean of Students

B. The disclosing person does not need to be the reporting party.

C. A disclosing person may disclose an alleged instance of prohibited sexual misconduct or relationship violence without initiating a formal University response.

D. After a disclosure is made, the University will contact the reporting party and offer to provide process counseling about available supportive measures, formal and informal procedures, potential interim measures.

E. An individual may pursue a formal University response procedure independently of any off-campus processes, such as reporting to law enforcement or pursuing other non-campus-based civil reporting options.

F. All disclosures will be reviewed by the University to identify whether the conduct falls within the scope of this policy or other related policies.

Initiation of the Procedure

A. After receiving a disclosure, the Title IX coordinator or any other individuals authorized to receive a disclosure, may initiate this procedure, if, after consultation with the reporting party, they find that prohibited conduct may have occurred and further investigation is appropriate for the safety of the individual or community.

B. To initiate this procedure, the Title IX coordinator must write up a report, or another individual authorized to receive a disclosure must write and submit a report to the Title IX coordinator, at which point the Title IX coordinator will initiate these procedures and ensure that they are executed.

C. If a disclosing person asks that an informal report be written and the Title IX coordinator or any other individuals authorized to receive a disclosure determines that no prohibited conduct may have occurred and/or further investigation is not needed for the safety of the individual or community then the Title IX Coordinator or any other individual authorized to receive a disclosure must provide notice to the reporting person that a complaint was not written including reasons for this decision.

D. The University must provide written notice, including a copy of the report, to any party promptly after the Title IX coordinator writes or receives it.

E. The University must also notify the responding party that they may elect one of four courses of action:

a. They may choose to opt into any available informal resolution process included in this policy, if the reporting party agrees to that process.

b. They may admit the alleged violation and request that the University determine appropriate remedy and sanction.

c. They may admit the alleged violation and request a hearing before a Decision-maker(s) to determine appropriate remedy and sanction.

d. They may deny the alleged violation, in which case the procedure outlined in this policy will be executed.

F. After this procedure has been initiated, interim measures may be taken by the University to ensure the reporting party, other parties, or the larger campuses safety and the ability to access education programs or activities are remedied or continued.

a. The University will determine the appropriateness of interim measures through a risk and safety analysis. Interim measures may include but are not limited to no-contact orders, temporary suspensions, or emergency removal.

b. Written notice of any interim measures taken will be provided to all parties

Rights of Parties

After a disclosure is made and it is determined that the complaint will be investigated, reporting party and responding party, have the right to:

A. written notice of date, time, location of hearings and investigative interviews

B. a process navigator of their choosing who cannot be an attorney, to accompany them to any hearings, investigative interviews, or other meetings related to this procedure

C. equal opportunity for the parties to present witnesses and evidence to the investigator and at the hearing

D. confidentiality of any records that are made or maintained by a physician, psychiatrist, psychologist, or other recognized professional in connection with the provision of treatment to the reporting party or responding party, unless the reporting party or responding party provides voluntary, written consent for their use.

E. access to process counseling and supportive services promptly after a report is made

F. with regard to the responding party, no disciplinary remedies or sanctions being taken until there is a finding of responsibility after the completion of these procedures. This does not preclude

the ability of the University to take interim measures as described herein.

Responsibilities of the University

After a report is made and it is determined that the complaint will be investigated, the University has the responsibility to:

A. follow the procedures as described within this policy

B. promptly contact reporting party and provide process counseling on rights and options for reporting and receiving supportive measures without engaging a formal procedure

C. provide an overview to responding parties of their rights and process options.

D. provide a range of supportive measures.

E. coordinate individualized and appropriate supportive measures for parties while maintaining confidentiality to the extent possible.

F. establish the extent to which the process navigator of a reporting party or responding party's choosing may participate in hearings, investigative interviews, or other meetings related to this procedure.

G. evaluate whether any person designated to facilitate this procedure has a conflict of interest or bias in any given case.

H. follow timeframes and ensure the reasonably prompt resolution of each case and provide written notice to parties of delays or extensions and reasons for delays or extensions.

I. when a finding of responsibility has been determined and when appropriate, provide remedies to a reporting party and sanctions to a responding party.

Investigation

A. The University shall provide for the adequate, reliable, and impartial investigation of all complaints.

B. In conducting investigations, the University must:

a. gather documents and evidence and conduct fact-finding interviews with parties and witnesses

b. ensure that parties have an opportunity to participate in interviews with the investigator(s), provide witnesses and provide evidence to be reviewed.

c. provide written notice to a party of their scheduled investigative interviews including the date, time, and location of the interview.

C. At the conclusion of an investigation, and after reviewing all relevant evidence and performing all relevant interviews, the investigator must draft a written investigative report that includes factual findings, but not determinations of responsibility, as well as any evidence or interviews upon which those findings were determined.

a. The University will provide parties 5 academic calendar days to review the draft report and submit a written response to the draft report.

b. The investigator must review and consider the written responses to the draft report prior to finalizing it.

D. The University will provide the finalized investigative report and all final written responses will be provided to the Decision-maker(s) prior to the commencement of the hearing.

Hearing Process

Hearings provide an opportunity for the reporting party and responding party to respond to the allegations through statements to the decision-maker, challenging any evidence gathered or presented, and presenting additional evidence for consideration.

Timing

1. The University must provide parties with notice of a hearing date within 15 academic calendar days of the submission of the final investigative report.

a. Notice must include the date, time, and location of the hearing.

Hearing Procedure

1. The Decision-maker(s) will oversee the hearing process.

2. All hearings must be live hearings.

3. Parties shall be entitled to appear in person or virtually, to present their view of what took place to the Decision-maker(s), and may call witnesses on his/her/their behalf.

a. Parties may request to be located in separate rooms during the hearing.

b. Parties may also elect not to appear before the Decision-maker (s). Should a party elect not to appear, the hearing shall be held in their absence.

c. Parties may refuse to answer questions asked by the Decision-maker(s).

d. Parties may have a process navigator of choice present at the hearing who may observe and support but cannot speak for the responding party or the reporting party and may not question the board, witnesses or other participants, this may be a process navigator different from the process navigator the responding party or reporting party uses at other stages through this procedure.

Evidence

1. Parties may make a statement to the Decision-maker(s), provide witnesses, and ask questions of the Decision-maker(s).

Cross-Examination

1. Cross-examination of parties and witnesses by parties or their process navigator of choice is not allowed during the hearing.

2. Parties may refuse to answer cross-examination-type questions asked by the Decision-maker(s

Determinations

1. The Decision-maker(s) must determine by a preponderance of the evidence, whether the responding party is responsible for the prohibited conduct alleged in the complaint

2. If the responding party is found responsible:

a. The Decision-maker(s) must make a recommendation as to what remedies are appropriate for the reporting party given the determination of responsibility and prohibited conduct.

b. The decision-maker must make a recommendation as to what sanctions are appropriate for the responding party given the determination of responsibility and prohibited conduct.

3. The Decision-maker's determination of responsibility, remedies and sanctions must be memorialized in a written determination and provided to parties.

4. The determination is considered final either:

a. If an appeal is not filed, on the date the University provides parties with the written determination as of the result of the appeal,

b. If no appeal is filed, on the date on which an appeal would no longer be considered timely

Remedies

1. Potential remedies must be designed to restore or preserve equal access to the University's education program or activity, and include:

a. Housing adjustments

b. Academic course adjustments

c. Class registration priority

d. Housing registration priority

e. Non-academic restrictions for use of campus facilities

Sanctions

1. Potential sanctions may be disciplinary, punitive or burden responding party, and include:

a. warning: an official reprimand in writing, delivered to the accused student and placed in the student's file;

b. probation: a condition that stipulates that any further violations of regulations may result in a suspension. Length of probation will be specified;

c. probation with terms: a condition that adds to regular probation stipulations that may deny the accused student certain privileges or requires certain action of the student;

d. recommendation for suspension: separation from the University for a definite or indefinite period of time;

e. recommendation for dismissal: permanent separation from the University; and/or

f. other action that may seem appropriate for any given case.

2. Sanctions against groups include those listed above in a-f, and also deactivation, loss of all privileges, including college recognition, either temporarily or permanently.

Appeals process

A. Any party may appeal the following:

1. Determination regarding responsibility

2. University's failure to initiate this procedure

B. Any party wishing to appeal must file their request to appeal in writing with the Title IX Coordinator within 5 academic calendar days after being provided a written copy of the decision-maker's determination or notice of the University's failure to initiate a complaint. The request to appeal must include a description of the basis for appeal.

1. The Title IX Coordinator must provide a written notice and copy of the request to appeal to all parties and allow 5 academic calendar days for non-appealing parties to respond.

2. Responses to the request to appeal must be in writing

C. The following are available basis for appeal:

1. Procedural irregularity that affected the outcome of the matter

2. 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

3. The Title IX Coordinator, investigator(s), or decision-maker(s) had a conflict of interest or bias for or against reporting party(s) or responding party(s) generally or the individual reporting party or responding party that affected the outcome of the matter

D. The Decision-maker(s) for the appeal may not be the same person who reached the initial determination regarding responsibility or dismissal of the formal report, the investigator, or the Title IX Coordinator.

E. The appellate decision-maker(s) will issue a written determination describing the outcome of the appeal and the rationale for the result to all parties within 72 hours after receiving the responses of non-appealing parties.

Confidentiality

Both the content and the outcome of a hearing shall be considered confidential and no Decision-maker(s) shall discuss a student's role in an incident beyond the requirements of this procedure. The right of the University community to have knowledge of the work of the decision-maker shall be met through the releases of summary outcomes of cases that do not mention the names of individuals.

In certain cases, the public nature of the violation of regulations or the student's own public admission of guilt may bring attention to a case, but this does not alter the confidentiality of the conduct review proceedings.