

## LINCOLN UNIVERSITY

<b>Policy:</b>	<b>Non-Discrimination and Harassment – Employment</b>
<b>Policy Number:</b>	<b>HRM – 125</b>
<b>Effective Date:</b>	<b>November 2020</b>
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### 1. POLICY STATEMENT

Lincoln University has a policy of nondiscrimination in all of its employment programs or activities. The University is committed to equal employment opportunity, nondiscrimination, and affirmative action in employment in accordance with all applicable federal, state, and local laws and regulations, including but not limited to the Civil Rights Act of 1964, *as amended*; the Pennsylvania Human Relations Act, *as amended*; the Equal Pay Act; the Americans with Disabilities Act of 1990, *as amended*; Age Discrimination in Employment Act, *as amended*; relevant sections of the Violence Against Women Reauthorization Act; the Rehabilitation Act of 1973, *as amended*; and the Vietnam Era Veterans Readjustment Assistance Act of 1974.

Lincoln University is committed to maintaining a safe and healthy work environment in which no member of the University community is, on the basis of race, color, national origin, sex, gender identity, gender expression, sexual orientation, disability, veteran status, predisposing genetic characteristic, age, religion, pregnancy status or any other characteristic protected by University policy or state, local, or federal law. Gender-based and sexual harassment, including sexual violence, are forms of sex discrimination in that they deny or limit an individual's ability to participate in or benefit from University programs or activities.

The fulfillment of Lincoln University's mission is tied deeply to access, opportunity, and cross-institutional collaboration. The Lincoln University community serves and partners with a broad array of internal and external constituents from a variety of communities, near and far, of all ages, in an intentionally open environment. Inherent to fulfilling the University's mission is the recognition by all who serve the institution that there is a human obligation to provide safety for all persons of all ages who participate in its programs.

Lincoln University explicitly condemns sexual harassment as a violation of an individual's human rights and dignity and as a form of discrimination based upon sex.

All members of the University community, including employees, are stewards of these relationships and must recognize the differences of power that often exist in them. As members of the community, we all have the responsibility to protect those who are in a position of vulnerability. This is fulfilled when all individuals share in accountability for this obligation. In this way, members of the University community accept and endorse the basic principle of safety that supports our institutional commitment to access, opportunity, and cross-institutional collaboration, all of which exists to serve the core mission.

Various policies of the University are concerned with the conduct of the members of the community, and the University will make sure that the procedures regarding behavior and accountability are in accordance with this statement. Therefore, the policy of Lincoln University is that members of the University community neither commit nor condone unlawful harassment or discrimination in any form. This prohibition applies to all staff, faculty and students, to all other persons on the premises subject to University control and to those engaged to further the interests of the University. This policy addresses those requirements as they apply specifically to employees of the University. Employees are also required to follow the standards of behavior of the University's Title IX policy as well as the University's policy regarding Sexual and Gender-Based Harassment. Other University policies and procedures as outlined in the Student Handbook address these principles as they apply to the conduct of students.

Employees violating University policies prohibiting unlawful discrimination or harassment shall be subject to disciplinary action up to, where appropriate, separation from employment. Unlawful harassment and discrimination in certain situations may also subject those who engage in it to civil and criminal penalties.

## **2. ABOUT THIS POLICY**

The purpose of this Policy is to ensure that the University's employment policies are applied and interpreted in ways consistent with applicable law and the mission of the University. This Policy will be revised from time to time as necessary to reflect changes in applicable law. If and to the extent any existing University policy conflicts with this Policy, the more restrictive Policy controls.

This Policy is intended as a guideline to assist in the consistent application of University policies and programs for employees. The Policy does not create a contract, implied or expressed, with any Lincoln University employees. Lincoln reserves the right to modify this Policy in whole or in part, at any time, at the discretion of the University.

### **3. PROHIBITED HARASSMENT AND DISCRIMINATION**

#### **3.1 Definition of Unlawful “Discrimination”**

3.1.1 “Discrimination” for the purposes of this Policy includes any conduct that violates this Policy or that constitutes unlawful discrimination under any federal, state or local law. Lincoln University is an equal-opportunity, affirmative-action institution. The University prohibits discrimination and harassment based on race, color, creed, religion, sex, national origin, citizenship, ethnicity, marital status, age, disability, sexual orientation, gender identity and gender expression, genetic information, veteran status, or any other status protected by applicable law to the extent prohibited by law. This nondiscrimination policy covers employment. Other University policies cover admissions, educational opportunities and the conduct of students.

#### **3.2 Definition of Unlawful “Harassment”**

3.2.1 Unlawful harassment is harassment that refers to or is based upon the protected status of the person or persons being harassed, as defined by relevant federal, state and/or local law. Unlawful harassment in the work and educational environment is created if conduct of another person is sufficiently serious that it interferes with an employee’s ability to perform their job or denies or limits a student’s ability to participate in or benefit from the University’s programs and thus creates a hostile work or learning environment. Please see the University’s separate policy with regard to sexual and gender-based harassment.

#### **3.3 Retaliation Prohibited**

3.3.1 The University prohibits retaliation against any individual who in good faith makes a complaint of discrimination or harassment, for cooperating in an investigation of such a complaint, for opposing discriminatory practices, or participates as a witness in a proceeding under this or any other University policy.

3.3.2 Retaliation can manifest through direct actions, including, but not limited to, demotions, terminations and unfair grading, or subtler behavior, such as an increased work load, being transferred to a less desirable work location or being denied access to certain course materials or resources typically provided to other individuals.

- 3.3.3 Any University member who retaliates against an individual involved in any proceeding under this or any other University policy, may be subjected to disciplinary action.

#### **4. THE UNIVERSITY'S COMPLAINT PROCEDURE FOR EMPLOYEES**

Any employee who witnesses or is subject to inappropriate conduct in the workplace may complain to their supervisor or Human Resources. Any supervisor, manager, or administrator who receives a complaint about, hears of, or witnesses any inappropriate conduct is required to immediately notify Human Resources. We encourage employees to come forward with any workplace complaint, even if the subject of the complaint is not explicitly covered by our written policies.

Although there is no time limit on when an employee may bring a complaint, we encourage you to come forward with complaints immediately, so we can take whatever action is needed to address the problem. Once a complaint has been made, Human Resources will determine how to proceed and will depend on the facts and circumstances of each individual complaint.

We expect all employees to cooperate fully in University investigations by, for example, answering questions completely and honestly and giving the investigator all documents and other material that might be relevant. A failure to cooperate with an investigation may result in disciplinary action.

All complaints will be handled as confidentially as possible and information will be disclosed only on a "need to know" basis. When the investigation is complete, the University will take remedial action to the extent determined by the University to be appropriate.

Retaliation against any employee who makes a good-faith complaint or participates in an investigation is strictly prohibited. This includes retaliation by students, faculty, staff, and third parties. If you believe that you are being subject to any kind of negative treatment because you made a complaint or participated in an investigation, report the conduct immediately to your supervisor or Human Resources.

##### **4.1 Procedures for Complaints against Students, Faculty and Staff**

4.1.1 The University has distinct procedures for the investigation and resolution of:

- (a) complaints against students (Summarized in the Title IX Policy and the Student Handbook);
- (b) complaints against employees (Summarized in this Policy and the Employee Handbook).

#### 4.1.2 Complainant and Respondent Designations

- (a) The “Complainant” is the individual who brings forward the complaint about an alleged violation of the Policy.
- (b) The “Respondent” is the individual who is the alleged perpetrator as identified by the complainant. The appropriate procedural mechanism and relevant office(s) which should be engaged in filing a complaint is determined by the Respondent’s University status (i.e., student, faculty, staff, etc.).
- (c) Any community member may make a complaint pursuant to the policies applicable to them. The applicable procedure for remedying a complaint depends on whether the accused is a student or employee, or someone else. A complaint made against an individual accepted to the University but not yet matriculated will be investigated in accordance with the procedures applicable to students, to the extent possible given the unique facts and circumstances. The Dean of Students or the Title IX Coordinator may decide to conduct matters that occur prior to matriculation.

#### 4.2 Procedures for Complaints against Non-Community Members

- 4.2.1 Employees may make complaints relating to the conduct of a contractor, visitor or other non-campus member that creates a hostile environment or is otherwise inconsistent with the nondiscrimination standards of this Policy by contacting the Human Resources Office. If harassment is perpetrated by a non-employee assigned by a contractor, the supervisor or other appropriate individual in the chain of command shall investigate and take appropriate remedial action. (Conduct potentially arising to a criminal level, of course, should be immediately reported to the Department of Public Safety.)

#### 4.3 Investigation of Complaints

- 4.3.1 Upon the receipt of a complaint, the University will initiate the applicable procedure to ensure prompt investigation. Generally, investigation of complaints relating to employees are overseen by the Office of Human Resources.
- 4.3.2 The following clarifies the University’s process for investigating complaints by employees against students. A complaint by an

employee that a student has committed any act of harassment or discrimination may be made to the Human Resources Office, the Title IX Coordinator, the Department of Public Safety, or Dean of Students. The University will determine, based on the specific circumstances, which office or offices will handle the investigation. In cases involving sexual or gender-based harassment or sexual misconduct that may arise to the level of criminal conduct, Department of Public Safety or the Oxford Police Department conducts the investigation.

#### 4.4 Determining Violation(s) of the Policy

4.4.1 Factors to be considered in determining whether and the extent to which behavior(s) could be construed as a policy violation may include, but are not limited to:

- (a) Frequency
- (b) Severity or pervasiveness of the conduct
- (c) Whether it is physically threatening
- (d) Degree to which the conduct interfered with an employee's work performance or a student's academic performance and/or full enjoyment of the academic/campus programs and services
- (e) The relationship between the alleged harasser and the subject or subjects of the harassment

4.4.2 The severity or pervasiveness of the conduct is considered from both subjective and objective perspectives (the conduct is viewed as hostile and abusive by both a "reasonable person" and the person who is subjected to the conduct).

4.4.3 This Policy is intended to comply with and shall be interpreted consistently with all relevant federal, state and local laws.

#### 4.5 Remedial Action

4.5.1 The exact nature of responsive action depends on the circumstances, but may include discipline up to and including suspension or dismissal from the University for a student who is found to have violated University policies; and disciplinary action up to and including discharge from employment for a faculty or staff member found to have violated University policies; or a ban from

University property. In some cases, remedial action will be considered during the investigation period itself if interim action is necessary. In some cases, at the conclusion of the investigation, there may be lingering effects of discrimination/harassment. The University will remedy those situations as appropriate and will take other steps to prevent further discrimination or harassment.

#### 4.6 Informal Complaint Procedure

The goal of the informal complaint procedure is to resolve problems.

- 4.6.1 Under the informal complaint procedure, complainants may consult with the Human Resources Officer.
- 4.6.2 Informal complaints may have several outcomes. The person raising the issue may only want to discuss the matter with a neutral party in order to clarify whether discrimination may be occurring and to determine his or her options, including the pursuit of more formal action. In such a situation, the Human Resources Officer will give assistance and offer suggestions as to how the issue might be resolved, without drawing a conclusion as to whether discrimination has occurred. In other cases, the Officer may be asked to serve as a mediator, to talk to the other person(s) to see whether an informal resolution of the issue can be reached. The supervisor or department chairperson of the other person(s) in the dispute may be notified that an informal complaint has been received, but that no investigation has taken place. A written record of this complaint will be made and maintained by the Human Resources Officer. If a written record is made and/or the supervisor is notified that an informal complaint has been made, the subject of the complaint must be notified and given the opportunity to provide a response for the written record. If resolution is reached by this process, no further action(s) will be taken and the matter will be considered closed. Issues not so resolved may require that further inquiries be made and/or that supervisors or department chairs take a more active role in finding a solution to the problem. Whenever possible complaints will be handled at the lowest level possible. Supervisors should consult with Human Resources prior to any final resolution.

#### 4.7 Implementing Provisions

4.7.1 The University will implement the following:

- (a) The University will take appropriate action (i.e., an investigation, adjudication and disciplinary and

remedial/corrective steps) in response to a complaint made pursuant to the complaint policies/procedures listed above. The University will make every effort to handle complaints and investigations with sensitivity to both the rights of the person who complains and the rights of the accused.

- (b) The University handles complaints discreetly and attempts to maintain privacy throughout the investigatory process, to the extent practicable and appropriate under the circumstances. However, in order to conduct an investigation, it is generally necessary to discuss the allegations with the accused and other potential witnesses. Additionally, the University may have legal obligations to disclose information to law enforcement or in the context of legal proceedings.
- (c) Complaints may be made anonymously. While the University endeavors to investigate all complaints, including anonymous complaints, the nature of anonymous complaints makes investigation, determination and remediation more difficult and, at times, impossible. Further, while the University attempts to protect the identity of complainants who do not wish to be identified, this may not always be possible.
- (d) Occasionally, an individual makes a complaint and later wishes to revoke or discontinue the investigation or adjudication process. Similarly, it may occur that someone other than the individual subjected to the alleged act of discrimination or harassment reports an incident, and the individual declines to participate in the investigation or adjudication process. In other instances, complaints may be received anonymously and/or the individual may not wish to be personally identified. In these situations, the University attempts to investigate and address complaints in accordance with the individual's wishes. However, the University may not always be able to do so. In order to protect the community, the University may be obligated to investigate and adjudicate serious incidents even where the individual would prefer otherwise. The University reserves the right to take action in response to any incident that comes to its attention.

#### 4.8 Failure to Cooperate

4.8.1 Failure to cooperate in the investigation of a formal complaint will be considered a breach of responsibility or insubordination and may result in disciplinary action. Furthermore, silence or lack of cooperation by a complainant, respondent or any witnesses will not prevent a complaint from going forward.

#### 4.9 Deliberate Fabrication of Evidence or Bad Faith

4.9.1 If, at the conclusion of an investigation, it is determined that a complainant, respondent, or witness knowingly gave false or misleading information or filed a complaint in bad faith, it may be recommended that the individual be subjected to disciplinary action.

### 5. **ACADEMIC FREEDOM CONSIDERATIONS**

These procedures are not intended to inhibit or restrict free expression or exchange of ideas within the bounds of the principles of Academic Freedom.

***Questions about this Policy should be addressed to:***

***The Office of Human Resources  
1570 Baltimore Pike  
Lincoln University, PA 19352  
484-365-7595***