

Lake Superior State University
Discrimination and Prohibited Conduct Investigation Process
Policy Number: 1.5.3 – Policy
Effective: July 1, 2015

1. Policy Statement:

1. Lake Superior State University campus is committed to providing an educational and working environment free of all forms of discrimination and harassment.
2. This policy defines the process the University will follow to determine whether policy violations have occurred regarding allegations and reports of discrimination, harassment, sexual misconduct and other forms of prohibited conduct. The University is committed to providing opportunities for concerns to be reported in a safe manner, to assess and investigate concerns, and, when necessary, to impose sanctions and/or remedies.
3. All members of the campus community are expected to conduct themselves in a manner that does not infringe upon the rights of others. When an allegation of misconduct is brought to an appropriate responsible employee's attention and a responding party is found to have violated this policy, sanctions may be used to reasonably make sure similar actions do not occur in the future.

2. Reporting Concerns

1. All reports of discrimination, misconduct, sexual misconduct, prohibited conduct, or harassment shall be promptly reported as noted below, or brought to the attention of an immediate supervisor, Public Safety, Human Resources, or other responsible employee, who shall follow up and report as noted below.
2. Reports or allegations of sexual misconduct and associate prohibited conduct shall be immediately reported to the Title IX Office.
3. Reports or allegations of student misconduct shall be reported to the Vice President of Student Affairs or designee.
4. Reports or allegations of academic misconduct or related to other academic concerns shall be reported to the Provost & Vice President of Academic Affairs or designee.
5. Reports or allegations related to employment / employee matters, harassment or discrimination shall be reported to the Associate Vice President of Human Resources, who serves as the University EEO officer, or designee.
6. Collectively, Title IX Coordinators, Vice Presidents and their respective designees, and investigators, are referred to in this policy as designated administrators or individually as designated administrator.
7. All reports shall be assessed and, where appropriate, result in an informal or voluntary remedy or a formal investigation with associated follow up. This policy outlines the University's assessment, investigation, determination, and appeal process.

3. Investigation Timeline

1. The University will use its best efforts to complete investigations within 60 calendar days of the commencement of a formal investigation, although this time frame may be extended for good cause. Good cause may include, but is not limited to, the complexity of each allegation, a request to coordinate or cooperate with external law enforcement, the availability of witnesses, University breaks or vacations, or to address other legitimate reasons.
2. In the event a time frame is extended, both the reporting party and responding party will be notified of an extension.

4. Initial Assessment

1. When a report is made the designated administrator will conduct an initial assessment to determine whether an informal/voluntary resolution or initial investigation is appropriate. The University will assess the facts and circumstances and consider the reporting party's expressed preference for manner of resolution.
2. When possible, the University will seek action consistent with the reporting party's request.

3. The University may address and resolve student or employee conduct matters based on the findings of an assessment. Such assessments may be initiated by a report, constructive notice, observation, exhibited behavior, workplace / campus rule or policy violation or other concern.
5. Informal/Voluntary Resolution
 1. Informal/voluntary resolution is designed to eliminate a hostile environment through alternative actions that do not involve disciplinary action against a responding party.
 2. Where an informal/voluntary resolution is appropriate, the University will take immediate corrective action through the imposition of individual and community remedies designed to maximize the reporting party's access to the educational, extracurricular, employment, and other activities at the University and to eliminate any hostile environment.
 3. Participation in informal/voluntary resolution by a reporting party is voluntary, and a reporting party can request to end informal/voluntary resolution at any time.
 4. Complaints or allegations that involve sexual violence cannot be mediated through informal/voluntary resolution.
6. Investigation
 1. The designated administrator may initiate an investigation to determine if there has been a policy violation, and if so, whether sanctions are warranted. The designated administrators have the discretion to consolidate multiple reports involving a responding party into one investigation and resolution if the evidence related to each incident would be relevant and probative in reaching a determination on the other incident.
 2. The University will designate an investigator(s) of its choosing. The investigator chosen to conduct the investigation must be impartial and free of any conflict of interest. In the case of matters involving sexual misconduct, investigators will have specific training investigating allegations of prohibited misconduct.
 3. During the investigation, both the reporting party and the responding party will have the opportunity to provide witnesses and evidence.
 4. The investigators will update both the reporting party and responding party regarding the status of the investigation at reasonable, regular intervals.
 5. Investigations, as applicable, may include the following: (1) assess the nature and circumstances of the report; (2) address immediate physical safety and emotional well-being concerns; (3) notify the reporting party of the right to contact or decline to contact law enforcement if the conduct is criminal in nature, and if requested, assist the reporting party with notifying law enforcement; (4) notify the reporting party of the availability of medical treatment to address physical and mental health concerns and to preserve evidence; (5) notify the reporting party of the importance of the preservation of evidence; (6) assess the reported conduct for any necessary actions under Clery, including inclusion in the daily crime log, annual security report, or issuance of a timely warning; (7) provide the reporting party and responding party, if notified, with information about on- and off-campus resources, the range of interim accommodations and remedies, and an explanation of the procedural options; (8) inform the reporting party and responding party each may have one advisor of their choosing attend meetings and interviews with them, which may include an attorney (at their own expense), colleague, or other person they identify (where appropriate, consistent with applicable collective bargaining agreement); the advisor may not be a witness or a material party in the investigation; the advisor is limited to advising the reporting or responding party, and may not speak for the party they are advising; their role is to provide support and assistance; (9) consider whether the facts indicate a pattern of similar conduct by responding party; (10) discuss the reporting party's expressed preference for manner of resolution and any barriers to proceeding; and (11) explain the University's policy prohibiting retaliation.
7. Investigation Report
 1. At the conclusion of an investigation a written report will be prepared.
 2. The report will summarize findings and recommended remedies and sanctions.
8. Review of Investigation Report

1. The written investigation report will be reviewed for consistency and completeness. This review process will be completed within five (5) business days of receipt of the investigation report.
 2. Based on this review, the investigation report may be returned to the investigators for clarification or additional information, or reviewed for a determination.
9. Summary of Findings and Notice of Determination
1. The designated administrator will prepare a summary of findings and notice of determination, which contains the outcome, and the rationale for the outcome, regarding responsibility for alleged misconduct and policy violation(s). The determination will be made within five (5) business days of receipt of the final investigation report.
 2. Involved parties will be notified of determinations and follow up.
10. Determining Appropriate Sanctions
1. When determining appropriate sanctions, the following factors may be considered: (1) the conduct concern at issue; (2) the impact of the conduct on the reporting party, the University community or work area; (3) prior misconduct by the responding party, including the responding party's relevant prior disciplinary history both at the University or elsewhere, and any criminal convictions; (4) whether the responding party has accepted responsibility for the conduct; (5) maintenance of a safe and respectful environment; (6) protection of the university community; and (7) any other mitigating, aggravating, or compelling circumstances in order to reach an appropriate resolution.
 2. Other University offices may be consulted when determining or implementing sanctions.
11. Sanction Process for Employees (Faculty and Staff) as Responding Party
1. Sanctions for responding parties, who are employees, will be determined by the designated administrator in coordination with Human Resources, with input from other offices as appropriate.
 2. Represented Employees: For represented employees, sanctions will be imposed in accordance with the applicable collective bargaining agreement and University policy.
 3. Unrepresented Employees: For unrepresented employees, sanctions shall be determined in accordance with University policies and procedures, individual contracts, and/or appointment letters.
 4. Potential Employee Sanctions: The potential sanctions for an employee may include training, referral to counseling, no contact order, no trespass, loss of privileges, written warning, reprimand, withholding of a promotion, reassignment, temporary suspension without pay, or separation from the University.
12. Sanction Process for Students as Responding Party
1. Sanctions for responding parties, who are students, will be determined by the designated administrator.
 2. Potential Student Sanctions: Sanctions may be imposed upon any student found to be responsible for violation of University policy. Sanctions may include, but are not limited to, training, referral to counseling, written warning, no contact order, no trespass order, reprimand, behavior contract, probation, loss of privileges, community service, suspension, expulsion, withholding degree, or revocation of degree.
 3. More than one sanction may be imposed for any single violation; previous violations of University policy, the Student Code of Conduct or Athletic or Academic program codes of conduct, may increase the severity of sanctions applied. Sanctions may be used independently or in combination depending on the particular circumstances of the violation.
 4. Other University offices may be consulted when determining or implementing sanctions.
13. Appeals Process for Sexual Misconduct Reports / Allegations
1. Written Appeal: The reporting party or responding party may submit written notice of appeal to the TIXC within five (5) calendar days of receiving the summary of findings and notice of determination. Grounds for an appeal are limited to conflicts of interest, introduction of new evidence not previously available, requests to mitigate sanctions, or other considerations that are

directly related to alleged violations, facts or findings of the case. Appeal requests must specifically note the grounds for which the appeal is being made.

2. Response to Appeal: The receipt of the appeal will be acknowledged by the TIXC in writing, which may be by email.
3. Notification of Appeal: Each party will be notified of appeal requests.
4. Appeal Review
 1. A designated administrator (appropriately trained and not associated with the investigation) shall be appointed to review an appeal.
 2. The designated administrator shall review the appeal no later than five (5) calendar days after notice from the TIXC.
 3. After reviewing the appeal, the designated administrator will issue a written determination. The potential outcomes of an appeal are as follows:
 1. Affirmation of Determination because grounds stated in the appeal do not affect the outcome of the investigation or associated sanctions;
 2. Remand for additional investigation because of a proven conflict of interest that materially affected the determination or associated sanctions;
 3. Remand for additional investigation because new evidence not previously available is relevant and there is a substantial likelihood that the new evidence may materially affect the outcome of the determination or associated sanctions; or
 4. Remand for reconsideration of sanctions.
 4. The appellate decision will be forwarded to the TIXC for concurrent distribution to the reporting and responding parties.
 5. The appellate decision is final and binding.
 6. TIXC will take appropriate action based on the outcome of the appeal.
14. Appeals Process for Other Reports / Allegations:
 1. Appeals for academic reports or allegations should be directed to the Provost for follow up.
 2. Appeals for student life reports or allegations should be directed to the Vice President for Student Life.
 3. Appeals for employment or employee reports or allegations should be directed to the Associate Vice President for Human Resources.
15. Investigation Documentation
 1. Individuals involved in the investigation and appeal process will adequately document the testimony of the parties and witnesses, completed forms and relevant investigation documents, all facts and evidence reviewed, the rationale for determinations, and interim and final remedies and sanctions imposed, if any.
16. Resources
 1. Title IX Coordinator(s): Philip Espinosa, Associate Vice President & Title IX Coordinator; Jen Constantino, JD, Deputy Title IX Coordinator; [906-635-2213](tel:906-635-2213), 650 W. Easterday Ave., Sault Ste. Marie, MI 49783, Administration Building, Room 114
 2. EEOC Officer: Philip Espinosa, Associate Vice President; [906-635-2213](tel:906-635-2213), 650 W. Easterday Ave., Sault Ste. Marie, MI 49783, Administration Building, Room 114
 3. Campus Public Safety: [906-635-2100](tel:906-635-2100), 650 W. Easterday Ave., Sault Ste. Marie, MI 49783, Administration Building
 4. Campus Student Life: [906-635-2236](tel:906-635-2236), 650 W. Easterday Ave., Sault Ste. Marie, MI 49783, Cisler Center, Room 125
 5. Campus Housing: [906-635-2411](tel:906-635-2411), 650 W. Easterday Ave., Sault Ste. Marie, MI 49783, Cisler Center, Room 125
 6. Counseling Center: [906-635-2752](tel:906-635-2752), 623 W. Easterday Ave., Sault Ste. Marie, MI 49783, Counseling Center
 7. Student Health Center: [906-635-2110](tel:906-635-2110), 621 W. Easterday Ave., Sault Ste. Marie, MI 49783, Health Care Center

8. Student Against Sexual Assault: Campus Student Life, [906-635-2236](tel:906-635-2236), 650 W. Easterday Ave., Sault Ste. Marie, MI 49783, Cisler Center, Room 125
9. Dianne Peppler Center (Advocacy/Women's Shelter): [906-635-0566](tel:906-635-0566), PO Box 698, Sault Ste. Marie, MI 49783
10. War Memorial Hospital ER: [906-635-4460](tel:906-635-4460), 500 Osborn Blvd., Sault Ste. Marie, MI 49783
11. Sault Ste. Marie Police: [906-632-5745](tel:906-632-5745), 225 East Portage Ave., Sault Ste. Marie, MI 49783
12. Emergency: 911 (if on campus 9911)
13. U.S. Department of Education, Office for Civil Rights, Regional Office, 1350 Euclid Avenue, Suite 325, Cleveland, OH 44115, 216-522-4970, FAX: 216-522-2573, Email: OCR.cleveland@ed.gov
14. U.S. Department of Education, Office for Civil Rights, Lyndon Baines Johnson Department of Education Building, 400 Maryland Avenue, SW, Washington, DC 20202-1100, Telephone: 800-421-3481, FAX: 202-453-6012; TDD: 800-877-8339, Email: OCR@ed.gov
15. Michigan Department of Civil Rights, Marquette Office, 234 W. Baraga Avenue, Marquette, MI 49855, 906-226-6393, FAX: 906-226-3974
16. Equal Employment Opportunity Commission (EEOC), Detroit Field Office, Patrick V. McNamara Building, 477 Michigan Avenue, Room 865, Detroit, MI 48226, 800-669-4000, FAX: 313-226-4610, TDD: 800-669-6820