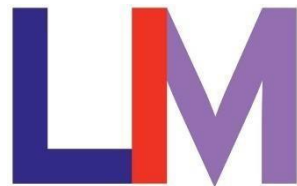


# Sex Discrimination and Sex-Based Harassment Policy and Resolution Procedures



LIM COLLEGE

Prepared by D. Stafford &  
Associates July 2, 2024

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## PURPOSE

LIM College (“LIM” or “institution”) does not discriminate on the basis of race, color, religion, creed, sex, age, national origin, disability, veteran status, unemployment status, familial status, pregnancy, military status, domestic violence victim status, or criminal conviction, or any other status protected by law and prohibits sex discrimination in any education program or activity that it operates, including in admission and employment. LIM has adopted this policy and applicable grievance procedures to provide for the prompt and equitable resolution of complaints alleging any action that would be prohibited by this policy.

The prohibited offenses outlined in this policy may also be prohibited by Title IX of the Higher Education Amendments of 1972, 20 U.S. C. § 1681 et seq. (“Title IX”), by the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (“Clery Act”) and Section 304 of the Violence Against Women Reauthorization Act of 2013 (“VAWA”), Title VII of the Civil Rights Act of 1964, . New York State Education Law Article 129-B (Enough is Enough), and other applicable laws, LIM is committed to educating the entire campus community on preventing and responding to sexual misconduct. This policy prohibits a broad continuum of harassment on the basis of sex, some of which are not prohibited under Title IX or other laws. Their inclusion in this policy reflects LIM’s standards and expectations for a working and learning environment where everyone is free to work and learn safely.

Nothing in this policy shall affect the right of an individual to file a complaint with external law enforcement agencies, if applicable. A complaint may be filed concurrently with external law enforcement agencies and the institution without jeopardizing an individual’s rights to an administrative investigation or other process.

Inquiries regarding Title IX or the application of this policy and the respective resolution process and procedures used to resolve complaints may be referred to LIM’s Title IX Coordinator, to the U.S. Department of Education’s Office for Civil Rights or both.

### **SCOPE**

This policy covers how LIM will respond to allegations of sex discrimination as defined by this policy, including discrimination on the basis of sex, pregnancy, or related conditions. The policy also covers instances and allegations of sex-based harassment including hostile environment, quid pro quo, sexual assault, dating violence, domestic violence, and stalking.

In addition to harassment on the basis of sex, the institution prohibits discrimination in its employment practices and its educational programs and activities on the basis of race, color, religion, national origin, age, disability, genetic information, veteran status, and any other status protected by law. LIM’s full [Policy Against Discrimination and Harassment](#) may be found on page 40 of the Employee Handbook.

Alleged harassment and discrimination not identified under this policy, including harassment that is not on the basis of sex or other protected classes, may be addressed through the [Student Handbook](#) or for employees and certain other third-parties via the [LIM College Employee Handbook](#) or [LIM College Faculty Handbook](#).

This policy governs the conduct of LIM students, faculty, staff, and third parties (e.g., non-members of the LIM community, such as applicants, volunteers, vendors, alumni/ae, trustees, visitors, or local residents). Third parties may be protected by and subject to this policy depending on their relationship with the institution. A third-party may make a report or complaint of an alleged violation of this policy by a member of the LIM community when the alleged violation occurs within the context of LIM’s educational programs and activities.

A third- party may also be permanently barred from LIM or subject to other restrictions for failing to comply with this policy.

This policy applies to conduct that occurs within LIM's premises, which includes land, buildings, facilities, and other property in the possession of or owned, used, or controlled by the institution, either solely or in conjunction with another entity. This includes LIM's computing and networking resources whether accessed on LIM's physical property or remotely. Online and/or social media conduct may violate this policy if it meets the definition of Prohibited Conduct and may also be a violation of other LIM policies, including rules and regulations found on pages 84-93 of the Employee Handbook, whereby the use of the institution's computing network to harass, discriminate, or otherwise violate any Federal, state, or local law is prohibited.

Regardless of where the conduct occurred, LIM will review complaints to determine whether the conduct occurred in the context of its employment or educational program or activity or has continuing effects on campus or in an off-campus sponsored program or activity, or whether the College otherwise has a substantial interest in the allegations. A substantial interest includes:

1. Any action that constitutes a criminal offense as defined by law (This includes, but is not limited to, single or repeat violations of any local, state, or federal law.);
2. Any situation in which it is determined that the Respondent poses an immediate threat to the physical health or safety of any student or other individual; or
3. Any situation that is detrimental to the educational interests or mission of the College.

All aspects of this policy will be carried out in a fair and impartial manner and without conflict of interest or bias.

## **POLICY DEFINITIONS**

### **Advisor of Choice**

For resolutions of sex-based harassment complaints involving students or for employee reports involving dating violence, domestic violence, sexual assault, or stalking, the parties may be accompanied to any meeting or proceeding by an advisor of their choice. An advisor of choice is any individual who provides the complainant or respondent support, guidance, or advice and is not also a witness in the case. The advisor is allowed to attend meetings and may conduct cross examination during a live hearing.. LIM will not limit the choice of advisor but may remove an advisor that violates LIM's established rules of decorum. An advisor should be chosen whose schedule allows attendance at the scheduled dates and times because delays typically will not be allowed due to the scheduling conflicts of an advisor. An employee may serve as an advisor but is not required to do so even if requested. An advisor may be, but is not required to be, an attorney.

**Affirmative Consent:** Sexual contact must be consensual at all times, and sexual contact is considered consensual only after affirmative consent has been given. Affirmative Consent is a knowing, voluntary, and mutual decision among all participants to engage in sexual activity. Affirmative Consent can be given by words or actions, as long as those words or actions create clear permission regarding willingness to engage in sexual activity. Silence or lack of resistance, in and of itself, does not demonstrate consent. The definition of consent does not vary based upon a participant's sex, sexual orientation, gender identity, or gender expression.

The following are principles that apply to the above definition of Affirmative Consent:

- Consent to any sexual act or prior consensual sexual activity does not necessarily constitute consent to any other sexual act.
- Consent is required regardless of whether the person initiating the act is under the influence of drugs or alcohol.
- Consent may be withdrawn at any time.
- When Affirmative Consent is withdrawn or can no longer be given, sexual activity must stop.
- A person is incapable of affirmative consent when they are:
  - less than seventeen years of age;
  - mentally disabled (a person is mentally disabled when their normal cognitive, emotional, or behavioral functioning renders them incapable of appraising their conduct); or
  - incapacitated (as defined below).
- Consent cannot be given when it is the result of any coercion, intimidation, force, or threat of harm.

### **Appeal Officer**

“Appeal officer” means the person or persons that will make the determination on any appeal submitted under this policy including appeals of dismissals and determinations of responsibility. The appeal officer may be an employee or a contracted service provider.

### **Complainant**

“Complainant” means (1) A student or employee who is alleged to have been subjected to conduct that could constitute sex discrimination as defined by this policy; or (2) A person other than a student or employee who is alleged to have been subjected to conduct that could constitute sex discrimination under this policy and who was participating or attempting to participate in LIM’s education program or activity at the time of the alleged sex discrimination.

### **Confidential Employee**

“Confidential Employee” means (1) an employee of LIM whose communications are privileged or confidential under Federal or State law and the employee is functioning within the scope of their duties to which the privilege or confidentiality applies; (2) an employee designated as confidential under this policy for the purpose of providing services to persons related to sex discrimination; or (3) an employee who is conducting an Institutional Review Board-approved study designed to gather information about sex discrimination—but the employee’s confidential status is only with respect to information received while conducting the study.

### **Decisionmaker**

“Decisionmaker” means the person or persons that will make the determination of responsibility at the conclusion of the applicable grievance procedures under this policy. The decisionmaker may be an employee or a contracted service provider and may be the same person as the Title IX Coordinator or investigator.

### **Informal Resolution Facilitator**

“Informal Resolution Facilitator” means an individual designated by LIM to resolve reports and complaints utilizing an informal resolution process. The assigned facilitator for an informal resolution process will not be the same person as the assigned investigator or the decisionmaker.

### **Investigator**

The “Investigator” is the person or persons assigned to conduct an investigation of a complaint. The investigator may be an employee or a contracted service provider.

**No-Contact Directive:** A No Contact Directive is a document issued by an LIM administrator that is designed to limit or prohibit contact or communications between the parties. A No-Contact Directive may be mutual or unilateral, with the exception that a No-Contact Directive issued as either a sanction or remedy shall be unilateral, directing that the Respondent does not contact the Complainant.

### **Party**

“Party” means the complainant(s) or respondent(s). A respondent becomes a “party” to the action upon receipt of notice of the complaint.

### **Pregnancy or Related Conditions**

“Pregnancy or Related Conditions” means the following: (1) Pregnancy, childbirth, termination of pregnancy, or lactation; (2) Medical conditions related to pregnancy, childbirth, termination of pregnancy, or lactation; or (3) Recovery from pregnancy, childbirth, termination of pregnancy, lactation, or related medical conditions.

## **Respondent**

“Respondent” means a person who is alleged to have violated LIM’s prohibition on sex discrimination. A respondent is presumed not responsible for alleged conduct until a determination whether sex discrimination occurred is made at the conclusion of a resolution process outlined in this policy. When a sex discrimination complaint alleges that an LIM policy or practice discriminates on the basis of sex, LIM is not considered a respondent as it relates to the respondent’s rights in this policy.

## **Student**

A “Student” is a person who has gained admission to the institution.

## **Title IX Coordinator**

The “Title IX Coordinator” is responsible for overseeing LIM’s response to reports of sex discrimination and to ensure compliance with Title IX, including oversight of all recordkeeping and training. The Title IX Coordinator is also responsible for coordinating the effective implementation of supportive measures and remedies. Title IX Coordinator is required to identify any barriers to reporting information about conduct that reasonably constitutes sex discrimination and take steps reasonably calculated to address such barriers. The Title IX Coordinator may delegate responsibilities under this policy to a Deputy Title IX Coordinator or other designee, who will be appropriately trained per the requirements of Title IX. For purposes of this policy, any reference to the Title IX Coordinator should be read as the “Title IX Coordinator, Deputy Title IX Coordinator, or other designee.”

## **Title IX Personnel**

“Title IX personnel” means all individuals who are responsible for responding to reports of sex discrimination, implementing the grievance procedures in this policy, hearing challenges to removals, or having the authority to modify or terminate supportive measures. All Title IX personnel shall receive annual training as required by Title IX, Clery, and applicable state law. Persons falling under this description include, without limitation, Title IX Coordinator(s), investigators, decisionmakers, appeal officers, and informal resolution facilitators, with any of the responsibilities outlined herein. Title IX Personnel will not have a conflict of interest or bias for or against complainants or respondents generally or an individual complainant or respondent.

## **Witness**

“Witness” means any individual who has direct knowledge of an incident or other information relevant to the allegation. Character witnesses are not considered relevant, and expert witnesses are considered only at the discretion of the investigator or decisionmaker.

## **PRIVACY AND CONFIDENTIALITY**

Issues of privacy and confidentiality play important roles in this policy and may affect individuals differently. Privacy and confidentiality are related but distinct terms. “Confidentiality” refers to the circumstances under which information will or will not be disclosed to others. “Privacy” refers to the discretion that will be exercised by LIM in the course of a complaint to only share information with those persons who have a need-to-know related information, for example, to carry out a supportive measure.

Complainants, Respondents, and any witnesses involved in a resolution process under this policy are strongly encouraged to exercise discretion in sharing information learned in such process in order to protect the privacy of the individuals involved, to safeguard the integrity of the process, and to avoid the appearance of retaliation.

In some circumstances, the reporting responsibilities of LIM employees, or LIM’s responsibility to investigate, may conflict with the preferences of the complainant and/or respondent with regard to privacy and confidentiality. Therefore, all individuals are encouraged to familiarize themselves with their options and responsibilities. In all such proceedings, LIM will take into consideration the privacy of the parties to the extent possible.

Students and employees who wish to obtain confidential assistance without making a report to the school may do so by contacting the confidential resources listed in Appendix A. These resources will not share any personally identifiable information with other College employees without express permission unless doing so is necessary to address a serious and ongoing threat to the campus community.

## **PROHIBITED CONDUCT**

For purposes of this policy, the following definitions constitute conduct to be on the basis of sex and pregnancy or related conditions. Attempts to commit any Prohibited Conduct are prohibited and will be considered the same as completed acts.

### **Sex Discrimination**

“Sex Discrimination” means conduct, on the basis of sex, which excludes from participation, denies benefits to, or otherwise differently treats persons in a way that limits or denies their ability to participate in the educational program or activity except as permitted by federal, state, or local law.

### **Hostile Environment Harassment**

“Hostile Environment Harassment” means unwelcome sex-based conduct that, based on the totality of the circumstances, is subjectively and objectively offensive and is so severe and pervasive that it effectively denies a person’s ability to participate in or benefit from the education program or activity (i.e., creates a hostile environment).

Whether a hostile environment has been created is a fact-specific inquiry that includes consideration of the following:

- (i) The degree to which the conduct affected the complainant's ability to access LIM's education program or activity;
- (ii) The type, frequency, and duration of the conduct;
- (iii) The parties' ages, roles within LIM's education program or activity, previous interactions, and other factors about each party that may be relevant to evaluating the effects of the conduct;
- (iv) The location of the conduct and the context in which the conduct occurred; and
- (v) Other sex-based harassment in LIM's education program or activity;

New York State Sexual Harassment Workplace Law: unwelcome conduct which is either of a sexual nature, or which is directed at an individual because of that individual's sex when:

- a. Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile or offensive work environment, even if the complaining individual is not the intended target of the sexual harassment;
- b. Such conduct is made either explicitly or implicitly a term or condition of employment; or
- c. Submission to or rejection of such conduct is used as the basis for employment decisions affecting an individual's employment.

A sexually harassing hostile work environment consists of words, signs, jokes, pranks, intimidation or physical violence which are of a sexual nature, or which are directed at an individual because of that individual's sex. Sexual harassment also consists of any unwanted verbal or physical advances, sexually explicit derogatory statements or sexually discriminatory remarks made by someone which are offensive or objectionable to the recipient, which cause the recipient discomfort or humiliation, which interfere with the recipient's job performance.

NYS workplace sexual harassment can take a variety of forms. Examples include, but are not limited to:

- a. Unwelcome sexual propositions, invitations, solicitations, and flirtations;
- b. Non-consensual sexual intercourse or other sexual contact;
- c. Coercive behavior, unreasonable pressure, or manipulation to compel a person to engage in sexual activity;

- d. Threats or insinuations that a person's employment, wages, promotional opportunities, work assignments, academic grade, classroom assignments, or other conditions of employment or academic or other collegiate life may be adversely affected by not submitting to sexual advances;
- e. Unwelcome verbal expressions of a sexual nature, including graphic sexual commentaries about a person's body, dress, appearance, or sexual activities; the unwelcome use of sexually degrading language, jokes, or innuendoes; unwelcome suggestive or insulting sounds or whistles; obscene phone calls, mail, or email;
- f. Sexually suggestive objects, pictures, videotapes, audio recordings or literature, placed on the work or study area, if not used solely for a legitimate educational purpose;
- g. Non-consensual touching, grabbing, groping, pinching, or other physical contact;
- h. Spreading sexual rumors; distributing intimate or sexual information about another person;
- i. Causing or attempting to cause the incapacitation of another person in order to gain a sexual advantage over that person;
- j. Electronically recording, photographing, or transmitting intimate or sexual utterances, sounds or images of another person.

### **Quid Pro Quo Harassment**

"Quid Pro Quo Harassment" means when an employee, agent, or other person authorized by LIM to provide an aid, benefit, or service under LIM's education program or activity explicitly or impliedly conditioning the provision of such an aid, benefit, or service on a person's participation in unwelcome sexual conduct.

### **Sexual Assault—Non-Consensual Sexual Penetration**

"Nonconsensual sexual penetration" 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, without the consent of the victim.

### **Sexual Assault—Non-Consensual Sexual Contact**

"Nonconsensual Sexual Contact" means the touching of the breasts, buttocks, or groin of another person for the purpose of sexual gratification without the consent of the victim.

### **Sexual Assault—Incest**

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

### **Sexual Assault—Statutory Rape**

“Statutory Rape” is sexual intercourse with a person who is under the statutory age of consent, which in New York is 17 years of age.

### **Dating Violence**

“Dating Violence” is violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the complainant.

### **Domestic Violence**

“Domestic Violence” means felony or misdemeanor crimes committed by a person who (A) is a current or former spouse or intimate partner of the victim under New York state and city law or a person similarly situated to a spouse of the victim; (B) is cohabitating, or has cohabitated, with the victim as a spouse or intimate partner; (C) shares a child in common with the victim or (D) commits acts against a youth or adult victim who is protected from those acts under New York State and city family or domestic violence laws.

### **Stalking**

“Stalking” means engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for the person’s safety or the safety of others; or suffer substantial emotional distress.

### **Retaliation**

“Retaliation” means intimidation, threats, coercion, or discrimination against any person by LIM, a student, or an employee, or LIM-authorized person for the purpose of interfering with any right or privilege under this policy or because the person has reported information made a complaint, testified, assisted, or participated or refused to participate in any manner in an informal resolution process or grievance procedures under this policy. Nothing in this definition precludes LIM from requiring an employee or other LIM- authorized person to participate as a witness in, or otherwise assist with an investigation, proceeding, or hearing under this policy.

### **Non-Title IX Prohibited Conduct**

The Student Code of Conduct covers inappropriate or unprofessional behavior at LIM College sponsored events and programs, in the classroom, on the Internet, in LIM College facilities, in LIM College student housing, or while participating in internships, study abroad, or exchange programs. Further, the Student Code of

Conduct covers student behavior that is determined to interfere with LIM College's educational responsibilities, its subsidiary responsibilities, or with the health and/or the safety of members of the LIM College community. Violation of other LIM College policies and procedures are incorporated within the Student Code of Conduct, even if not specifically mentioned. For policies and procedures that have their own disciplinary procedures, LIM College, at its sole discretion, may choose to take action under either the Student Code of Conduct, the individual policy, or both.

You may find additional information in the [LIM College Student Handbook](#).

### **Student Bill of Rights**

In accordance with New York State Education Law, Article 129-B, also known as Enough is Enough, the following is the list of rights students can expect when reporting or responding to sexual offenses and relationship violence at LIM College.

All students have the right to:

- Make a report to local law enforcement and/or state police;
- Have disclosures of domestic violence, dating violence, stalking, and sexual assault treated seriously;
- Make a decision about whether or not to disclose a crime or violation and participate in the judicial or conduct process and/or criminal justice process free from pressure by the institution;
- Participate in a process that is fair, impartial, and provides adequate notice and a meaningful opportunity to be heard;
- Be treated with dignity and receive from the institution courteous, fair, and respectful healthcare and counseling services, where applicable;
- Be free from any suggestion that the reporting individual is at fault when these crimes and violations are committed or should have acted in a different manner to avoid such crimes or violations;
- Describe the incident to as few institution representatives as practicable and not be required to unnecessarily repeat a description of the incident;
- Be protected from retaliation by the institution, any student, the accused, and/or the respondent, and/or their friends, family, and acquaintances, within the jurisdiction of the institution;
- Access at least one level of appeal of a determination;
- Be accompanied by an advisor of choice who may assist and advise a reporting individual, accused, or respondent throughout the judicial or conduct process, including during all meetings and hearings related to such process; and

- Exercise civil rights and practice of religion without interference by the investigative, criminal justice, or judicial or conduct process of the institution.

## **REPORTING**

A “report” is an oral or written disclosure to the Title IX Coordinator of Prohibited Conduct. Any person may report an allegation of Prohibited Conduct defined by this policy. Reports may be made by the person who experienced the behavior or by a third-party, including, but not limited to, a friend, family member, attorney, staff member, or professor.

A “complaint” means an oral or written request to the institution that objectively can be understood as a request for the institution to investigate and make a determination about alleged discrimination under this policy. For complaints of sex-based harassment, only the complainant or a person with the legal right to act on the complainant’s behalf may make a complaint.

A person has the right to report or not report the alleged incident to LIM, law enforcement, or both and may pursue some or all these reporting options at the same time. When initiating a report, a person does not need to know whether they wish to request any particular course of action , nor how to label what happened.

Contact information for on and off-campus resources may be found in Appendix A.

### **Reporting to a Title IX Coordinator**

Any individual who may have been subjected to Prohibited Conduct as defined in this policy should contact the Title IX Coordinator. Additionally, the Title IX Coordinator will be informed of all reports of potential violations of this policy received by employees who are mandated to report under this policy or by federal or state law.

The Title IX Coordinator may be contacted by telephone, email, or in person using the below contact information.

#### **Title IX Coordinator**

**(This Coordinator is responsible for overall institutional compliance with Title IX and can meet with anyone for the purpose of filing a report, making a complaint, or asking general questions.**

**He is also responsible for coordinating pregnancy or related conditions modifications with Human Resources.)**

**Danny Trujillo –Title IX Coordinator ,  
Vice President of Student Affairs  
216 East 45<sup>th</sup> Street  
Maxwell Hall, Mezzanine Level  
New York, NY 10017  
646-388-8438**

[titleix@limcollege.edu](mailto:titleix@limcollege.edu)

**Deputy Title IX Coordinator for Students**

**(This coordinator is responsible for student complaints of sex-based harassment and sex discrimination as well as modifications for students with pregnancy or related conditions.)**

**Focrun Nahar- Deputy Title IX Coordinator**  
216 East 45<sup>th</sup> Street  
Maxwell Hall, Room MH 310  
New York, NY 10017-3304  
212-310-0640  
[titleix@limcollege.edu](mailto:titleix@limcollege.edu)

**Deputy Title IX Coordinator for Employees**

**(This coordinator is responsible for employee complaints of sex-based harassment and sex discrimination as well as modifications for employees with pregnancy or related conditions.)**

**Anna Krupitskiy - Deputy Title IX Coordinator**  
Vice President of Human Resources  
216 East 45<sup>th</sup> Street  
Maxwell Hall, Room MH 204  
New York, NY 10017-3304  
646-218-4522  
[titleix@limcollege.edu](mailto:titleix@limcollege.edu)

**Reporting to Law Enforcement**

Any student or employee who has experienced domestic violence, dating violence, sexual assault, or stalking may report the incident to local law enforcement. Individuals are encouraged to contact law enforcement and seek medical treatment as soon as possible following an incident that poses a threat to safety or physical well-being or following a potential criminal offense. Individuals also have the right to decline to notify law enforcement authorities. A report to law enforcement is not a complaint for purposes of LIM's grievance procedures.

At an individual's request, the Title IX Coordinator will assist a person who has been impacted by domestic violence, dating violence, sexual assault, or stalking in contacting local law enforcement, including facilitating law enforcement to come to campus to take the report.

**Immediate Help**

**Call 911**

**Local Law Enforcement**

**545 Fifth Avenue Location**

Midtown South Precinct  
357 West 35th Street  
New York, NY, 10001-1701  
Precinct: (212) 239-9811  
NCO Supervisor: STG Jose Cabagrillo: [JOSE.CABAGRILLO@nypd.org](mailto:JOSE.CABAGRILLO@nypd.org)

<https://www.nyc.gov/site/nypd/bureaus/patrol/precincts/midtown-south-precinct.page>

**216 East 45th Street (Maxwell Hall) & 569 Lexington Avenue (FOUND Study Residence Hall)**

17<sup>th</sup> Precinct  
167 East 51st  
Street New York,  
NY, 10022  
Precinct: (212) 826-3211  
NCO Supervisor: SGT Joseph Leonard: [JOSEPH.LEONARD@nypd.org](mailto:JOSEPH.LEONARD@nypd.org)

[https://www.nyc.gov/site/nypd/bureaus/patrol/precincts/17th -precinct.page](https://www.nyc.gov/site/nypd/bureaus/patrol/precincts/17th-precinct.page)

LIM may issue a directive called a “No Contact Order” that limits contact between the parties within the educational program or activities. A complainant interested in a no-contact order at LIM may contact one of the Title IX or Deputy Title IX Coordinators.

An Order of Protection may be sought through the court system and a campus representative may provide assistance upon request in assisting a complainant in obtaining an order. Students and employees with an Order of Protection issued through the courts may provide that to LIM’s Title IX Coordinator for assistance with enforcement on campus.

Prohibited Conduct under this policy may also constitute violations of state and local law. LIM officials are required to document certain reports for Clery Act reporting purposes. There is no personally identifiable information (PII) about the complainant in any publicly available recordkeeping.

**Reporting to a Confidential Employee**

An individual who is not prepared to make a complaint or who may be unsure how to label what happened but still seeks information and support may contact a confidential employee. An individual may contact a confidential employee before and during any LIM grievance procedure or an external criminal process. Contacting a confidential employee and disclosing an offense that is prohibited by this policy does not constitute filing a complaint with the Title IX Coordinator. Unless specifically identified as confidential, staff and faculty are not considered confidential.

Information shared with confidential employees (including information about whether an individual has received services) will only be disclosed with the individual’s express written permission unless there is an imminent threat of serious harm to the individual

or to others, or a legal obligation to reveal such information (e.g., if there is suspected abuse or neglect of a minor). Confidential employees may be required to submit non-identifying information about suspected violations of this policy to LIM's Clery Act compliance official for purposes of anonymous statistical reporting if the confidential employee is also a Campus Security Authority under the Clery Act.

Upon receipt of a disclosure in their capacity as a confidential employee, the confidential employee will provide information on the following:

- Their status as confidential and what that means at LIM;
- How to contact the Title IX Coordinator;
- How to make a complaint of sex discrimination; and
- The Title IX Coordinator may be able to offer and coordinate supportive measures, as well as to initiate an informal resolution process or an investigation under the applicable grievance procedures.

<b>LIM Confidential Employee</b>
<p><b>Debra O'Shea - Director of Counseling Services</b> <b>Taisha Parkins - Assistant Director of Counseling Services</b></p> <p>216 East 45<sup>th</sup> Street Maxwell Hall, Room MH1405-B New York, NY 10017-3304 212-310-0607 <a href="mailto:taisha.parkins@limcollege.edu">taisha.parkins@limcollege.edu</a></p>

### **Reporting to the U.S. Department of Education**

All members of the LIM community may also contact the Office for Civil Rights (a division of the United States Department of Education) to file a complaint pertaining to Title IX.

<b>U.S. Department of Education: Office for Civil Rights</b>
<p><b>Headquarters</b> 400 Maryland Avenue, SW, Washington, DC 20202-1100 Customer Service Hotline #: 800-421-3481   Facsimile: 202-453-6012 TTY#: 800-877-8339   Email: <a href="mailto:OCR@ed.gov">OCR@ed.gov</a>   Web: <a href="http://www.ed.gov/ocr">http://www.ed.gov/ocr</a></p>
<p><b>New York Office</b> U. S. Department of Education 26 Federal Plaza, Suite 31-100 New York, NY 10278-9991 Telephone: (646) 428-3800 Facsimile: (646) 428-3843 <a href="mailto:OCR.NewYork@ed.gov">Email: OCR.NewYork@ed.gov</a></p>

### **Reporting Anonymously and Online**

An individual may report an incident without disclosing the individual's name or requesting any action. Please note that choosing to make an anonymous report can significantly limit the ability of LIM to respond. Anonymous reports may be used for statistical purposes and/or for enhancing the understanding of the campus climate so that LIM may strengthen sex discrimination response and prevention efforts. An anonymous report may be made by emailing the Title IX Coordinator from a non-LIM email and not providing your name.

### **Time Frame for Reporting**

There is no time limitation on reporting or filing a Formal Complaint of Prohibited Conduct to the Title IX Coordinator. However, if the Respondent is no longer subject to the College's jurisdiction or significant time has passed, the ability to investigate, respond, and provide remedies may be more limited or impossible. Acting on reports and Formal Complaints significantly impacted by the passage of time (including, but not limited to, acts that have been impacted by the rescission or revision of policy) is at the discretion of the Title IX Coordinator, who may document allegations for future reference, offer supportive measures or remedies, or engage in informal or formal action, as appropriate.

When a Formal Complaint is filed after a significant delay the College will apply the Policy in place at the time of the alleged Prohibited Conduct and the Procedures in place at the time the report was made.

### **Reporting to Other LIM Employees**

In light of LIM's obligation to make reasonable efforts to investigate and address conduct prohibited by this policy, LIM employees who are not designated as confidential employees and are required to notify the Title IX Coordinator of suspected Prohibited Conduct. Employees should report the information to the Title IX Coordinator by email at [titleix@limcollege.edu](mailto:titleix@limcollege.edu). A report to a faculty or staff member does not automatically result in a complaint for the purpose of initiating the applicable grievance procedures.

Additionally, all employees of LIM are required to report acts of known or suspected child abuse as defined under the laws of the state of New York. The Family Court Act of the state of New York defines child neglect or abuse as the act, or failure to act, by any parent or caretaker that results in the death, serious physical or emotional harm, sexual abuse, or exploitation of a child under the age of 18.

### **Child Abuse**

- Child physical abuse occurs when a parent or caretaker inflicts or allows someone to inflict serious physical injury other than by accidental means.
- This includes, but is not limited to, shaking, beating, biting, kicking, punching, and burning. It is also considered abuse if a parent creates a condition or

allows the condition to be created, that leads to a child becoming the victim of serious physical injury.

- Child sexual abuse includes incest, rape, obscene sexual performance, fondling a child's genitals, intercourse, sodomy, and any other contact such as exposing a child to sexual activity, or commercial sexual exploitation such as prostitution of a minor or production of pornographic materials involving a minor.

### **Child Neglect**

Neglect is defined as the failure of a parent or caretaker to provide needed food, clothing, shelter, medical care, or supervision to the degree that the child's health, safety, and well-being are threatened with harm. Some examples include:

- Failure to support a child's educational needs either by keeping a child home from school for unexcused reasons or not following up with a child's educational needs despite the school's outreach to the parent or caretaker.
- Failure to provide adequate food, clothing, or shelter.
- Failure to provide medical or mental health care (including drug abuse services).
- Leaving a child alone who is not developmentally able to be left alone without adequate supervision.
- Leaving a child with someone without establishing a plan for the provision for food, clothing, education, or medical care.
- Leaving a child with someone that does not have the ability to appropriately supervise or protect the child.
- Subjecting a child to humiliation, fear, verbal terror, or extreme criticism.
- Using corporal punishment beyond what is objectionably reasonable that results in the physical or emotional harm of a child.
- Exposing a child to family violence.
- Parent or caretaker using drugs to the point of not being able to adequately take care of a child.
- Keeping, manufacturing, or selling drugs in the presence of a child, or giving drugs to a child.

Any employee who suspects or witnesses child abuse or child neglect should immediately report that information to the Title IX Coordinator by emailing [titleix@limcollege.edu](mailto:titleix@limcollege.edu) as well as reporting the information by calling 311 in NYC or the New York State Central Register (SCR) directly at [1\(800\) 342-3720](tel:18003423720). If the child is in immediate danger, call [911](tel:911).

When making a report, you will be asked for information to help identify and locate the child or parents/persons legally responsible for child, such as:

- Name and address of the child and family members.

- Child's age, sex, and primary language.
- Nature and extent of the child's injuries.
- Type of abuse or neglect, including knowledge of prior history of abuse or neglect of the child or siblings.
- Any additional information that may be helpful.

Consistent with the Clery Act, certain LIM administrators, faculty, and staff are designated as Campus Security Authorities and required to report information on sexual assault dating violence, domestic violence, and stalking to LIM's official responsible for compliance with the Clery Act.

### **Public Awareness and Advocacy Events**

Public awareness or advocacy events at which community members disclose incidents of Prohibited Conduct do not initiate the LIM's Title IX obligations, including its obligation to investigate reports of Prohibited Conduct. Such events may, however, inform the need for campus-wide educational and prevention efforts, and the College may implement broad community initiatives in response to such events where appropriate.

### **LIM'S RESPONSE TO A REPORT**

Upon receiving a report alleging Prohibited Conduct, the Title IX Coordinator will promptly contact the complainant to discuss the availability of supportive measures, provide a written explanation of rights and options, and explain to the complainant their options including informal resolution processes and applicable grievance procedures.

If the complainant is unknown, the Title IX Coordinator will provide the above referenced information to the initial reporter.

### **Supportive Measures**

Upon receipt of a report alleging Prohibited Conduct, LIM will offer and implement appropriate and reasonable supportive measures to the Parties upon notice of alleged harassment, discrimination, or retaliation. Supportive measures are non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the Parties to restore or preserve access to the LIM's Educational Program or Activity, including measures designed to protect the safety of all Parties or the College's educational environment, or deter harassment, discrimination, or retaliation.

Supportive measures may include:

- Counseling, medical or other healthcare services
- Referral to community based providers
- Student financial aid counseling
- Extensions of deadlines and other course-related adjustments

- Campus escort services
- Increased security and monitoring of certain areas of the campus
- Restrictions on contact applied to one or more parties
- Leaves of absence
- Changes in class, work, housing, transportation, or extracurricular activity
- Training and education programs related to sex-based harassment
- Any other remedy that can be used to achieve the goals of this policy

Requests for supportive measures may be made by the complainant or respondent to the Title IX Coordinator. A party may also seek a modification or termination of a supportive measure applicable to them if circumstances change materially. Requests to challenge a supportive measure, including a supportive measure that was provided, denied, modified, or terminated, should be sent to the Title IX Coordinator. The Title IX Coordinator will assign a trained employee unaffiliated with the matter who will hear the challenge. The party has five business days from the date the measure was denied, modified, terminated, or provided to lodge their challenge regarding the supportive measure.

The institution must make such accommodations or provide such protective measures if they are reasonably available, regardless of whether the complainant chooses to report the crime to law enforcement or file a complaint under this policy.

For a full list of resources both on and off-campus, see Appendix A.

### **Interim Removal**

In connection with this policy, an interim removal may be imposed in circumstances where the Title IX Coordinator or designee has determined that an imminent and serious threat to the health or safety of a complainant or any students, employees, or other persons arising from the allegations of sex discrimination exists. An interim removal may be an interim suspension or any necessary restriction prior to the resolution of the matter. Prior to imposing an interim removal, LIM will undertake an individualized safety and risk analysis.

In all such cases, the respondent may challenge the decision after the interim removal has been imposed. The respondent will have five days from the date of the interim removal notification letter to submit a written challenge to the assigned staff member to review the challenge.

LIM may place an employee respondent on leave pending the resolution of the complaint.

### **Informal Resolution**

An informal resolution is a voluntary option for resolution of student on student reports of sexual harassment. Such resolutions may include a mutual agreement of responsibility and sanctions, mediation, or other conflict resolution methods as offered by LIM.

The Title IX Coordinator will determine, based on the totality of the circumstances, whether an informal resolution process is appropriate given the facts and participants. If appropriate, the Title IX Coordinator may offer an informal resolution as an option to the parties with or without a formal complaint and at any time prior to a determination of responsibility. Prior to proceeding, the Title IX Coordinator will obtain written voluntary consent from the complainant and the respondent.

Before initiation of an informal resolution process, the institution will provide the parties written notice that explains:

- a. The allegations;
- b. The requirements of the informal resolution process;
- c. That, prior to agreeing to a resolution , any party has the right to withdraw from the informal resolution process and to initiate or resume applicable grievance procedures;
- d. That the parties' agreement to a resolution at the conclusion of the informal resolution process would preclude the parties from initiating or resuming grievance procedures arising from the same allegations;
- e. The potential terms that may be requested or offered in an informal resolution agreement, including notice that an informal resolution agreement is binding only on the parties; and
- f. What information LIM will maintain and whether and how the information could be disclosed for use in any applicable grievance procedures if such grievance procedures are initiated or resumed if an informal resolution process is not.

The Title IX Coordinator will assign a person as the facilitator who would not be the investigator or decision maker in the assigned case. Any party may withdraw from the informal resolution process prior to agreeing to the resolution . In such an instance, the parties may be referred to the applicable grievance procedures.

Potential terms that may be included in an informal resolution agreement include but are not limited to restrictions on contact; and restrictions on the respondent's participation in one or more programs or activities or attendance at specific events, including restrictions that the institution could have imposed as remedies or disciplinary sanctions had the institution determined at the conclusion of the formal grievance process that sex discrimination occurred.

Once the parties agree to the resolution, the resolution is final, and there is no appeal. The resolution is provided to both parties simultaneously in writing.

### **Title IX-Initiated Complaints**

The Title IX Coordinator will take appropriate prompt and effective steps to ensure that sex discrimination does not continue or recur within the educational setting. This may include utilizing LIM's grievance procedures.

In the absence of a complaint or resolution through an informal process, the Title IX Coordinator will determine whether to initiate a complaint. To make this fact-specific

determination, the Title IX Coordinator will consider, at a minimum, the following factors:

- (1) The complainant's request not to proceed with initiation of a complaint;
- (2) The complainant's reasonable safety concerns regarding the initiation of a complaint;
- (3) The risk that additional acts of sex discrimination would occur if a complaint were not initiated;
- (4) The severity of the alleged sex discrimination, including whether the discrimination, if established, would require the removal of a respondent from campus or imposition of another disciplinary sanction to end the discrimination and prevent its recurrence;
- (5) The age and relationship of the parties, including whether the respondent is an employee;
- (6) The scope of the alleged sex discrimination, including information suggesting a pattern, ongoing sex discrimination, or sex discrimination alleged to have impacted multiple individuals;
- (7) The availability of evidence to assist a decisionmaker in determining whether sex discrimination occurred; and
- (8) Whether LIM could end the alleged sex discrimination and prevent its recurrence without initiating its grievance procedures.

If the Title IX Coordinator determines that a complaint should be initiated against the wishes of the complainant, the Title IX Coordinator will inform the complainant prior to initiating the applicable grievance procedures. The Title IX Coordinator will also appropriately address reasonable concerns about the complainant's safety or the safety of others, including by providing supportive measures. A complainant retains standing as a complainant even in cases where the Title IX Coordinator initiates the complaint.

### **LIM'S RESPONSE TO A COMPLAINT**

All formal grievance procedures involve an investigation followed by a determination of responsibility by a decisionmaker. LIM utilizes different grievance procedures based on the alleged behaviors and the status of the parties with the goal of evaluating the allegations and assessing the credibility of the parties and witnesses.

To initiate a LIM grievance procedure, a complaint must be initiated.

Typically, the Title IX Coordinator will determine whether to investigate or dismiss a complaint of sex discrimination within five business days of receiving it.

### **Notice of Allegation**

Prior to the start of the investigation, the Title IX Coordinator will provide notice of the allegation(s) of Prohibited Conduct, including sufficient information known at the time. Sufficient information includes the identities of the parties involved, the conduct alleged to constitute sex discrimination, and the dates and locations of the alleged incident(s).

The parties will receive notification of additional allegations or changes to the allegations as appropriate. The notice of allegation will also contain a statement that retaliation is prohibited and a statement that the parties are entitled to an equal opportunity to access the relevant evidence.

For complaints of sex-based harassment involving student complainants or student respondents, the notice of allegation will be in writing and will also include a presumption of not responsible as well as the right to an advisor of their choice.

Throughout the grievance procedures, the Title IX Coordinator will provide to a party whose participation is invited or expected, notice of the date, time, location, participants, and purpose of any meetings or proceedings.

### **Dismissals**

If at any time it is determined that the conduct, even if proven, would not constitute sex discrimination as defined in this policy, the complaint may be dismissed or referred to another office for review. A complaint may also be dismissed if LIM is unable to identify the respondent after taking reasonable steps to do so or if the respondent is not a student, employee, or otherwise participating in LIM's educational programs or activities. A complaint may also be dismissed if a complainant notifies the Title IX Coordinator in writing that the complainant would like to withdraw any or all allegations in a complaint.

The Title IX Coordinator will decide whether to dismiss a complaint based on the stated goals of this policy to address conduct that may constitute sex discrimination.

Upon dismissal, LIM will promptly notify the complainant of the basis of the dismissal. If the dismissal occurs after the respondent has received notice of the allegations, then LIM will also notify the respondent of the dismissal. Any dismissal may be appealed by a party using the appeal process outlined in this policy.

When the dismissal is appealed, both parties will receive a reasonable and equal opportunity to make a statement in support of, or challenging, the outcome.

Even if a complaint is dismissed, the Title IX Coordinator may take other appropriate prompt and effective steps to ensure that sex discrimination does not continue or recur and will continue to offer supportive measures as appropriate.

### **Consolidations**

The Title IX Coordinator has the discretion to consolidate multiple complaints or reports into a single investigation if evidence relevant to one incident might be relevant to the others.

If a case involves alleged violations of other LIM policies, the Title IX Coordinator, in consultation with other school officials, will determine which grievance procedures to use.

## **Participation**

LIM expects all employees of the LIM community to cooperate fully with any resolution processes, except when they are a complainant or respondent. An employee who is also a complainant or respondent may choose whether or not to participate when they are a party to the complaint.

It is understood that there may be circumstances in which student parties wish to limit their participation. Students retain this right and will not be subject to adverse LIM actions, although LIM may be obligated to conduct an investigation despite a reluctant or non-participatory party.

If a party chooses not to participate in an investigation for any reason, the LIM process will continue with respect to the alleged complaint. The decisionmaker will not draw any adverse inference from a party's silence or stated desire to not participate.

## **Amnesty**

LIM recognizes that students who have been drinking and/or using drugs (whether such use is voluntary or involuntary) at the time that violence, including but not limited to domestic violence, dating violence, stalking, or sexual assault occurs, may be hesitant to report such incidents due to fear of potential consequences for their own conduct. In order to encourage reports of sex discrimination prohibited under this policy, LIM may offer leniency with respect to other violations which may come to light as a result of such reports, depending on the circumstances involved. This includes instances of underage drinking or possession or use of a controlled substance, which is revealed in the course of such a report. The Title IX Coordinator will make the determination on behalf of LIM as to whether amnesty should apply taking into account factors such as egregiousness and risk of harm to others. Use of alcohol or drugs, however, is never a defense to violating this policy.

A bystander acting in good faith or a reporting individual acting in good faith who discloses any incident of domestic violence, dating violence, stalking, or sexual assault to LIM officials or law enforcement will not be subject to LIM's Code of Conduct section for violation of alcohol and/or drug use policies occurring at or near the time of the commission of domestic violence, dating violence, stalking, or sexual assault.

## **Time Frames**

There may be circumstances that require the extension of timeframes for good cause. LIM will notify the parties in writing of any extension of the timeframes and the reason for the extension. LIM will not, however, wait for the conclusion of any other internal or external resolution process, including criminal proceedings, to begin its own investigation.

## INVESTIGATIONS

### Assignment to an Investigator

The Title IX Coordinator will assign one or more investigators to the case. The Title IX Coordinator may also serve as an investigator.

### Investigation

LIM will provide adequate, reliable, fair, and impartial investigations of complaints. The burden is on LIM to conduct an investigation that gathers sufficient evidence to determine whether sex discrimination occurred. During the investigation, the parties will have an equal opportunity to present fact witnesses and other relevant and admissible inculpatory and exculpatory evidence.

For purposes of this policy, “evidence” refers only to relevant evidence that is not otherwise impermissible, including oral and written evidence from fact witnesses. Evidence is relevant when it may aid a decisionmaker in determining whether the alleged sex discrimination occurred. The investigator will review all evidence gathered through the investigation and determine what evidence is relevant. The following types of evidence, and questions seeking that evidence, are impermissible and will not be accessed or considered, except by LIM to determine whether one of the exceptions listed below applies:

- a.) Evidence that is protected under a privilege recognized by Federal or State law or evidence provided to a confidential employee, unless the person to whom the privilege or confidentiality is owed has voluntarily waived the privilege or confidentiality.
- b.) A party’s or witness’s records that are made or maintained by a physician, psychologist, or other recognized professional or paraprofessional in connection with the provision of treatment to the party or witness, unless the institution obtains that party’s or witness’s voluntary, written consent for use in its grievance procedures.
- c.) Evidence that relates to the complainant’s sexual interests or prior sexual conduct, unless evidence about the complainant’s prior sexual conduct is offered to prove that someone other than the respondent committed the alleged conduct or is evidence about specific incidents of the complainant’s prior sexual conduct with the respondent that is offered to prove consent to the alleged sex- based harassment. The fact of prior consensual sexual conduct between the complainant and respondent does not by itself demonstrate or imply the complainant’s consent to the alleged sex-based harassment or preclude a determination that sex-based harassment occurred.

Parties should present evidence during the investigation; information that is otherwise available but not provided in a timely manner, will not be considered by the investigator.

During the investigation, both parties will be given the opportunity to be interviewed, present evidence, and identify incident witnesses. The Respondent is presumed not responsible for the alleged conduct and any determination of responsibility will be made at the conclusion of the resolution process.

You are permitted to have an advisor of your choice for any meeting or proceeding at which you are required to be present, including your interview. The advisor is not permitted to speak on your behalf, but is present to provide support, advice, or counsel to you through the process. Please select an advisor whose schedule allows attendance at the scheduled dates and times for meetings as only reasonable requests for rescheduling due to an advisor's scheduling conflict will be allowed. While an advisor is optional for all meetings prior to the live hearing, and advisor is required to be present for purposes of conducting cross examination in the live hearing. If you have not selected an advisor by the date of the final report as discussed below, the College will appoint an advisor to you for the purposes of conducting cross examination at no charge to you.

Following the generation of the preliminary investigative report, both parties will have ten business days to inspect and review evidence that is directly related to the allegations raised and to provide written comments and/or additional information prior to the conclusion of the investigation. Investigator(s) will review the information provided, determine if additional investigation is necessary, and construct a final investigative report. The report will be provided to the parties and their advisors at least ten business days prior to the live hearing. The date, time, and location of the live hearing will be provided to the parties upon receipt of the final report. The College will make every effort to complete the investigation in a timely manner, usually within 60 calendar days of the date of this notice document. If warranted, the time may be extended, and you will receive notice of the extension and the cause.

LIM will take reasonable steps to protect the privacy of the parties and witnesses during the investigation; however, LIM will not restrict the ability of either party to obtain and present evidence, identify witnesses, consult with support resources, or otherwise prepare for participating in the grievance procedures.

Credibility determinations will not be made based on a person's status as a complainant, respondent, or witness. A respondent is presumed not responsible for alleged sex discrimination until a determination is made at the conclusion of a grievance procedure.

At the conclusion of the investigation, the parties, and their advisors, if applicable, will receive equal access to all relevant and permissible evidence and an opportunity to respond to the evidence per the applicable grievance procedures. The parties and advisors are prohibited from unauthorized disclosure of information and evidence obtained solely through the grievance procedures.

The investigator will seek to complete the investigation within 45 business days after receipt of the complaint.

## **FORMAL GRIEVANCE PROCEDURES**

### **Assignment to a Decisionmaker and Grievance Procedure**

The Title IX Coordinator will assign one or more decision makers to the complaint. The Title IX Coordinator or investigator may serve as a decisionmaker when permitted under this policy. A party will be given an opportunity to request the removal and replacement of a decision maker based on bias or conflict of interest. Any request for a change in a decision maker must be accompanied by supporting information. The decision to grant such a request is at the sole discretion of the Title IX Coordinator or assigned staff member.

LIM utilizes two grievance procedures described below. The decisionmaker is responsible for following the assigned procedures and maintaining an orderly, fair, impartial, and respectful process. Any and all institutional meetings are closed to the public.

The grievance procedure that will be utilized will depend on the nature of the complaint and whether or not the complaint involves students as the complainant or respondent.

### **TRACK ONE – GRIEVANCE PROCEDURES FOR SEX DISCRIMINATION**

Track One is the grievance procedure for resolving complaints of sex discrimination other than sex-based harassment involving student complainants or student respondents. It will also be used to resolve complaints of retaliation.

Following the investigation, the parties will be provided with an accurate description of the evidence. A party may also request access to the evidence which will be provided equitably to both parties in a manner determined by the Title IX Coordinator. Following the review, the parties will be given an equal opportunity to respond to the evidence or the description of the evidence. The decisionmaker will consider the evidence and any responses when making a determination.

The decisionmaker may pose additional questions to the parties or to witnesses in writing or individually in person if needed to adequately assess credibility to the extent credibility is both in dispute and relevant to evaluating one or more allegations of sex discrimination.

For complaints of sexual assault, dating violence, domestic violence, and stalking, the complainant and respondent both have the right to an advisor of their choice, who may be, but is not required to be, an attorney.

A party may also request access to the relevant and permissible evidence which will be provided equitably to both parties in a manner determined by the Title IX Coordinator.

Determinations under Track One may not be appealed.

## **TRACK TWO-GRIEVANCE PROCEDURES FOR SEX-BASED HARASSMENT INVOLVING A STUDENT COMPLAINANT OR RESPONDENT**

Track Two is the grievance procedure for resolving complaints of sex-based harassment involving a student complainant or a student respondent. It includes a live hearing.

The complainant and respondent both have the right to an advisor of their choice, who may be, but is not required to be, an attorney.

A party may also request access to the relevant and permissible evidence which will be provided equitably to both parties in a manner determined by the Title IX Coordinator.

Upon the completion of the investigation, the investigator will accurately summarize the evidence in an investigative report which will be shared with the parties.

The Title IX Coordinator will notify the parties in writing of the date, time, and location of the live hearing. Either party may respond to the Title IX Coordinator and request that the live hearing be held virtually as to allow the parties to be located in separate physical spaces.

The parties may submit a written response to the investigative report no later than three business days prior to the hearing. The parties may include in their response relevant questions to be asked of the other party or witnesses. Those questions, along with any questions requested at the hearing, are limited to those assessing credibility and relevant questions and follow-up questions that have not previously been asked and answered in the final investigative report. Questions are relevant when they seek evidence that may aid in showing whether the alleged sex discrimination occurred. Advisors may ask questions at a live hearing. The decisionmaker will determine whether the question is relevant and explain any decision to exclude a question as not relevant.

The decisionmaker will receive the evidence, the investigative report, and any written responses prior to the live hearing. Formal rules of process, procedure, and/or technical rules of evidence, such as are applied in criminal or civil court, are not used in these proceedings. If technology is used, the camera and microphone must be on when the party is speaking.

The decisionmaker will determine the method for questioning at the hearing;. The decisionmaker has broad authority to respond to disruptive or harassing behaviors, including adjourning the hearing or excluding any offending person including an advisor.

A recording will be made by the institution. All other recordings are prohibited.

### **STANDARD OF EVIDENCE**

In all grievance procedures, the decisionmaker shall use a preponderance of the evidence standard to determine whether the alleged violation of the policy occurred. The preponderance of the evidence means a standard of proof in which the totality of

the evidence offered in support of a fact is greater or more convincing than the evidence which is offered in opposition to it given the totality of information the version of events is more likely than not. Preponderance of the evidence is understood to require more than 50 percent certainty to determine responsibility for a policy violation (51% or greater).

### **WRITTEN DETERMINATION**

In all grievance procedures, the complainant and respondent will simultaneously receive a written determination of whether Prohibited Conduct occurred. The determination will typically be provided within five business days of the date of the hearing or the last meeting.

The written determination letter will include:

- the allegations constituting sexual harassment;
- a description of the procedural steps taken during the resolution process;
- findings of fact supporting the determination;
- conclusions regarding the application of the policy to the facts;
- a statement, and rationale for the result of each allegation including findings, sanctions, and remedies; and
- options for appeal, if any.

The determination of responsibility becomes final either on notification of the appeal's results or the date on which an appeal would no longer be considered timely. For complaints of sexual assault, dating violence, domestic violence, and stalking, a written determination letter will also be provided whenever a result changes, including when a result becomes final.

### **SANCTIONS AND REMEDIES**

Sanctions are consequences imposed on a respondent following a determination that Prohibited Conduct occurred. Sanctions are intended to provide educational opportunities and accountability while also reducing the likelihood of future Prohibited Conduct. Sanctions may include administrative, educational, and restorative components. Some conduct, however, is so egregious in nature or so damaging to the educational environment that it requires more serious sanctions, including suspension or dismissal.

Remedies are measures provided, as appropriate, to a complainant or any other person identified as having had their equal access to the education program or activity limited or denied by sex discrimination. These measures are provided to restore or preserve that person's access to LIM's education program or activity after a determination that sex discrimination occurred.

Such remedies may include supportive measures; however, remedies need not be non-disciplinary or non-punitive and need not avoid burdening the respondent.

If there is a finding of responsibility for a policy violation, the determination of sanctions and remedies will be made by the decisionmaker.

The following are sanctions and remedies that may be imposed, individually or in various combinations, on any **student** found in violation of the policy:

- Educational Program: The responding party may be required to attend, present, or participate in a program related to the violation.
- Disciplinary Probation: The responding party is issued a written reprimand with the added condition that if the student is found responsible for a future violation of the Student Code of Conduct during a specified period of time, LIM College may, within its discretion, suspend or expel the student. 14
- Financial Restitution: The responding party is charged for loss or damage to property of LIM College. The responding party may also be held accountable for reimbursing the reporting party for damage caused to property. This is not a fine but, a repayment for property destroyed, damaged, consumed or stolen.
- Restrictions and Loss of Privileges: The responding party is subject to specific restrictions and loss of privileges including but not limited to removal from college property. LIM College reserves the right to change a student's housing prior to the outcome of a hearing when it is determined that such actions are in the best interest of the LIM College community.
- Confiscation of Prohibited Property: Item(s) in violation of policy will be
- confiscated and will become the property of the College. Prohibited items confiscated will not be returned.
- Behavioral Requirement Contract: The responding party will be required to adhere to certain standards of behavior while on campus and/or participating in College sponsored activities. Additional requirements may be put into place to include academic counseling, substance abuse screening, etc.
- Disciplinary Suspension: The responding party is suspended from LIM College
- for a specified period. Approval to return to LIM College after the suspension is at the discretion of the Vice President of Student Affairs or a designee.
- Expulsion: The responding party is permanently removed from LIM College.
- Other Sanctions: Additional or alternate sanctions may be created, designed and imposed as deemed appropriate to the offense.
- Note: Any time a student is found responsible for committing a violent act, including but not limited to sexual misconduct, Education Law Article 129-B requires a notation be made on the student's transcript. The notation may read, "suspended after finding of responsibility for a code of conduct

violation” or “expelled after a finding of responsibility for a code of conduct violation.” If a student withdraws from the institution while conduct charges are pending, and declines to complete the disciplinary process, as outlined above, a notation will be made on the transcript indicating the student “withdrew with conduct charges pending.”

The following are sanctions and remedies which may be imposed, individually or in various combinations, on any **employee** found in violation of the policy:

- Verbal warning
- Written warning
- Performance improvement plan
- Suspension, with or without pay
- Termination of employment

### APPEALS

Appeals are an option for any dismissal of a complaint or for determinations of sex-based harassment involving a student complainant or a student respondent. A complainant or respondent may file a written appeal with the Title IX Coordinator. All appeals will be referred to an appeal officer.

The appeal must be on one or more of the following bases:

- a) Procedural irregularity that would change the outcome;
- b) New evidence that would change the outcome and that was not reasonably available when the determination of whether sex-based harassment occurred or dismissal was made;
- c) The Title IX Coordinator, investigator, or decisionmaker had a conflict of interest or bias for or against complainants or respondents generally or the individual complainant or respondent that would change the outcome.

The appeal officer will not have served as an investigator or decisionmaker for the same complaint. The deadline for filing a written appeal is three business days from the date of the written determination.

If either party files an appeal, the Title IX Coordinator will notify the other party in writing and provide both parties the opportunity to submit a written statement.

The purpose of an appeal is not to initiate a review of substantive issues. Based on the process under appeal and the ground, the appeal officer may decide to uphold the original determination or to return the case for additional proceedings or other action .

Both parties will be notified simultaneously in writing of the outcome of the appeal and the rationale for each result.

## **POLICY INFORMATION**

### **Record-Keeping and Annual Reports**

LIM will keep for at least seven years the following:

- a) For each complaint of sex discrimination, records documenting the informal resolution process or the grievance procedures and the resulting outcome.
- b) all information regarding any action taken , including supportive measures, and a rationale as to why a complaint was not filed. If a complainant was not provided supportive measures, a rationale must be provided as to why supportive measures were not provided
- c) All materials used to provide training which may be made available upon request for inspection by members of the public.

Generally, information from a student's conduct file is not released without the written consent of the student. However, certain information may be provided to individuals within or outside the institution who have a legitimate legal or educational interest in obtaining it. Please refer to LIM's privacy policy and the federal Family Educational Rights and Privacy Act of 1974 (FERPA) and any applicable state or local law regarding student records.

Personnel files are the property of LIM and will not be shared without a subpoena.

### **Disability Accommodations and Interpretive Services**

A "student with a disability" means a student who is an individual with a disability as defined in the Rehabilitation Act of 1973, as amended, 29 U.S.C. 705(9)(B), (20)(B). LIM's

Accessibility Services office determines reasonable and appropriate accommodations and auxiliary aides for access and participation in LIM sponsored classes, services, and programs. Students with a documented disability who desire an accommodation regarding this policy must request an accommodation with the Accessibility Services and inform the Title IX Coordinator that such a request has been made (if such coordinator is not the Deputy Title IX Coordinator for Students.) The Accessibility Services office will make a determination after consultation with the Title IX Coordinator if said offices are two different people. The appropriate parties will be notified in accordance with the Accessibility Service's procedures.

Employees with a disability who desire an accommodation regarding this policy must request an accommodation with Human Resources.

Office of Diversity, Equity, Inclusion and  
Accessibility Services

216 East 45th Street – 3rd Floor

New York, NY 10017  
212.310.0640 or x351

Office of Human Resources  
216 East 45th Street, New  
York, NY 10017-3304  
212.310.0663

Students or employees who require interpretive services should make the request for translation services to the Title IX Coordinator.

### **Revision and Interpretation**

The policy is maintained by the Title IX Coordinators and was most recently approved by the LIM President and the Board of Trustees on August 1, 2024 and covers conduct alleged to have occurred on August 1, 2024 or after. Conduct that reasonably could constitute sex discrimination that occurred prior to this date will be addressed using the policy definitions and grievance procedures in place at the time of the incident or using this policy if no applicable policy was in place.

LIM reserves the right to review and update the policy in accordance with changing legal requirements and specific needs of the Institution.

Any questions of interpretation regarding the Policy shall be referred to the Title IX Coordinator. The Title IX Coordinator's determination is final.

### **APPENDIX A – ON AND OFF-CAMPUS RESOURCES**

#### **On-Campus Resources for Victims of Domestic Violence, Dating Violence, Sexual Assault, and/or Stalking**

Health	No on campus resource – please see off campus chart
Mental health	Debra O'Shea- Director of Counseling Services 216 East 45th Street Maxwell Hall, Room MH1405-B New York, NY 10017-3304 212-310-0607 <a href="mailto:debra.oshea@limcollege.edu">debra.oshea@limcollege.edu</a> or <a href="mailto:LIMCounseling@limcollege.edu">LIMCounseling@limcollege.edu</a>
Counseling	Debra O'Shea - Director of Counseling Services

	<p>216 East 45th Street  Maxwell Hall, Room MH1405-B  New York, NY 10017-  3304 212-310-0607</p> <p><a href="mailto:debra.oshea@limcollege.edu">debra.oshea@limcollege.edu</a> or  <a href="mailto:LIMCounseling@limcollege.edu">LIMCounseling@limcollege.edu</a></p>
Visa & Immigration Assistance	
Financial Aid	<p>Student Financial  Services 216 East 45th  Street Maxwell Hall,  Room MH105</p> <p><a href="mailto:sfs@limcollege.edu">sfs@limcollege.edu</a></p>
Legal Assistance	No on campus resource – please see off campus chart
Victim Advocacy	No on campus resource – please see off campus chart

**Off-Campus Services for Victims of Domestic Violence, Dating Violence, Sexual Assault, and/or Stalking**

<p>Health  (Local Hospitals and Clinics)</p>	<p>A complete and updated list of local hospitals and walk in clinics located near LIM can be found on Counseling Services Health and Wellness Resources page:  <a href="https://www.limcollege.edu/student-life/counseling-services/health-and-wellness-resources">https://www.limcollege.edu/student-life/counseling-services/health-and-wellness-resources</a></p>
Mental health	<p><b>Mt. Sinai Adolescent Health Center</b> (free to low- cost integrated, confidential medical and mental health services and prevention education to young people ages 10 to 26)</p> <p><b>Mount Sinai Adolescent Health Center:</b>  <a href="https://www.teenhealthcare.org/">https://www.teenhealthcare.org/</a></p> <p><b>Mindful Care:</b> <a href="https://www.mindful.care/">https://www.mindful.care/</a></p> <p><b>Rula Mental Health:</b> <a href="https://www.rula.com/">https://www.rula.com/</a></p>

	<b>SOL Mental Health:</b> <a href="https://solmentalhealth.com/">https://solmentalhealth.com/</a>
Counseling	<p><b>Mount Sinai Adolescent Health Center:</b>  <a href="https://www.teenhealthcare.org/">https://www.teenhealthcare.org/</a></p> <p><b>Mindful Care:</b> <a href="https://www.mindful.care/">https://www.mindful.care/</a></p> <p><b>Rula Mental Health:</b> <a href="https://www.rula.com/">https://www.rula.com/</a></p> <p><b>SOL Mental Health:</b> <a href="https://solmentalhealth.com/">https://solmentalhealth.com/</a></p>
Visa & Immigration Assistance	<p>The City of New York offers New Yorkers free, safe immigration legal help in a network of trusted community-based organizations at community sites, public health facilities, public schools, and libraries. Services are provided in your language. Your immigration status does not matter.</p> <p>You can call the City-funded, free and safe MOIA Immigration Legal Support Hotline at 800-354-0365, or call 311 and say "ActionNYC," between 9AM to 6PM, Monday to Friday, to get:</p> <ul style="list-style-type: none"> <li>-Answers to immigration-related questions</li> <li>-Information on immigration policy</li> <li>-Connections to City-funded, free and safe immigration legal help including comprehensive immigration legal screenings and legal representation</li> <li>-Referrals to other community-based resources and support services</li> </ul>
Financial Aid	<p>ACCESS NYC provides a mobile-friendly front door for New Yorkers to screen for benefit and program eligibility, learn how to apply, gather required documents, and find local help. Access the link below to determine your eligibility for</p> <p>financial assistance, childcare, food, housing, work, immigrant services, health, disability services, and more. This service is only accessible via the link. There is no telephone number or physical address noted.</p> <p><a href="https://access.nyc.gov/">https://access.nyc.gov/</a></p>
Legal Assistance	<p>New York Crime Victims Legal Network (CVLN) is a partnership of OVS-funded civil legal organizations and victim assistance programs. We work together to connect victims of crime with civil legal (non-criminal) information, resources, and assistance through the use of our online resource, <i>NY Crime Victims Legal</i></p>

	<p>Help. <a href="http://www.crimevictimshelpny.org">www.crimevictimshelpny.org</a></p>
Victim Advocacy	<p>New York State Office of Victim Services</p> <p>Toll Free Number:</p> <p>1-800-247-8035</p> <p>Available Monday-Friday, 9:00 a.m. to 5:00 p.m.</p> <p><a href="#">Ask OVS a Question</a></p>
Other resources:	<p><b>RAINN:</b> <a href="https://www.rainn.org/">https://www.rainn.org/</a></p> <p><b>The Door:</b> <a href="https://www.door.org/locations/">https://www.door.org/locations/</a> <b>Callen-Lorde:</b> <a href="https://callen-lorde.org/">https://callen-lorde.org/</a></p> <p><b>Covenant house:</b> <a href="https://www.covenanthouse.org/">https://www.covenanthouse.org/</a></p> <p><b>Mount Sinai Adolescent Health Center:</b> <a href="https://www.teenhealthcare.org/">https://www.teenhealthcare.org/</a></p> <p><b>Ali Forney Center:</b> <a href="https://www.aliforneycenter.org">https://www.aliforneycenter.org</a></p> <p><b>Youth and Young Adult Specialized Care Center:</b> <a href="http://www.nyulmc.org/youngadultcarecenter">www.nyulmc.org/youngadultcarecenter</a></p> <p><b>New Alternatives:</b> <a href="https://www.newalternativesnyc.org/client-services">https://www.newalternativesnyc.org/client-services</a></p>

**APPENDIX B– PREGNANCY OR RELATED CONDITONS:**  
**ADDITIONAL**  
**INFORMATION AND RIGHTS**

LIM is committed to creating and maintaining a community free from discrimination, including discrimination on the basis of sex, as mandated by Title IX of the Education Amendments of 1972. Sex discrimination, which can include discrimination based on a student’s current, potential, or past pregnancy or related conditions, is prohibited and illegal. The institution is providing this information to ensure the protection and equal treatment of pregnant or related conditions students. *Employees are also protected*

*from pregnancy or related conditions in their employment. Specific protections for employees may be found in the Employee Handbook.*

LIM will treat pregnancy or related conditions in the same manner and under the same policies as any other temporary medical condition with respect to any medical or hospital benefit, service, plan, or policy LIM administers, operates, offers, or participates in with respect to students admitted to the institution's education program or activity.

The following are a summary of rights and options available to students who are pregnant or who have a condition that has arisen from pregnancy. Complaints regarding discrimination<sup>1</sup> on the basis of pregnancy or related conditions for both students and employees will be resolved using Track One of the grievance procedures contained in this document.

### **Self-Identification and Employee Reporting**

Students, or a person who has a legal right to act on behalf of the student, may self-identify their pregnancy<sup>2</sup> or pregnancy-related condition to the Deputy Title IX Coordinator (for students) using the contact information listed in this policy to receive modifications. Students are strongly encouraged to self-report so that the student and the Deputy Title IX Coordinator (for students) can work together throughout the student's pregnancy to ensure that reasonable modifications are made and evolved as necessary based on the needs of the student.

<sup>1</sup> If a pregnant or related condition student is harassed on the basis of pregnancy, then that complaint will be resolved using Track Two grievance procedures. All employee complaints regardless of harassment or discrimination will be resolved using Track One of the grievance procedures contained in this policy.

<sup>2</sup> Employees should self-report to the Title IX Coordinator as well but have additional benefits in terms of accommodations and leave benefits consistent with the Pregnant Workers Fairness Act (PWFA) and the PUMP Act.

All employees must report to the Title IX Coordinator the name and specific information reported to them by a student who has informed them of their pregnancy. The employee shall inform that pregnant student that the Title IX Coordinator/Deputy Title IX Coordinator can coordinate specific actions to prevent sex discrimination and ensure the student's equal access to the Academy's education program or activity.

### **Reasonable modifications**

Pregnant students have the right to access the educational program and associated activities regardless of their status as pregnant and as such, will be provided with reasonable modifications if requested. Each reasonable modification must be based on the student's individualized needs. In determining what modifications are required, the Title IX Coordinator or Deputy Title IX Coordinator (for students) must consult with the student. A modification that the institution can demonstrate would fundamentally alter the nature of our education program or activity is not a reasonable modification.

The student has discretion to accept or decline each reasonable modification offered by the Title IX Coordinator or Deputy Title IX Coordinator (for students.) If a student

accepts an offered reasonable modification, the Title IX Coordinator/Deputy Title IX Coordinator (for students) will implement it.

Reasonable modifications may include, but are not limited to, breaks during class to express breast milk, breastfeed, or attend to health needs associated with pregnancy or related conditions, including eating, drinking, or using the restroom; intermittent absences to attend medical appointments; access to online or homebound education; changes in schedule or course sequence; extensions of time for coursework and rescheduling of tests and examinations; allowing a student to sit or stand, or carry or keep water nearby; counseling; changes in physical space or supplies (for example, access to a larger desk or a footrest); elevator access; or other changes to policies, practices, or procedures.

### **Comparable treatment to other temporary medical conditions**

The institution shall treat pregnancy or related conditions in the same manner and under the same policies as any other temporary medical conditions with respect to any medical or hospital benefit, service, plan, or policy LIM administers, operates, offers, or participates in with respect to students admitted to LIM's education program or activity.

### **Voluntary access to separate and comparable portion of program or activity**

The institution will allow the student to voluntarily access any separate and comparable portion of LIM's education program or activity if such a comparable portion of the program or activity is available.

### **Voluntary leaves of absence**

LIM will allow the student to voluntarily take a leave of absence from LIM's education program or activity to cover, at minimum, the period of time deemed medically necessary by the student's licensed healthcare provider. When the student returns to the education program or activity, the student will be reinstated to the academic status and as practicable, to the extracurricular status that the student held when the voluntary leave began.

### **Certification to participate**

LIM will not require a student who is pregnant or has related conditions to provide certification from a healthcare provider or any other person that the student is physically able to participate in LIM's class, program, or extracurricular activity unless:

- (i) The certified level of physical ability or health is necessary for participation in the class, program, or extracurricular activity;
- (ii) LIM requires such certification of all students participating in the class, program, or extracurricular activity; and
- (iii) The information obtained is not used as a basis for discrimination prohibited by law.

### **Lactation space**

LIM has a lactation space, which is a space other than a bathroom, which is clean, shielded from view, free from intrusion from others, and may be used by a student for expressing breast milk or breastfeeding as permitted by LIM. Information regarding the lactation space may be found on the Title IX website. Students may also contact the Deputy Title IX Coordinator (for students) for more information on lactation.

### **Limitation on supporting documentation**

LIM will not require supporting documentation unless the documentation is necessary and reasonable for LIM to determine the reasonable modifications to make or whether to take additional specific actions. Examples of situations when requiring supporting documentation is not necessary and reasonable include, but are not limited to, when the student's need for a specific action is obvious, such as when a student who is pregnant needs a bigger uniform; when the student has previously provided LIM with sufficient supporting documentation; when the reasonable modification because of pregnancy or related conditions at issue is allowing a student to carry or keep water nearby and drink, use a bigger desk, sit or stand, or take breaks to eat, drink, or use the restroom; when the student has lactation needs; or when the specific action is available to students for reasons other than pregnancy or related conditions without submitting supporting documentation.

### **Prohibition on Retaliation**

Faculty, staff, and other LIM employees are prohibited from interfering with a student taking leave, seeking reasonable modifications, or otherwise exercising their rights under this Policy. Faculty, staff, and other LIM employees are prohibited from retaliating against a student for exercising the rights articulated by this document, including imposing or threatening to impose negative educational or other outcomes because a student requests leave or modifications, files a complaint, or otherwise exercises their rights under Title IX.