

# LENOIR-RHYNE UNIVERSITY

## POLICY STATEMENT

**TITLE:** SEXUAL MISCONDUCT

**CAMPUSES:** HICKORY, COLUMBIA AND ASHEVILLE

**DIVISION/DEPARTMENT:** UNIVERSITY-WIDE

**INDIVIDUALS AFFECTED:** ALL LENOIR-RHYNE FACULTY, STAFF AND STUDENTS

**POLICY UPDATED:** AUGUST 30, 2016

### **POLICY STATEMENT**

Lenoir-Rhyne University (LRU) is committed to creating and maintaining a safe and healthy environment where all members of the community, students, faculty, staff and guests are treated with respect and dignity at all times. The University wishes to make explicit its abhorrence of language, behavior, and attitudes that intimidate, offend or demean members of the University community. This policy concerns one form of gender-based discrimination: Sexual Misconduct. Sexual Misconduct of any type by any member of the University community (which includes, without limitation, faculty, staff, students, and their guests) is strictly prohibited. The University encourages those who experience or observe forms of Sexual Misconduct to bring such incidents to the attention of those individuals that carry special responsibility for responding to allegations of Sexual Misconduct. Accusations of Sexual Misconduct against any member of the University community will be expeditiously investigated and adjudicated pursuant to the procedures established in this policy statement.

#### **1) SCOPE OF POLICY**

This Sexual Misconduct Policy is intended to supersede and replace all other policies in force at the University that address the reporting and adjudication of allegations of Sexual Misconduct. Moreover, this policy shall govern all conduct, circumstances, procedures and allegations that in any way involve Sexual Misconduct, and to the extent any provision of any other University policy or procedure would conflict with or be inconsistent with this policy, this policy shall control.

## 2) TYPES OF SEXUAL MISCONDUCT

Below are several forms of behaviors prohibited by this Policy (collectively referred to as “Sexual Misconduct”). Because Sexual Misconduct can take many forms, the list below is not intended to be exhaustive.

- a) Sexual Harassment: The determination of what constitutes sexual harassment varies depending on the circumstances of each individual situation, but it generally encompasses any unwelcome or non-consensual gender-based or sexual conduct (whether verbal, visual, physical, or otherwise) that is so severe, persistent or pervasive that it interferes with a person’s work or educational opportunity or otherwise creates an intimidating, hostile, or offensive work or educational environment. Sexual Harassment includes, without limitation, any threatening, inappropriate, unrelenting or abusive sexually explicit language or behavior towards another individual. Sexual harassment can be directed towards individuals or groups, and it includes saying or doing things directly to someone, during a phone conversation, during an online conversation, in print or on clothing.
- b) Sexual Exploitation: Sexual exploitation occurs when a person takes advantage of another person for his or her own benefit (or for the benefit of anyone other than the one being exploited) by doing something sexual without the consent of the person being exploited. Sexual exploitation can happen in committed relationships, between friends, between strangers, and between colleagues. Sexual exploitation includes a broad range of behaviors including, but not limited to: non-consensual video or audio taping of a sexual activity, non-consensual photography of a sexual nature, allowing other individuals to observe an act of sex without the knowledge or consent of the other partner, voyeurism, prostitution of another person, knowingly transmitting a sexually transmitted infection (STI) or HIV to another person, prostituting another person (personally gaining money, privilege or power from the sexual activities of another), exposing one’s genitals in a non-consensual circumstance or inducing someone else to expose their genitals without consent.
- c) Stalking: Stalking is non-consensual sexual or gender-based conduct directed at a specific person that would cause a reasonable person to feel fear for themselves or others or to suffer substantial emotional distress. Stalking is serious, often violent, and can escalate over time. Stalking behaviors include, but are not limited to: someone repeatedly calling, including hang ups; following someone; sending unwanted gifts, letters, cards, or emails and/or other electronic messages; damage to a residence, car or other property; monitoring phone calls or computer use; threatening to hurt someone, or their family, friends or pets. Often, behavior that constitutes stalking also violates a wide range of laws and University policies, but the conduct rises to the level of Sexual Misconduct when it is undertaken as a result of sexual or gender-based motivations.

- d) Sexual Assault (or attempts to commit the same): Sexual assault is defined as any intentional sexual touching, either directly or over clothes, however slight, with any body part or object, without consent. Sexual assault includes the forced touching of the intimate parts of another individual. Such force can be physical or emotional (by threat, intimidation, pressure, or coercion, etc.).

Rape is one especially egregious form of Sexual Assault, and it is defined as sexual penetration (anal, oral, or vaginal) of the individual by any part of another individual's body or other object, without consent. It is also considered rape if the victim has a reasonable fear that the individual or another will be injured if the individual does not give consent, is incapable of giving consent or is prevented from resisting due to physical or mental incapacity, which may include but is not limited to the influence of alcohol or drugs, or if the individual suffers from a mental or physical disability.

- e) Dating Violence & Domestic Violence: Dating and Domestic Violence, sometimes referred to as "relationship abuse" or "relationship violence," is when one partner to an intimate relationship uses abuse (whether physical, emotional, psychological or otherwise) to gain power and control over the other person. It includes physical violence against the other party to a present or past intimate relationship, commonly known as "dating violence" and "domestic violence." It also includes, without limitation, any act or threatened act of violence against a person who is, or has been involved in, a dating, spousal, sexual, or other intimate relationship with the perpetrator. It may involve one act or an ongoing pattern of behavior. Intimate partner abuse can encompass a broad range of behavior, including, but not limited to, physical violence, sexual violence, emotional violence, and economic abuse. Intimate partner abuse may take the form of threats, assault, property damage, or violence or threat of violence to one's self, one's sexual or romantic partner, or to the family members or friends of the sexual or romantic partner. Intimate partner violence affects individuals of all genders, gender identities, gender expressions, and sexual orientations.

### 3) CONSENT DEFINED

Sexual Misconduct can take many forms, but all forms of Sexual Misconduct result from behavior taken towards another person without the other person's consent. Lenoir-Rhyne University defines consent as clear, knowing and voluntary words or actions, freely and actively given, that indicate a willingness to participate in mutually agreed upon sexual activity or actions. Consent is present when a reasonable person in the same situation would consider the words or actions of the parties involved an expression of willing permission to do the same thing, in the same way, at the same time. Consent cannot be obtained from a person who lacks capacity (whether due to drugs, alcohol, mental incapacity, or other incapacity), and consent cannot be obtained by any of the following means: (a) coercion; (b) physical force, violence, threat, or intimidation; (c) ignoring the

objections of another person; (d) causing another's intoxication or impairment through the use of drugs or alcohol; or (e) taking advantage of another person's incapacitation, state of intimidation, helplessness, or other inability to consent. For clarification, the University defines certain key elements of consent as follows:

- a) Force: the use of physical violence and/or imposing on someone physically to gain sexual access. Force also includes threats, intimidation (implied threats) and coercion that overcome resistance or produce consent.
- b) Coercion: unreasonable pressure for sexual activity.
- c) Incapacitation: Any condition in which someone cannot make rational, reasonable decisions because they lack the capacity to give knowing consent (e.g. to understand the "who, what, when, where, why, or how" of their sexual interaction). Incapacitation may result from mental or physical disability, alcohol, drugs, sleep, involuntary physical restraint, or from taking date rape drugs.

Consent must be ongoing, and consent to any one act does not constitute consent to any other act. Consent can be withdrawn at any time, even if previously given. It is the responsibility of the one who desires a certain sexual activity to make sure they have consent from their partner.

#### 4) REPORTING, HEALTH AND SAFETY AND CONFIDENTIAL ASSISTANCE

**Students, faculty and staff who believe that they are victims of Sexual Misconduct are strongly encouraged to contact the Title IX Coordinator, a Deputy Title IX Coordinator or one of the following individuals that comprise the LRU Sexual Misconduct Response Team (SMRT) to report an a incident of Sexual Misconduct, particularly if the incident happened on campus. Faculty and staff that become aware of acts of Sexual Misconduct involving a student are required to contact the Title IX Coordinator, a Deputy Title IX Coordinator, or one of the following individuals that comprise the Sexual Misconduct Response Team (SMRT) to report an a incident of Sexual Misconduct.**

Individuals who have been the victim of Sexual Misconduct should consider using the University's resources available to assist them in caring for themselves. A full list of these resources can be found below. A complete list of resources, counseling, health, and mental health services, as well as all other rights and options available to the complainant (including the option to pursue criminal charges), will be provided to the individual upon the reporting of such conduct.

- a) Title IX Coordinators

## **Title IX Coordinator**

Dawn Barker Floyd  
Director of Compliance/Title IX Coordinator  
Lenoir-Rhyne University Box #7137  
Hickory Campus, Cromer 206(A)  
828.328.7040  
[Dawn.Floyd@lr.edu](mailto:Dawn.Floyd@lr.edu)

## **Deputy Title IX Coordinators**

### **Asheville Campus**

Michael M. Dempsey, Ed.D.  
Deputy Title IX Coordinator  
Dean and Director  
Center for Graduate Studies of Asheville  
Lenoir-Rhyne University  
36 Montford Ave.  
Asheville, NC 28801  
(828) 407-4269  
[michael.dempsey@lr.edu](mailto:michael.dempsey@lr.edu)

### **Columbia Campus**

Robyn Marren  
Deputy Title IX Coordinator  
Director of Finance and Administration  
Lenoir-Rhyne University  
Lutheran Theological Southern Seminary  
Center for Graduate Studies of Columbia  
4201 N. Main St.  
Columbia, SC 29203  
(803) 461-3277  
[robyn.marren@lr.edu](mailto:robyn.marren@lr.edu)

### **Sexual Misconduct Response Team (SMRT)**

- Dr. Katie Fisher  
Dean of Students

828.328.7246  
[katie.fisher@lr.edu](mailto:katie.fisher@lr.edu)

○ Peter Kendall  
Senior Vice President for Administration and Finance  
828.328.7100  
[peter.kendall@lr.edu](mailto:peter.kendall@lr.edu)

○ Dr. Amy Wood  
Assistant Provost and Dean Graduate and Adult Programs  
828.3287728  
[amy.wood@lr.edu](mailto:amy.wood@lr.edu)

○ The Reverend Jenn Casey  
Director of Enrollment Management – Columbia  
803.461.3297  
[jennifer.casey@lr.edu](mailto:jennifer.casey@lr.edu)

○ Rick Nichols  
Director of Human Resources  
828-328-7387  
[rick.nichols@lr.edu](mailto:rick.nichols@lr.edu)

○ Norris Yoder  
Director of Safety and Security  
828.328.7450  
[norris.yoder@lr.edu](mailto:norris.yoder@lr.edu)

b) Health and Safety Resources

The following health and safety resources are available to all victims of sexual misconduct:

HICKORY CAMPUS

- Student Health Center 828.328.7959
- Hickory Campus Security 828.328.7145
  - 24 hours a day 828.328.7146
- Rape Crisis Center of Catawba County 828.322.6011
- Hickory Police Department Victim Services 828.328.5551
- Sexual Assault
  - <http://rapecrisiscenter.com/>
  - <http://www.nccasa.org/>

- Domestic Violence
  - <http://www.fgcservices.com/>
  - <http://www.wrchickory.org/>

### ASHEVILLE CAMPUS

- Asheville Police Department Victim Services 828.258.5912
- Asheville – Buncombe County Sheriff’s Department 828.250.4503
- Asheville Police Department – .828.252.1110; or call 911
- Our Voice Rape Crisis Services 828.255.7576
- Sexual Assault
  - <http://www.ourvoicenc.org/>
  - <http://www.nccasa.org/>
- Domestic Violence
  - <http://www.helpmateonline.org/>
  - <http://www.ashevillecares.org/helpmate.html>
  - <http://www.nc-van.org/directory/buncombe/HelpmateInc.html>

### COLUMBIA CAMPUS

- Security Services – 803.461.3268; 803.309,7279 (after-hours) or call 911
- Sexual Trauma Center 803.771.7273
- SC Coalition Against Domestic Violence and Sexual Assault 803.256.2900
- Columbia Police Department Victim Services 803.545.3531
- Sexual Assault
  - <http://www.sccadvasa.org/>
  - <https://www.stsm.org/>
  - <http://www.aardvarc.org/rape/states/scrp.shtml>
- Domestic Violence
  - <http://www.sccadvasa.org/>
  - <http://sistercare.org/>

### NATIONAL WEBSITES

- Battered Women’s Justice Project: <http://www.bwjp.org/>
- National Coalition Against Domestic Violence: <http://www.ncadv.org/>
- National Domestic Violence Hotline: <http://www.thehotline.org/>
- National Sexual Violence Resource Center: <http://www.nsvrc.org/>
- Rape, Abuse and Incest National Network: <https://rainn.org/>

### c) Confidential Assistance

These individuals listed below will maintain the confidentiality of matters reported to them, except in cases of immediate threat or danger or the abuse of a minor. For purposes of reporting under the Clery Act, these individuals will submit anonymous

statistical information, unless they believe it would be harmful to their client, patient or parishioner.

- Jenny Smith, University Counselor, 828.328.7252, [Jenny.Smith@lr.edu](mailto:Jenny.Smith@lr.edu) (Hickory and Columbia)
- Jennifer Drum, University Counselor, 828.328.7957, [Jennifer.Drum@lr.edu](mailto:Jennifer.Drum@lr.edu) (Hickory and Asheville)
- Andrew Weisner, University Pastor, 828.328.7248, [Andrew.Weisner@lr.edu](mailto:Andrew.Weisner@lr.edu) (Hickory, Asheville, Columbia)
- Pastor Gary Dreier, 803.461.3222, [gary.dreier@lr.edu](mailto:gary.dreier@lr.edu) (Columbia)
- Pastor Christopher Webb, 828.253.0043, [Christopher.webb@lr.edu](mailto:Christopher.webb@lr.edu) (Asheville)

If a faculty or staff member is contacted by an individual who wishes to maintain anonymity or confidentiality concerning any alleged Sexual Misconduct, the faculty or staff member must report the contact to the Title IX Coordinator, a Deputy Title IX Coordinator, or an individual on the LRU SMRT; however, such faculty or staff member should also encourage the individual to seek confidential assistance through the resources above or another appropriate resource.

## 5) **SELF-CARE**

If you believe you have been the victim of Rape or Sexual Assault, in addition to using the resources above, it is recommended that you do the following if it does not interfere with your health, safety or wellbeing. Such actions will help ensure the preservation of evidence that may be useful in subsequent investigations:

- Go to a safe place
- Do not shower or bathe
- Do not urinate, if possible
- Do not eat, drink, smoke or brush your teeth if oral contact took place
- Do not destroy or wash the clothes you were wearing. If you change, place your clothes in a paper bag
- Seek medical treatment immediately

In addition to the grievance process described below, individuals aware of alleged Sexual Misconduct are encouraged to file a report with appropriate law enforcement authorities, which include Campus Security and the Hickory Police Department. The filing of a report does not obligate an alleged victim to pursue charges if s/he does not want to pursue them, but it does make filing of charges easier if the alleged victim changes his/her mind at a later date. LRU will assist the alleged victim in pursuing whichever option(s) he or she chooses. An individual desiring anonymity can seek the assistance of the University Counselor, who may be able to file a report with law enforcement that includes the details of the incident without revealing the alleged victim's identity.



## 6) REMEDIAL ASSISTANCE

The University aims to assist those involved with alleged Sexual Misconduct in any way reasonably possible. Therefore, in connection with alleged Sexual Misconduct, an individual may contact the Title IX Coordinator, a Deputy Coordinator, or any member of the LRU SMRT to request assistance in the following forms: (1) an escort between classes; (2) separating the complainant and alleged perpetrator from classes; (3) work re-assignment, relocation, or leave of absence; (4) moving the complainant or alleged perpetrator to a different residence hall; (5) counseling services; (6) medical services; (7) academic support services, such as tutoring; (8) re-taking or withdrawing from a class without penalty; (9) entering a “no contact” order; and (10) other reasonable requests for assistance. These options may be requested at any time before, during or after a Sexual Misconduct Grievance proceeding has commenced. Such requests will be reviewed by the Title IX Coordinator and the LRU SMRT on a case-by-case basis, and all reasonable requests will be granted.

## 7) SEXUAL MISCONDUCT GRIEVANCE PROCEDURES

**The procedures described below are the means by which all grievances or other complaints involving allegations of Sexual Misconduct asserted against any member of the University community must be investigated and resolved.** These procedures do not replace, nor are they intended to replicate, the state and federal criminal or judicial systems that are available to persons who wish to file a criminal or civil complaint or take other action in such forums. Instead, these policies and procedures are designed to address allegations of Sexual Misconduct and the impact such misconduct has on other members of the University community. All members of the University community are bound by these policies and procedures, as well as the resulting outcome of any proceedings hereunder. All aspects of these policies and procedures are designed to provide a prompt, equitable, fair and impartial investigation and resolution of grievances asserted against members of the University community. These policies and procedures further ensure that LRU will take steps to prevent recurrence of any discriminatory or harassing conduct and will correct its discriminatory effects, as needed.

### a) Overview and Special Considerations

LRU’s Sexual Misconduct Grievance Procedures follow a four-step process: (1) initiation of grievance; (2) neutral investigation; (3) adjudication by LRU’s Sexual Misconduct Review Board; (4) discretionary appeal to the University President, as further explained below. There are several other University policies that are designed to address important concerns that sometimes accompany allegations of Sexual Misconduct. These policies include but are not limited to:

- 1) Confidentiality: An individual asserting an incident of Sexual Misconduct may request to remain anonymous and/or that a grievance not be pursued against the alleged perpetrator. Upon such request, the University will take reasonable steps to investigate and respond to the incident consistent with the individual's request, but the University cannot ensure confidentiality or anonymity in every instance. Similarly, if a complainant insists that his or her name or other identifiable information not be disclosed to the alleged perpetrator, the complainant should be aware that the University's ability to respond may be limited. In appropriate circumstances, LRU reserves the right to pursue the Sexual Misconduct Grievance process without the cooperation or participation of the victim (for example, in situations where the alleged perpetrator is believed to be a potential threat to the University community). In such cases, LRU's highest priority will be to maintain a safe and discrimination-free environment for all members of the University Community, but it will take reasonable measures to maintain the victim's confidentiality where reasonably possible. Moreover, in all publicly-available record keeping required by law, the University will not to publish any personally identifying information about the victim, to the extent permitted by law.
- 2) Retaliation: Retaliation resulting from the report of an incident of Sexual Misconduct will not be tolerated by the University, and the University will not only take steps to prevent retaliation but also take strong responsive action if it occurs, whether or not any Sexual Misconduct Grievance proceedings are pending. If the complainant or the respondent feels that s/he has been the subject of retaliation, s/he should contact the Title IX Coordinator, a Deputy Title IX Coordinator, or a member of the LRU SMRT, identified above.
- 3) Amnesty: All members of the University community are encouraged to report incidents of Sexual Misconduct, even though they may feel their own use of alcohol or other drugs may have been a factor or may expose them to disciplinary action. Because of the seriousness of Sexual Misconduct, the University does not want any such circumstances to inhibit the reporting of Sexual Misconduct. In order to encourage reporting, the University will not charge complainants, respondents, or witnesses of Sexual Misconduct for violations of the University drug or alcohol policies.
- 4) Protective Measures: As noted above under "Remedial Assistance for Victims," upon request, the University will work with victims to ensure appropriate protective measures are in place before, during and after a Sexual Misconduct Grievance proceeding has commenced.

b) Grievance Procedures

The LRU Sexual Misconduct Grievance Procedures are as follows:

1) Initiation of a Grievance

- a) The complaining individual (“complainant”) should initiate a grievance by reporting the alleged Sexual Misconduct to the Title IX Coordinator, a Deputy Title IX Coordinator, or any member of the LRU SMRT. Although there is no period of time within which a Sexual Misconduct Grievance must be reported, the complainant should report the incident to the Title IX Coordinator, a Deputy Title IX Coordinator, or a member of the LRU SMRT as soon as reasonably possible after the incident giving rise to the grievance, as a failure to timely report an incident may impede the investigation of the allegations.
- b) Upon receipt of a grievance from a complainant by the Title IX Coordinator, a Deputy Title IX Coordinator, or a member of the SMRT, the Title IX Coordinator will provide the complainant information regarding LRU’s policies and resources pertaining to Sexual Misconduct, Title IX and Campus SaVE Act.
- c) Based on the allegations of the complainant, the Title IX Coordinator will make an initial determination of whether any violation of the University Sexual Misconduct may have occurred under any version of complainant’s allegations.
- d) If the Title IX Coordinator determines that a violation of the University Sexual Misconduct may have occurred, the Title IX Coordinator will then complete a Sexual Misconduct Grievance Form and present it for signature by the complainant. By signing the Sexual Misconduct Grievance Form, the complainant attests to the truthfulness of the allegations therein, to the best of his or her knowledge. Regardless of whether complainant signs the Sexual Misconduct Grievance Form, the Title IX Coordinator will provide a copy of the completed Sexual Misconduct Grievance Form to the individual against whom the grievance is asserted (the “respondent”) and to the complainant.
- e) Before proceeding with any investigation or grievance processes, the Title IX Coordinator will seek to obtain the complainant’s written consent to do so. If the complainant does not consent, the University must honor its legal obligations to investigate the complainant’s allegations and, if necessary to maintain a safe and discrimination-free environment for all members of the University Community, pursue a grievance against the accused individual. In such a case, however, the University will take reasonable measures to ensure confidentiality or anonymity of the complainant.

2) Neutral Investigation

- a) After the grievance form is submitted to the complainant and respondent, the Title IX Coordinator shall conduct a prompt, thorough, neutral and fact-based investigation of the allegations made by the complainant.
- b) After completing the investigation, the Title IX Coordinator shall issue a written report of his/her findings to the complainant, the respondent, and the members of the LRU SMRT.
- c) The Title IX Coordinator shall then promptly contact the chair of the Sexual Misconduct Review Board to schedule a hearing before the Board.
- d) Upon request (and to the extent permissible by law), any and all materials supporting the Title IX Coordinator's report will be made available to both the complainant and the respondent.

3) Sexual Misconduct Review Board

a) **Board Constitution:** The Sexual Misconduct Review Board (SMRB) is responsible for adjudicating all Sexual Misconduct Grievances. The SMRB will be a five-member board composed of two faculty members, two staff members and one additional member of either the faculty or staff. A five-member board will be constituted by the random selection of five individuals from a pool of ten individuals (five faculty and five staff) for each new grievance hearing. The ten member pool of SMRB members will be appointed by the President for staggered three-year terms. A chairperson of the SMRB will also be designated by the President for each new grievance hearing. The Dean of Students and the Senior Vice President for Administration and Finance will serve the SMRB as non-voting administrative assistants. All members of the SMRB pool shall receive specialized annual training to assist them with the sensitive issues that often accompany Sexual Misconduct. The University's Title IX Coordinator and Deputy Title IX Coordinators shall not serve as members of the SMRB.

b) Pre-Hearing Procedures

- 1) The chairperson of the SMRB will schedule a hearing of the SMRB no later than ten days (absent significant exigent circumstances, in which case a later date may be allowed) after the Title IX Coordinator's written report of its findings is issued to the complainant, the respondent and the members of the LRU SMRT.
- 2) Prior to the hearing, the SMRB shall review the report issued by the Title IX Coordinator, as well as any materials supporting the report.

- 3) No later than 5 days before the hearing, any member of SMRB who has a real or perceived conflict of interest will disclose the same to the parties. Complainant and respondent will each be given an opportunity to request the recusal of any members(s) of the SMRB which request shall be decided by the LRU SMRT, in its sole discretion. Any recused member shall be replaced by the President's appointment of another appropriately qualified individual.

c) Hearing Procedures

- 1) At the hearing, complainant and respondent will be allowed to have one advisor of their choosing attend, which person may be legal counsel. Such advisor may only counsel their advisee and may not participate in the hearing or present any evidence or argument on behalf of their advisee.
- 2) The complainant, the respondent and all witnesses will be required to swear or affirm, that their testimony presented to the SMRB is true and honest. An audio recording of all hearings (but not any deliberations) before the SMRB shall be taken.
- 3) The SMRB has broad authority and discretion to conduct the hearing in any way it deems appropriate. Upon request by either party or at the SMRB's initiation, the hearing will be conducted such that a party does not have to be physically present in the same room as the other party, provided that the parties will be allowed to listen to and review each other's presentations of evidence in real time.
- 4) Both complainant and respondent will be given a fair opportunity to present their positions in whatever form deemed appropriate by the SMRB. Without limitation, live testimony, documentary evidence and all other forms of evidence may be allowed by the SMRB. The SMRB has the authority to call witnesses and review evidence not presented by either party, and it may question any witness and review other evidence presented by a party. Without limitation, the SMRB may require the testimony of the Title IX Coordinator who conducted the investigation.
- 5) The SMRB will determine, by majority vote, whether the respondent is responsible for the Grievance alleged, based on whether it is "more likely than not" that the respondent committed the Grievance. Within 2 days after its hearing, the SMRB will render a written decision in the matter explaining the rationale therefor, including any sanction that the SMRB deems appropriate, which shall be provided to all parties simultaneously, along with instructions regarding how to pursue an appeal. Absent an appeal, the decision of the SMRB shall be final and binding on the parties.

d) Discretionary Appeal

- 1) Both the complainant and the respondent will have the right to request an appeal of the outcome within five days of the issuance of a written decision by the SMRB.
- 2) In the event that an appeal is requested, the President will request a review of the proceedings by five individuals in the pool of potential SMRB members who did not serve on the SMRB when the grievance was first heard. This group of individuals will:
  - a. Make a preliminary determination of whether an appeal is allowed. Such an appeal will only be allowed when the hearing before the SMRB involved a material deviation from the procedures outlined herein and such deviation may have actually affected the outcome of the proceedings in a significant way.
  - b. If an appeal is not allowed, then the request for an appeal shall be denied and the decision of the SMRB shall be final. If, however, an appeal is allowed, the appeals board will:
    - i. Review the transcript of the proceedings before the SMRB, along with any and all evidence presented to the SMRB;
    - ii. Allow the complainant and respondent a fair opportunity to supplement the record, as appropriate; and
    - iii. Render a written decision in the matter explaining the rationale therefor, including any sanction that the individual deems appropriate, which shall be provided to all parties simultaneously. Such decision shall be final and binding on the parties.

e) Sanctions for Grievances

- 1) A wide range of sanctions is available as discipline in any given Sexual Misconduct Grievance proceeding. By way of example only, the following sanctions may be assessed against a person who is deemed responsible for the alleged conduct.

- a. For Faculty and Staff
  - Verbal or written warning
  - Performance/behavior improvement plan
  - “No contact” Order
  - Required Counseling
  - Required training
  - Demotion
  - Suspension without pay
  - Suspension with pay
  - Termination (of staff member or non-tenured faculty)
  - Recommendation of Revocation of Tenure (in the case of faculty)
  - Recommendation of Termination (in the case of faculty)
  
- b. For Students
  - Verbal or written warning
  - “No contact” Order
  - Restitution for loss, damages or service costs
  - Service Projects and/or opportunities for education within the University setting or local community
  - Disciplinary probation
  - Disciplinary probation with suspension of privileges
  - Eviction from the Residence area
  - Exclusion from some or all areas of campus or University facilities
  - Disciplinary suspension
  - Disciplinary expulsion

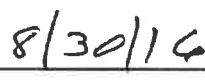
Depending on the severity, likelihood of repetition, and potential threat to the University environment, more severe sanctions may be assessed against an individual.

**POLICY AUTHORS**

UNIVERSITY TASK FORCE ON SEXUAL MISCONDUCT  
 UNIVERSITY LEGAL COUNSEL  
 DIRECTOR OF COMPLIANCE/TITLE IX COORDINATOR

**POLICY APPROVAL**

  
 \_\_\_\_\_  
 PRESIDENT

  
 \_\_\_\_\_  
 DATE