

SEXUAL MISCONDUCT POLICY

Notice of Nondiscrimination (<https://www.lorainccc.edu/policies/campus-policies/statement-of-nondiscrimination/>)

Lorain County Community College is committed to a consistent effort in maintaining an environment free of sexual misconduct (any unwelcome behavior of a sexual nature that is committed without consent or by force, intimidation, coercion or manipulation), and sex discrimination based on gender, gender identity or sexual orientation. Sexual misconduct in any form will not be tolerated and is prohibited.

In its goal to create an environment for all students, employees and visitors which is fair, non-discriminatory and free of coercion, the College has adopted this policy as the basis for education in the College community and complaint resolution. Students, employees and visitors shall comply with the prescribed behavior set forth in Policy II-412 Code of Conduct as these policies may intersect. This policy, which has been updated to incorporate required changes as promulgated in 34 Code of Federal Regulations Part 106, effective August 14, 2020, is also applicable to all third parties affiliated with the College. Third parties are neither employees nor students and can include, but are not limited to, consultants, vendors, contractors, board members, etc.

Sexual misconduct is a form of discrimination in violation of this policy and Title VII of the Federal Civil Rights Act of 1964 (as amended), Title IX of the 1972 Educational Amendments, and Section 4112 of the Ohio Revised Code. Sexual misconduct has the potential to threaten an individual's academic performance, economic livelihood, career advancement, and psychological and total well-being and is prohibited by this policy.

Should any individual wish to confidentially discuss a sexual misconduct allegation to learn about their reporting options, they may go directly to the Advocacy and Resource Center (ARC) in the Bass Library, first floor, call the ARC at (440) 366-4ARC or email arc@lorainccc.edu. Crisis Counselors are confidential LCCC employees who are licensed mental health professionals, and most conversations with them are considered privileged and confidential communications. In most cases, they are not required to disclose any personally identifiable information about the complainant to College officials. Complainants who want to discuss their reporting options without triggering an investigation may speak with the following confidential employees:

- Lisa Lindblom, Crisis Counselor
440-366-7493
llindblom@lorainccc.edu
- Andrew Rohde, Crisis Counselor
440-366-7630
arohde@lorainccc.edu

Actionable Sexual Harassment

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

An employee of the College conditioning the provision of an aid, benefit, or service on an individual's participation in unwelcome sexual conduct;

Unwelcome conduct that a reasonable person would determine is so severe, pervasive, and objectively offensive that it effectively denies a person equal access to an educational program or activity; or

Sexual assault as defined by the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (rape, fondling, incest, or statutory rape, domestic violence, dating violence, stalking).

Consensual Relationships

Dating relationships between faculty and their students or between supervisors and their staff or student employees are prohibited. Such consensual relationships unfairly exploit power differences, violate the respect and trust given to someone in authority, and may subtly, and even inadvertently, pressure those in the more vulnerable position. Consensual relationships will not automatically provide immunity if a complaint of sexual misconduct is filed.

Title IX Coordinator Responsibilities

A formal complaint of sexual misconduct shall be filed with the Title IX Coordinator, regardless of when the incident occurred. Reporting incidents of sexual misconduct is highly encouraged, and a transparent, fair, and equitable process is employed to resolve such complaints.

The Title IX Coordinator's (or designee's) role will be to investigate claims of sexual misconduct by a student, employee, community member, or third party occurring on College property, including LCCC Outreach Centers, or while attending any event/function sponsored by the College, within the United States. The Title IX Coordinator will contact local law enforcement as needed or directed, help individuals file formal reports, and obtain counseling if necessary. Complaints involving minors will be immediately referred to the local law enforcement authority having jurisdiction. The Title IX Coordinator will also ensure annual dissemination and public availability of this policy, or elements thereof, to all campus community members, visitors, third parties, and prospective students and employees. The Title IX Coordinator will also facilitate and coordinate institutional supportive measures and resources.

For additional information on your rights, please contact one of the Title IX Coordinators below.

Keith Brown- Lead Title IX Coordinator
(440) 366-7692
College Center 209
kbrown@lorainccc.edu

Timothy Hess- Title IX Coordinator
(440) 366-7571
College Center 209
thess@lorainccc.edu

Sexual Misconduct Investigating Principles

In the investigating of complaints of sexual misconduct, the following principles will be adhered to:

1. Each complaint will be handled on an individual, case by case basis.
2. The investigation will be conducted as adequately, reliably, and impartially as possible.

3. In investigating complaints of sexual misconduct, to the extent possible, confidentiality will be afforded to the complainant and respondent.
4. This Policy strictly prohibits any type of retaliation toward an individual bringing forth a complaint of sexual misconduct and filing false reports to College officials.
5. The complaint will be resolved in a manner which is consistent with this policy and also prompt and equitable to all parties concerned.
6. Throughout the process, all parties will be treated with respect, dignity, and sensitivity.
7. The presumption that the respondent is not responsible for the alleged conduct until a determination regarding responsibility is made at the conclusion of the grievance process;

Definitions

Actual Knowledge

Notice of sexual harassment or allegations of sexual harassment to the College's Title IX Coordinator or any official of the College who has authority to institute corrective measures on behalf of the College.

Bystander Intervention

Safe and positive options that may be carried out by an individual or individuals to prevent or stop an act of sexual misconduct. Any campus community member that observes or is made aware of an incidence of sexual misconduct is strongly encouraged to report the matter immediately to any College employee or to the Campus Security Office.

If the campus community member decides to intervene, some safe intervention options can include:

1. Using appropriate and available means to immediately notify the College of the misconduct.
2. Recruiting the assistance of others around you.
3. Asking someone to contact Campus Security or call 9-1-1.
4. Maintaining a safe distance at all times.

Coercion

Occurs when a person intimidates, tricks, forces, or manipulates someone into engaging in sexual activity without the use of physical force. Perpetrators may also use threats of violence, blackmail, drugs, and/or alcohol to coerce someone into sexual activity.

Complainant

An individual who is alleged to be the victim of conduct that could constitute sexual harassment.

Consent

Voluntary, positive agreement between participants to engage in specific sexual activity.

Dating Violence

Violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim. The existence of such a relationship shall be determined based on consideration of the following factors: the length of the relationship; the type of relationship; and the frequency of interaction between the persons involved.

Domestic Violence

A pattern of abusive behavior in any relationship that is used by one partner to gain or maintain power and control over another intimate partner. Domestic violence can be physical, sexual, emotional, economic, or psychological actions or threats of actions that influence another person. This includes any behaviors that intimidate, manipulate, humiliate, isolate, frighten, terrorize, coerce, threaten, blame, hurt, injure, or wound someone.

Formal Complaint

A document filed by a complainant or signed by the Title IX Coordinator alleging sexual harassment against a respondent and requesting that the school investigate the allegation of sexual harassment

Incapacitation

The inability, temporarily or permanently, to give consent, because an individual is mentally and/or physically helpless, unconscious, or unaware that the sexual activity is occurring. This may or may not be due to alcohol or other drugs.

Postsecondary Institution

Also referred to as Institution of Higher Education is education that takes place after high school which includes community colleges, colleges and universities.

Rape

Penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the victim.

Respondent

An individual who has been reported to be the perpetrator of conduct that could constitute sexual harassment.

Retaliatory Actions

Any adverse action taken against a person for making a good faith report of misconduct or participating in any proceeding. Retaliatory actions include, but are not limited to, threats or actual violence against the person or that person's property, adverse educational or employment consequences, ridicule, intimidation, bullying, or ostracism.

Risk Reduction

Approaches that seek to mitigate risk factors that may otherwise increase the likelihood of perpetration, victimization, or bystander inaction.

Sexual Assault

Any type of sexual contact or behavior that occurs without the explicit consent of the recipient. Falling under the definition of sexual assault are sexual activities such as child molestation, incest, fondling, and attempted rape.

Stalking

A pattern of repeated and unwanted attention, harassment, contact, or any other course of conduct directed at a specific person that would cause a reasonable person to feel fear for his/her safety or for the safety of those around him/her or suffer substantial emotional distress.

Supportive Measures

Individualized services reasonably available that are nonpunitive, non-disciplinary, and not unreasonably burdensome to the other party while designed to ensure equal educational access, protect safety, or deter sexual harassment.

Prevention, Education, and Training

The College is committed to ensuring that all campus community members understand how to respond to reports of sexual misconduct.

All new students and employees are enrolled in an online primary prevention training course for sexual violence. This course is designed to help promote awareness of sexual violence, how to identify and respond to sexual violence, risk reduction strategies, and how to safely intervene and report incidents. Other ongoing education efforts will include:

1. Understanding sexual misconduct.
2. Recognizing warning signs of abusive behavior and risk reduction.
3. Understanding safe bystander intervention options.
4. Knowing what resources are available on campus.
5. Understanding available reporting options.

In an effort to ensure Title IX Coordinators and hearing officers are adequately trained to respond to, investigate, or adjudicate incidences of sexual misconduct, training shall be conducted annually and will consist of attending conferences and seminars, participating in educational webinars, receiving training from locally available resources, and networking with national, regional, and local higher education institutions for best practices.

Filing a Complaint with an External Agency

Persons who believe they have been subjected to sexual misconduct may be able to file a complaint with the Ohio Civil Rights Commission, the U.S. Equal Employment Opportunity Commission, or the U.S. Department of Education's Office for Civil Rights. Information regarding filing charges with any of the agencies may be obtained from the agency directly or from the College's Title IX Coordinator.

Policy Approved March 18, 1993; revised and effective June 25, 1998; substantial rewrite, revised and effective March 22, 2018. Replaces Policy and Procedure II-320 Sexual Harassment. Replaces Policy II-320 Sexual Misconduct. Substantial rewrite, revised and approved August 6, 2020. Policy to be reviewed annually.

Title IX Regulations Training

As required by the Final Title IX rule, all materials used to train Title IX coordinators, investigators, decision-makers, and any person who facilitates an informal resolution process must be made publicly available on its website. The training materials follow:

Title IX Investigator Training (<https://titleixsolutions.com/wp-content/uploads/2021/03/4Hr-TIXS-Title-IX-Investigator-Training-Program-Materials-11.04.2021.pdf>)

ODHE Advanced Title IX Investigator Training (<https://www.lorainccc.edu/policies/wp-content/uploads/sites/45/2021/06/ODHE-Advanced-Title-IX-Investigator-Training-ADA.pdf>)

ODHE Advanced Title IX Investigator Writing Workshop ADA (<https://www.lorainccc.edu/policies/wp-content/uploads/sites/45/2021/06/ODHE-Advanced-Title-IX-Investigator-Writing-Workshop-ADA.pdf>)

Level 2 Higher Education Title IX Decision Maker Training (<https://www.lorainccc.edu/policies/wp-content/uploads/sites/45/2021/01/Level-2-Decision-Maker-100120.pdf>)

Level 1 Title IX Annual Clery Training and Introduction to Title IX Basics (<https://connect.bricker.com/298/1653/uploads/bricker-and-eckler-title-ix-training---summer-2020---level-1-title-ix-basics-and-clery-training.pdf>)

Level 2 Title IX Informal Resolution Officer Training (<https://connect.bricker.com/298/1653/uploads/bricker-and-eckler-title-ix-training---summer-2020---level-2-title-ix-informal-resolution-officer-training.pdf>)

Civil Rights Investigator Training (https://atixa.org/?download_library_file=69029&tkn=93c672b6f8)

OCR Title IX Regulations Training (https://atixa.org/?download_library_file=69046&tkn=4ca6d4bcc1)

OCR Compliant Procedures Training (https://atixa.org/?download_library_file=69032&tkn=023c5c6b98)

LCCC Title IX Training (<https://www.lorainccc.edu/policies/wp-content/uploads/sites/45/2020/08/LCCC-Title-IX-Training-a.pdf>)

Ohio Department of Higher Education Title IX Training (<https://www.lorainccc.edu/policies/wp-content/uploads/sites/45/2021/01/Ohio-Department-of-Higher-Education-PPT-Compressed.pdf>)