POLICY ON SEXUAL HARASSMENT, SEX DISCRIMINATION, AND SEXUAL MISCONDUCT

The College’s Title IX policies apply to all Lebanon Valley College students, faculty, administrators, staff, and employees and to third parties such as independent contractors, vendors, visitor, and guests.

Employees should pay particular attention to their reporting responsibilities as outlined in the section titled “Reporting of Complaints.”

“All employees (other than those identified as confidential reporting resources) are required to report incidents of harassment and/or discrimination, including but not limited to, sexual harassment and gender discrimination, sexual misconduct, and sexually inappropriate behavior, that they observe or become aware of, through any means, to the Title IX Coordinator and/or any of the Deputy Coordinators.”

The College’s complete Title IX policies are listed below as well as the identification and contact information for the Title IX Coordinator and Deputies.

Additionally all full-time and part-time faculty, adjuncts, administrators, support staff and volunteers are required to undergo a series of background checks prior to employment. All college employees and volunteers are also required to complete online harassment and sexual misconduct training.

I. OFFICES AND RESOURCES

A. Emergency Assistance

For emergency assistance, please call any of the following resources:

- Emergency Response – Dial 911
- LVC Public Safety Office 717-867-6111
- Annville Police Department 717-867-2711

In the immediate aftermath of sexual misconduct or sexual assault, medical care and the collection of physical evidence are very important. The individual should not shower, bathe, or change clothes and may be taken to the hospital emergency room or health services (717-867-6232, 10 a.m. – 3 p.m., Monday–Friday) as soon as possible.

Individuals who wish to seek medical attention may request assistance from the LVC Department of Public Safety. Area hospitals include:

- Good Samaritan Hospital, 252 S. 4th St., Lebanon, PA 717-270-7500
- Hershey Medical Center, 500 University Dr., Hershey, PA 717-531-8521

B. Title IX Coordinator and Deputies and OCR Information
The following person has been designated as the College's Title IX Coordinator:

- Ann C. Hayes, Senior Director of Human Resources, Humanities 108-C, Lebanon Valley College, 101 N. College Avenue, Annville, PA 17003-1400, 717-867-6416, hayes@lvc.edu

The following individuals have been designated as the College's Deputy Title IX Coordinators:

- Marc Harris, Dean of the Faculty, Humanities 107, Lebanon Valley College, 101 N. College Avenue, Annville, PA 17003-1400, 717-867-6078, harris@lvc.edu

- Stacey Hollinger, Associate Director of Athletics/Senior Women’s Administrator, Lebanon Valley College Sports Center, 101 N. College Avenue, Annville, PA 17003-1400, 717-867-6891, sholling@lvc.edu

- Robert L. Mikus, Associate Dean of Student Affairs, Center for Student Engagement, Mund College Center, Lebanon Valley College, 101 N. College Avenue, Annville, PA 17003-1400, 717-867-6863, mikus@lvc.edu

Inquiries concerning the application of anti-discrimination laws may be referred to the Title IX Coordinator or Deputy Coordinators identified above or to the Office for Civil Rights, United States Department of Education. Visit http://wdcrobcolp01.ed.gov/CFAPPS/OCR/contactus.cfm for the address and phone number of the U.S. Department of Education office that serves your area, or call 1-800-421-3481.

C. Confidential Resources
Students wishing to obtain confidential support or resources may reach out to

- LVC Counseling Services (Shroyer Health Center) 717-867-6232
- LVC Health Services (Shroyer Health Center) 717-867-6232
- LVC Chaplain (Frederic K. Miller Chapel) 717-867-6135

Employees wishing to obtain confidential support or resources may reach out to

- Employee Assistance Program 1-800-527-2322

D. Off-Campus Resources
Students or employees may also seek support or resources from off-campus providers, including the following:

- Sexual Assault Resource and Counseling Center (24-hours) 717-272-5308
- Pennsylvania Coalition Against Rape 717-238-7273
- Domestic Violence Intervention of Lebanon County 717-273-7190
II. STATEMENTS OF POLICY

A. Policy against Sex Discrimination and Sexual Harassment
Lebanon Valley College does not discriminate on the basis of sex, gender, sexual orientation, or gender identity or expression in its programs and activities as required by Title IX of the Educational Amendments of 1972.

The intent of this policy is to foster responsible behavior in a working and academic environment free from discrimination and harassment based upon sex, gender, sexual orientation, or gender identity or expression. Sex discrimination, sexual harassment, sexual misconduct and other sexually inappropriate behavior may affect the terms and conditions of employment or interfere with a student's work or academic performance and create an intimidating or hostile environment for employees or students. Thus, Lebanon Valley College disapproves of and forbids sex discrimination and the sexual harassment of employees or students, and will not tolerate sexual assault, sexual misconduct and other sexually inappropriate behavior. Such conduct is contrary to the values of Lebanon Valley College, violates the Student Conduct Code, and is a violation of College policy applicable to faculty, administration, and staff.

B. Policy Prohibiting Employee/Student Relationships
Lebanon Valley College employees (faculty, administrators, staff) are prohibited from having any romantic, intimate, or sexual relationship with any students except in the case of a relationship that begins before either the employee is employed by the College, or the student first enrolls at the College. The roles of College employees are multifaceted, including serving as intellectual guides, teachers, counselors, mentors and advisors; the employee's influence and authority extend far beyond the classroom or workplace. Consequently, any romantic, intimate, or sexual relationship between an employee and a student, even where consensual and whether or not the student would otherwise be subject to supervision or evaluation by the faculty or staff member, is inconsistent with the proper role of the employee, and all such relationships are therefore, prohibited. Furthermore, entering into a romantic, intimate, or sexual relationship with any student is outside the bounds of an employee’s assigned duties, and the employee may not be covered by the College’s liability insurance protection should the employee incur civil or criminal liability as a result of his/her actions.

C. Policy Addressing Employee Relationships
Consensual romantic and/or intimate relationships between members of faculty, administration and staff or between an employee with supervisory authority and his/her subordinate, may compromise the College's ability to enforce its policies. These relationships are not strictly prohibited, but the College will consider these cases carefully and may take appropriate action if the situation warrants. Such actions may include a change in the responsibilities of the individuals involved in such relationships or transfer to other locations or duties within the College in order to diminish or eliminate existing supervisory relationship and workplace contact. Any member of faculty, administration or staff who is involved in a romantic relationship with a co-employee and who has supervisory authority over the employee with whom he/she is involved, is required to report the relationship in timely manner to his/her immediate supervisor and to the Title IX Coordinator. Entering into a romantic, intimate, or sexual relationship with any other employee is outside the bounds of an employee’s assigned
duties, and he/she may not be eligible for the College’s liability insurance protection should the College and/or he/she incur civil or criminal liability as a result of his/her actions.

The intent of this policy is to foster responsible behavior in a working and academic environment free from discrimination and harassment based upon sex, gender, sexual orientation, or gender identity or expression. Sex discrimination, sexual harassment, sexual misconduct and other sexually inappropriate behavior may affect the terms and conditions of employment or interfere with a student's work or academic performance and create an intimidating or hostile environment for employees or students. Thus, Lebanon Valley College disapproves of and forbids sex discrimination and the sexual harassment of employees or students, and will not tolerate sexual assault, sexual misconduct and other sexually inappropriate behavior. Such conduct is contrary to the values of Lebanon Valley College, violates the Student Conduct Code, and is a violation of College policy applicable to faculty, administration, and staff.

III. POLICY DEFINITIONS

For purposes of this Policy, the following definitions will apply:

Consent
Consent is informed, freely and actively given, using mutually understandable words or actions which indicate a willingness to participate in mutually agreed upon sexual activity. Consent is not effective if it results from the use of physical or perceived physical force, if there is intimidation or coercion, or if the recipient party is incapacitated. The burden of obtaining consent is on the party seeking to initiate a sexual encounter. Silence or non-communication, in and of themselves, cannot be interpreted as consent.

Coercion
Coercion exists when a sexual initiator engages in sexually pressuring and/or oppressive behavior that violates the norms of the community, such that the application of pressure or oppression causes another individual to engage in unwanted sexual behavior. Coercion may be differentiated from seduction by the repetition of the coercive activity beyond what is reasonable, the degree of pressure applied, environmental factors such as isolation and the initiator’s knowledge that the pressure is unwanted.

Complainant
A person who has been subjected to conduct that may constitute conduct prohibited by this policy. Where the person who has been subjected to conduct prohibited by this policy does not wish to pursue a formal complaint, a member of the College’s administration may take on the role of the Complainant.

Respondent
A person who is alleged to have engaged in conduct prohibited by this policy.

Sex Discrimination
Unequal treatment on the basis of sex/gender that is sufficiently serious to unreasonably interfere with a person’s work or ability to participate in a College program or activity.
Sexual Misconduct

Sexual misconduct, including sexual assault, is defined as deliberate contact of a sexual nature and/or arising out of or related to a current or past relationship or desired relationship, without the other person's consent. Violations of this policy include, but are not limited to:

a) **Non-consensual sexual contact.** Non-consensual sexual contact is any sexual touching, with any object, by a man or a woman upon another person without consent or making any person touch you or them in a sexual manner. It is defined as engaging in any sexual contact other than intercourse with another person without that person’s consent and/or cognizance. Sexual misconduct is any non-consensual sexual contact, including any improper touching of intimate body parts. Sexual misconduct is the unwanted removal of another’s clothing, indecent contact (i.e., the unwanted touching of intimate body parts including, but not limited to, genitals, buttocks, groin, or breasts) or causing another to have indecent contact with them. It is important to note that it is illegal and a violation of College policy to administer alcohol and/or any other drug for the purpose of preventing resistance and/or inducing a mental state where the individual is incapable of appraising the nature of his/her conduct. Consent cannot be given by an intoxicated, sleeping, or unconscious person. Silence or non-communication should not be interpreted as effective consent.

b) **Non-consensual intercourse.** Non-consensual intercourse is any sexual intercourse (anal, oral or vaginal), with any object, by a man or woman upon another person without consent. It is defined as engaging in sexual intercourse (oral, anal or vaginal) with another person without that person’s consent and/or cognizance. Non-consensual intercourse may be accomplished by expressly or implicitly forcing or coercing another person to have sexual intercourse against his/her will, including the use or threat of physical force, or any behavior that is designed to intimidate and induce fear in another person. Non-consensual intercourse can also occur when another person is under the influence of alcohol or other drugs, is undergoing physical or emotional trauma, is less than 17 years of age, or is otherwise incapable of denying or giving consent (for example, when an individual is in an unconscious or semi-conscious state). Consent cannot be given by an intoxicated, sleeping, or unconscious person. Silence or non-communication should not be interpreted as effective consent.

c) **Indecent Exposure.** Disrobing or exposure of one's self or another person that occurs in a public area and/or is unwanted by an involved person.

d) **Sexual Exploitation.** Sexual exploitation occurs when an individual takes non-consensual or abusive sexual advantage of another for his/her own advantage or benefit, or to benefit or advantage anyone other than the one being exploited, and that behavior does not otherwise constitute one of the other sexual misconduct offenses. Examples of sexual exploitation include, but are not limited to: non-consensual video or audio-taping of sexual activity; voyeurism; prostitution of self or others.

e) **Sexual Abuse of Minors.** Sexual abuse of minors means involving a minor in sexual intercourse, masturbation, sadism, masochism, bestiality, fellatio, cunnilingus, lewd exhibition of the genitals or nudity if such nudity is depicted for the purpose of
sexual stimulation or gratification of any person who might view such depiction. It includes, but is not limited to, any sexual touching, with any object, upon a minor or requiring a minor to touch you or himself/herself in a sexual manner. It includes, but is not limited to, any sexual contact with a minor, including any improper touching of the minor's intimate body parts or requiring a minor to touch you. Sexual abuse of children also includes any act of knowingly photographing, videotaping, depicting on computer or films a minor engaging in any of the acts referred to above or in the simulation of such an act.

f) **Dating Violence** – the term "dating violence" means violence committed by a person –

(A) who is or has been in a social relationship of a romantic or intimate nature with the victim; and

(B) where the existence of such a relationship shall be determined based on a consideration of the following factors:

(i) The length of the relationship

(ii) The type of relationship

(iii) The frequency of interaction between the persons involved in the relationship


g) **Domestic Violence** – The term "domestic violence" includes felony or misdemeanor crimes of violence committed by a current or former spouse of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of Pennsylvania, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of Pennsylvania.

h) **Stalking** – The term "stalking" means engaging in a course of conduct directed at a specific person that would cause a reasonable person to (A) fear for his or her safety or the safety of others; or (B) suffer substantial emotional distress.

**Sexual Harassment**

Unwelcome sexual advances, requests for sexual favors and other verbal or physical conduct of a sexual nature or other gender-motivated offensive conduct constitutes sexual harassment when:

1. submission to or rejection of such conduct is made either explicitly or implicitly a term or condition of an individual's employment or is made either explicitly or implicitly a term or condition of the student's education or academic success;
2. submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individuals or for academic decisions affecting the student; or
3. such conduct has the purpose or effect of unreasonably interfering with an individual's work or academic performance or creating an intimidating or hostile work, learning or living environment.
Examples of sexually harassing behavior may include, but are not limited to, the following:

- unwelcome verbal harassment or abuse of a sexual nature;
- unwelcome demands, threats, or pressure for sexual activity;
- unwelcome sexually motivated or inappropriate touching, petting, pinching, or other physical contact;
- unwelcome sexual behavior or words, including demands for sexual favors, accompanied by implied or overt threats concerning an individual's employment or academic status;
- unwelcome behavior or communications (verbal or written) directed at an individual because of gender;
- the use of authority to emphasize the sexuality of a student in a manner that prevents or impairs the student's full enjoyment of academic benefits, institutional climate, or educational opportunities;
- unwelcome sexually suggestive or obscene letters or notes;
- sexual rumors or name calling;
- unwelcome comments about one's body or physical characteristics;
- unwelcome salacious jokes or stories or dehumanizing graffiti;
- unwelcome displays of suggestive pictures, cartoons or objects;
- assault or attempted assault that is gender-based.
- bullying, stalking, cyber-bullying

Sexual harassment often takes place between persons of unequal power status. Faculty, administrators and others who teach or supervise students (including, but not limited to, advisors, counselors, residential life staff members, and coaches) as well as all those who supervise or otherwise hold positions of authority over students, employees or others should understand the fundamentally asymmetrical nature of the relationship that person has with students or subordinates. However, sexual harassment can take many forms beyond what is obvious and can also occur between equals, i.e., student to student, staff to staff, etc. Sexual harassment can also occur between third parties and College employees and/or students. In certain circumstances, sexual harassment can also take place between people of the same gender.

IV. REPORTING OF POTENTIAL POLICY VIOLATIONS

If you, or another individual, is in need of immediate assistance, please call the Public Safety Office (PSO) at 717-867-6111 and/or the Annville Police Department at 717-867-2711 or by calling 911. You should call PSO and/or the Annville Police Department in the following circumstances:

- The health, safety or well-being of any individual is in jeopardy
- An individual is in need of immediate medical assistance
- Criminal or questionable activity is in progress
A. Reporting of Potential Violations
Any individual who believes he or she has experienced any conduct prohibited by this policy is encouraged to bring the matter to his/her supervisor, and/or the Title IX Coordinator or any of the Deputy Coordinators.

B. Mandated Reporting
All employees who are not enrolled as full-time students and all student employees who are employed as Resident Assistants and First Year Mentors, and excluding only the staff identified as Confidential Resources in this policy, are required to report any potential violation of this policy that they observe or of which they become aware through any means, to the Title IX Coordinator and/or any of the Deputy Coordinators. The College also encourages all students to report incidents or potential violations of this policy that they observe or of which they become aware, to the Title IX Coordinator or any of the Deputy Coordinators. When a person is mandated to report potential violations under this paragraph, they are not permitted to do so anonymously.

C. Reporting of Conduct involving Minors
When the person who has experienced alleged prohibited conduct is a minor (someone under the age of 18), it may constitute child abuse. Any College employee who has a reasonable suspicion of sexual abuse or any form of child abuse at LVC, is mandated by law to immediately report the suspected child abuse by calling Child Line, the state hotline, at 1-800-932-0313. Immediately following that report, you must notify LVC Public Safety at 717-867-6111. You should take action to safeguard the minor if circumstances allow.

D. Online and Anonymous Reporting
Students or employees who have been subject to conduct that may constitute a violation of this policy can submit a report anonymously through the Campus Conduct Hotline by calling 1-866-943-5787 or online via www.intouchwebsite.com/CCH1793. Students, other than student employees who are mandated reporters, may also use the online system to anonymously report conduct that they have witnessed, or that has been reported to them, that may constitute a violation of this policy. Anonymous reports will be investigated under this policy to the extent possible.

Reports submitted via the online system will be received by the Title IX Coordinator. The Title IX Coordinator, Deputy Title IX Coordinators, and persons tasked with investigating the reports and enforcing this policy, will have access to the reports that are filed. The College will use the reports to investigate potential policy violations and will consider reports in making determinations about whether additional training or education is needed and about how to remediate the effects of sex discrimination, sexual harassment, and sexual misconduct on campus.

E. Reporting in Good Faith
Any individual who provides intentionally or maliciously false information as part of a report or investigation under this Policy will be subject to discipline under applicable College policy. This provision does not apply to a good faith report that is later not substantiated or proven by a preponderance of the evidence.
F. Amnesty For Alcohol or Drug Violations
People may be hesitant to report to College officials or participate in resolution processes because they fear that they themselves may be accused of policy violations, such as underage drinking. To encourage reporting, the College provides amnesty for certain drug and alcohol policy violations to persons who, in good faith, report conduct prohibited by this policy to the College and to persons who, in good faith, participate in an investigation under this policy. Under this amnesty, the College will not impose disciplinary sanctions for that person’s own violations of College drug or alcohol policies or other minor policy violations, for conduct that occurred during or near the time of conduct prohibited under this policy.

V. INTERIM MEASURES

Upon receipt of a report or complaint alleging a violation of this policy, the College may impose reasonable interim measures. Interim measures are individualized services offered as appropriate to either or both the Complainant and the Respondent or others involved in an alleged incident of sexual misconduct, prior to an investigation or while an investigation is pending. Interim measures may include restrictions on contact, modifications of work or class schedules, changes in work or housing locations, leaves of absence, campus escort services, increased security and monitoring of certain areas of campus, interim suspension, and other measures determined to be appropriate in a given situation. Interim measures may be adjusted if needs change over time or in response to information that is gathered during an investigation. A decision to impose any interim measure is not based on a finding of responsibility and shall not be interpreted as a finding of fault.

VI. RIGHTS OF PERSONS WHO EXPERIENCE PROHIBITED CONDUCT

A. Reporting to Law Enforcement.
A person who experiences conduct that may constitute a violation of this policy may decide to file charges with the appropriate law enforcement authorities and/or to file a formal complaint with the appropriate Lebanon Valley College official. The person has the option of initiating charges through the on-campus judicial/student conduct system and/or the court system. No action of the College shall be construed to limit the complainant’s right to initiate civil and/or criminal proceedings against the alleged perpetrator in a Commonwealth court. If complainant pursues allegations with both Lebanon Valley College and the court system, the adjudication processes will remain separate and distinct. The College’s adjudication of charges will proceed regardless of the criminal justice process.

B. Rights Under Federal Law and College Policy
A person who experiences conduct that may constitute a violation of this policy also has certain rights under Title IX. Those rights, and other rights afforded by the College are set forth in this policy, including but not limited to the right to seek support on-campus or off-campus, the right to make an anonymous report, the right to request interim measures, and rights during the investigation and resolution of complaints as set forth in this policy.
C. Crime Victims Bill of Rights
Pennsylvania law provides certain rights to victims of crimes, including the following rights.

To receive basic information concerning the services available for victims of crime

To be notified of certain significant actions and proceedings within the criminal and juvenile justice systems pertaining to their case, including the following

- Access to information regarding whether the offender was detained or released;
- Prior notice of a date of release from a state correctional facility, local correctional facility, residential placement, shelf facility, or detention center, including any temporary leave, home pass, work release, furlough, parole, pardon, community treatment placement, or release
- Immediate notice of an offender’s escape from a correctional facility, detention center, or shelf facility, and of the offender’s subsequent apprehension.

To be accompanied at proceedings by a family member, a victim advocate or other person providing assistance or support.

In cases involving a personal injury crime:

- to submit prior comment on the potential reduction or dropping of any charge or changing of a plea in a criminal or delinquency proceeding or diversion of any case, including an informal adjustment or consent decree.
- to have the opportunity to submit written comment or present oral testimony at a disposition review hearing, which comment or testimony shall be considered by the court when reviewing the disposition of the juvenile.
- to have opportunity to provide prior comment on and to release decisions, including work release, furlough, parole, pardon or community treatment center placement.
- to receive notice if an adult is committed to a mental health facility from a State correctional institution and notice of the discharge, transfer or escape of the adult from the mental health facility.

To have the opportunity to offer prior comment on the sentencing of a defendant or the disposition of a delinquent child, to include the submission of a written and oral victim impact statement detailing the physical, psychological and economic effects of the crime on the victim and the victim’s family.

To be restored, to the extent possible, to the precrime economic status through the provision of restitution, compensation and the expeditious return of property which is seized as evidence in the case when in the judgement of the prosecutor the evidence is no longer needed for prosecution of the case.

To have assistance in the preparation of, submission of and follow-up on crime victim compensation claims to the Office of Victims’ Services.
Complete information about the PA Crime Victims Bill of Rights is available through the Pennsylvania Commission on Crime and Delinquency’s Victim Resources Center (www.vrcnepa.org) and the Office of Victim Advocate (www.ova.pa.gov).

VII. INVESTIGATION AND RESOLUTION OF COMPLAINTS

All reports/complaints will be taken seriously. The Title IX Coordinator will ensure that all reports/complaints are promptly, adequately, and impartially investigated and resolved. The College may assume the role of Complainant in any investigation. If a policy violation is found to have occurred, immediate and appropriate action will be taken to stop the violation, prevent its recurrence, and remedy its effects.

All proceedings before the judicial/student conduct body are closed to the public. The hearing conducted by the judicial/student conduct body will be digitally recorded and will be made available to those College officials responsible for the sanctions and the appeal process. The digital recording will not be published or released to anyone unless deemed necessary by the College in the context of legal proceedings.

A. Rights of Complainant and Respondent

The Complainant and Respondent have the following rights: (a) the right to an adequate, reliable, and impartial investigation of any complaint; (b) written notice of the allegations constituting the alleged policy violation; (c) a reasonable amount of time to prepare for any disciplinary proceeding; (d) equal and timely access to the investigation report or other information that will be used during any disciplinary proceeding; (e) the opportunity to present witnesses and other evidence; (f) the right to have an advisor of their choice present during any disciplinary proceeding, but the advisor may not represent the party or speak on behalf of the party (The party may speak quietly with his or her advisor or request a short break in order to do so); (g) the right to remain silent during the hearing; (i) the right to report their account of the incident; (j) the right to be free from intimidation; (k) the right to be informed of the outcome of the decision; and (h) the right to appeal the outcome through the College’s appeal procedures.

B. Title IX Advocacy Program

The College has trained advocates who have been selected from our own faculty and staff to provide advocacy to a student who is a Complainant or Respondent. An advocate can offer support regarding the emotional, medical, and legal ramifications after an incident of alleged sexual misconduct/assault on campus. An advocate can accompany the party throughout any part of the College process. A list of LVC Advocates is available from the Title IX Coordinator and on the College website.

C. Confidentiality

Confidentiality will be maintained throughout the investigation process to the extent practical and consistent with the College's need to undertake a full and impartial investigation. College personnel shall refrain from disclosing any information in connection with student behavior or discipline in a manner that would tend to result in the identification of individual students. Nothing in this section shall prevent the disclosure of such information under circumstances required by law. Confidential records of complaints will be maintained by the Title IX
Coordinator. Such records may be discoverable in a court of law (i.e., records may be subpoenaed or otherwise subject to discovery or court order).

D. Investigation of Complaints Raised By Students.

All complaints by students against other students or by students against third parties will be promptly, thoroughly, and impartially investigated in accordance with the provisions of the Student Conduct Code as set forth in the Student Handbook.

Complaints by students against members of the College faculty, administration, or staff will be promptly, thoroughly, and impartially investigated and resolved using the procedures identified in this policy for complaints made by faculty, administrators, or staff. Student complaints involving allegations against faculty, administrators, or staff will be conducted jointly by the Human Resources Office and the Associate Dean of Student Affairs, unless otherwise directed by the Title IX Coordinator.

E. Investigation of Complaints Raised by Faculty, Administrators, or Staff.

Unless otherwise directed by the Title IX Coordinator, all investigations will be conducted by the Human Resources Office, which may involve other offices, as appropriate. The investigator(s) will inform the Respondent about the College’s policy regarding such behavior, and advise the Respondent that retaliation is prohibited. In determining whether alleged conduct constitutes a violation of this policy, Lebanon Valley College will consider all relevant information and circumstances. Confidentiality will be maintained throughout the investigation to the extent practical and consistent with the College’s need to undertake a full and impartial investigation. In determining whether alleged conduct constitutes a violation of College policy, Lebanon Valley College will consider all relevant information and circumstances. Absent exceptional circumstances, the investigation shall be completed and a written report submitted in a prompt manner. That report will be submitted to the Vice President overseeing the Respondent.

VIII. APPEALS

A. Appeals From Cases Involving Allegations Against Students

1. Purpose and Grounds for Appeal. This Appeal Procedure exists as a means to contest a determination that has been made regarding an alleged violation of the foregoing policies. Both the respondent and complainant may appeal a decision in a case on the following grounds:

   1. The Complainant or the Respondent believes that the discipline/sanction imposed was inappropriate for the violation of policy for which he or she was found responsible;

   2. An error occurred during the investigative stage preventing either the Complainant and/or the Respondent a reasonable opportunity to prepare and present information to the investigator(s); or

   3. There is a discovery of new information that was not available at the time of the investigative process and could have affected the outcome of the matter.
No other grounds for appeal will be considered.

2. Process for the Appeal. Appeals will be heard by the vice president of student affairs and dean of students or their designee. If the vice president of student affairs and dean of students has been actively involved in the initial adjudication, the president and/or their designee will serve as the final appeal.

A student (complainant or respondent) wishing to appeal should submit their written appeal stating the reasons for such a request to the vice president of student affairs and dean of students or their designee within five (5) business days of receipt of the original decision. Appeals are due by 4:30 p.m. on the fifth business day following the original decision. If the respondent appeals, the complainant will be informed that an appeal has been submitted; if the complainant appeals, the respondent will be informed that an appeal has been submitted.

The decision of the appeal by the vice president of student affairs and dean of students or their designee is final. The respondent/complainant is entitled to only one appeal.

If the vice president of student affairs and dean of students or their designee becomes so involved in the investigation or adjudication of a case such that he/she feels their impartiality may be compromised, he/she may defer appellate responsibilities for the case in question to the president of the College or their designee.

B. Appeal From Cases Involving Allegations Against Faculty or Staff

1. Purpose and Grounds for Appeal. This Appeal Procedure exists as a means to contest a determination that has been made regarding an alleged violation of the foregoing policies. There are three grounds for Appeal:
   1. The Complainant or the Respondent believes that the discipline/sanction imposed was inappropriate for the violation of policy for which he or she was found responsible;
   2. An error occurred during the investigative stage preventing either the Complainant and/or the Respondent a reasonable opportunity to prepare and present information to the investigator(s); or
   3. There is a discovery of new information that was not available at the time of the investigative process and could have affected the outcome of the matter.

2. Composition of the College Appeal Committee. Under this policy, the members of the Steering Committee of the Faculty and other individuals designated by the Title IX Coordinator shall constitute the College Appeal Committee. The Title IX Coordinator shall annually appoint a Chair of the College Appeal Committee. The College Appeal Committee shall meet at least once per semester for training and discussion purposes, and the Hearing Panel discussed below will be composed of members of the College Appeal Committee. As set forth below, the Chair may serve as one of the three voting members of an appeal hearing panel.
3. Appeal Process. Either party may appeal (the "Appellant") the Determination and/or Sanctions by providing a written appeal within ten (10) business days of being notified of the determination/sanction, to: (1) the Human Resources Office, (2) the Dean of the Faculty, or (3) the Associate Dean of Student Affairs. The Appellant must identify which of the three grounds (or combination of the three grounds), set forth above, he or she seeks to have addressed. The Appellant must also outline the specifics and details of his or her Appeal in this written document.

   a. Upon receiving the written Appeal, the Human Resources Office, the Dean of the Faculty, or the Associate Dean of Student Affairs shall forward the Appeal to the Chair of the College Appeal Committee. From the College Appeal Committee members, the Chair will select a hearing panel of three members (the Chair may or may not include himself/herself). If a student is a party to the Appeal, the student may request of the Chair of the College Appeal Committee that the hearing panel include one student appointed by the Vice President of Student Affairs and Dean of Students. The Chair will endeavor to have male and female representation on the hearing panel. If the Chair is not a member of the hearing panel, he/she shall remain available to the panel for process and procedural questions.

   b. The hearing panel will meet to review the written Appeal (including all the underlying documentation, as applicable) within the context of the three (3) grounds for appeal set forth above. The hearing panel, by a majority vote, may decide on the basis of the written documentation that the Appeal does not satisfy at least one of the three grounds for an Appeal. In such cases, the hearing panel will promptly forward its written decision to the Chair of the College Appeal Committee.

      i. The Chair shall then inform the Appellant and the Office that received the Appeal of the decision of the hearing panel.

      ii. This decision of the Hearing panel is final and no further Appeal is permitted.

   c. If and only if the hearing panel decides that one or more of the three grounds for an Appeal are met, the Chair, at the request of the hearing panel, will promptly schedule a hearing and the Chair will also inform any other party to the Appeal of the existence of the Appeal and the grounds therefore. The hearing will not revisit the entire matter, but will be limited to addressing the ground(s) for the Appeal that the hearing panel has accepted as satisfying one or more of the three enumerated grounds for appeal. At this hearing, the burden of proof will be on the Appellant to establish the foundation for the Appeal using a preponderance of the evidence information standard. The hearing will be a closed meeting, including only those persons whom the hearing panel deems necessary to address the grounds for the Appeal. Witnesses will be present only when their testimony is
being taken. There shall be no recording or transcription of the hearing or the deliberations of the hearing panel.

d. The Appellant may have an advisor present. The Appellant may choose anyone who is not directly involved in the case to serve as his/her advisor. The role of an advisor is to support the Appellant, but the advisor may not represent the Appellant during the hearing. The Appellant may speak quietly with his or her advisor or request a short break in order to speak.

e. If the other party to the original matter (the non-appealing complainant or respondent; also referred to as the "Appellee") appears before the hearing panel, he/she is entitled to have an advisor present.

f. The hearing panel will make a recommendation concerning the Appeal based on a majority vote. The hearing panel has no restrictions upon it as to what it may recommend: from a finding that the Appeal is not established and thereby rejecting it, to a finding that the original determination was incorrect, to a different sanction, to further investigation. The hearing panel shall promptly place its recommendation in writing and provide it to the Chair of the College Appeal Committee.

g. Promptly after receipt of the written recommendation of the Hearing Panel, the Chair of the College Appeal Committee will provide the President of the College with the panel's recommendation. If the President is the complainant or the respondent in the original matter, the Chair will advise the Board of Trustees (through its Chair) of the hearing panel's recommendation instead of the President.

h. The President (or the Board of Trustees in accordance with subparagraph g above), will review promptly the recommendation of the hearing panel. The President (or the Board of Trustees in accordance with subparagraph g above) is not bound by the recommendation of the hearing panel. The President (or the Board of Trustees in accordance with subparagraph g above) will determine the resolution of the Appeal, including the sanction, if any. This decision is final.

i. The Appeal and other processes set forth above are the only processes available to an employee (including a faculty member) accused of violation(s) of the "Policy on Sexual Harassment, Sex Discrimination, and Sexual Misconduct." Faculty members are advised that none of the following are applicable in such cases: the Grievance Procedures, the Student-Faculty Grievance Procedure, and the Termination for Cause provisions of the Faculty Policies Manual.

IX. INFORMAL RESOLUTION.

In some cases, the complainant or the respondent may request that the parties attempt to reach an informal resolution of a complaint rather than proceeding with formal judicial/student conduct proceedings. If both the complainant and the respondent request to participate in this process, a College administrator will be designated to meet with both parties (separately or together, as
appropriate) and attempt to facilitate an appropriate resolution to the matter. If the complainant or the respondent withdraws their consent to participate in this process before the process is concluded, if the parties cannot agree on an appropriate resolution (including, without limitation, any sanctions to be imposed), or if the designated administrator determines that the resolution agreed on by the parties is not in the best interests of the College, its students and/or other members of the campus community, the case will proceed through the formal resolution process. In some cases, a mediated resolution may not be appropriate even if the complainant and respondent are willing to resolve in mutual ways.

X. SANCTIONS

The Vice President overseeing the Respondent will review the report of the investigation and will make a determination, using a preponderance of the information standard, as to whether College policy has been violated and, if appropriate, what disciplinary action is to be administered. In making this determination, the Vice President may consider past violations and sanctions against the Respondent and/or other similarly situated persons. If harassment or other violation is found to have occurred, immediate and appropriate action will be taken to stop the harassment or other violation, prevent its recurrence, and correct its effects. Both the Complainant and the Respondent will be simultaneously informed, in writing, as to whether it has been determined that a policy has been violated, and if so, what sanction has been levied.

A student found responsible for violating this policy may be assigned sanctions that include, but are not limited to, disciplinary probation, residence reassignment, no-contact directive, College suspension, or College expulsion. Not all forms of violations of this policy will be deemed equally serious offenses, and the College reserves the right to impose differing sanctions, ranging from verbal warning to dismissal, depending on the severity of the offense. The College will consider the concerns and rights of both the complainant and the respondent of violations of this policy when making determinations. Only after a student has been found responsible will previous student conduct history be considered.

A faculty member, administrator or staff member found responsible for violating this policy may be assigned sanctions that include any form of responsive action or progressive discipline as set forth in the relevant handbook, including training, referral for counseling and/or disciplinary action such as warning, reprimand, withholding of a promotion or pay increase, reassignment, temporary suspension without pay or termination.

Some of the prohibited conduct referred to herein are criminal acts, which also subjects the alleged offender to prosecution under Pennsylvania criminal statutes.

XI. STATEMENT ON RETALIATION

College policy and federal and state anti-discrimination laws prohibit retaliation against anyone involved (complainant, respondent, witness, etc.) in the investigation of a claim of harassment and/or discrimination. The College prohibits retaliation against any person who reports alleged sexual or other unlawful harassment and/or discrimination or who testifies, assists, cooperates, or participates in an investigation or other proceeding related to making a sexual or other unlawful harassment and/or discrimination complaint. Retaliation includes, but is not limited to, any form
of intimidation, reprisal, or harassment. The College will take action in response to any report of retaliation.

_Last Revision: September 2, 2019_