



STUDENT SEXUAL MISCONDUCT AND INTERPERSONAL VIOLENCE POLICY

A. PURPOSE/POLICY STATEMENT

This Sexual Misconduct and Interpersonal Violence Policy (“Policy”), including all principles, and processes contained herein, shall exclusively govern any incident raising concerns of harassment and/or discrimination based on race, color, sex, sexual orientation, gender identity, religion, creed, national or ethnic origin, citizenship status, age, disability, veteran status or any other legally protected class status *that is not* aviolation of Title IX of the Education Amendments of 1972, including sexual misconduct of any nature, gender-based discrimination, retaliation, domestic violence, dating violence, stalking or sexual assault where a student (from the time of acceptance of admission) is identified as a potential respondent. This Policy governs conduct both on and off La Salle University’s campus, and also governs conduct that occurs while students are on a leave of absence or studying abroad. It also includes conduct that occurs when students are not officially enrolled during a particular term if they have a continuing relationship with the University. This Policy will apply to a student’s behavior even if the student withdraws or graduates from the University while a disciplinary matter is pending. La Salle University reserves the right to investigate and adjudicate complaints under this Policy irrespective of actions taken (or not taken) by other institutions or law enforcement agencies.

Violations of Title IX of the Education Amendments of 1972 are addressed through the University’s Title IX Policy.

The procedures set forth in this Policy do not apply to faculty and staff. Any faculty and/or staff accused of violating the standards set forth in this Policy shall be subject to the procedures set forth in the University’s Equal Opportunity and Anti-Harassment policy. If a student worker is accused of violating this Policy, the University will determine whether the alleged conduct occurred primarily in the student’s capacity as a student or as a staff member and proceed under the appropriate policy at LaSalle University’s sole discretion. Non-La Salle University community members may report violations of this Policy and the report will be addressed in accordance with the procedures below. However, a non-La Salle University community member’s role in the University’s investigatory and disciplinary procedures may be limited. La Salle University’s support resources are available only to members of the La Salle University community. If an individual’s status with the University (i.e., student, staff, faculty member, non-community member) has changed from the time of the alleged policy violation to the time of complaint, the University will determine which policies will apply.

To the extent this Policy conflicts with any another University policy, principle, and/or process, this Policy shall govern.

B. DEFINITIONS

- a. **Sexual Misconduct:** Sexual misconduct is an action or course of actions that violate the rights of others and demonstrate flagrant disregard for the principles of this community. La Salle University seeks to prevent all forms of sexual misconduct and desires to establish and

maintain a safe and healthy environment for all members of the community through sexual misconduct prevention, education, support, and a fair adjudication process. The use of alcohol and/or other drugs does not minimize or excuse a person's responsibility for conduct that violates this Policy. Sexual misconduct may include sexual assault, sexual exploitation, dating/domestic violence, stalking, and/or harassment. The definitions below are intended to provide clarity, and do not suggest that one behavior is more severe or violating than the other.

- b. **Coercion:** Coercion is defined as compelling someone to act by applying pressure, harassment, threats, intimidation, or other actions a reasonable person would consider to be coercive.
- c. **Consent:** Consent means words or actions, freely and actively given by each party, which a reasonable person would interpret as a willingness to participate in agreed-upon sexual conduct. Consent is not present or valid when:
 - a. a person is incapable of giving consent because they are incapacitated by drugs and/or alcohol;
 - b. when intimidation, threats, physical force, or other actions that a reasonable person in that person's circumstances would consider coercive are applied;
 - c. when that person is placed in fear that any person will suffer imminent bodily injury;
 - d. when a physical or mental condition is present such that the person cannot knowingly or voluntarily give consent; or
 - e. when a person is under the age of consent, which in the Commonwealth of Pennsylvania is 16 years old.

Silence, non-communication, or a lack of resistance does not necessarily imply consent. Previous relationships or consent do not imply consent to future sexual conduct. Consent to one form of sexual activity does not imply consent to other forms of sexual activity. Consent can be rescinded at any time.

The use of alcohol and/or drugs does not minimize or excuse a person's responsibility for committing sexual misconduct, or that person's responsibility for determining whether another is capable of giving consent.

An objective standard will be used in determining whether a person is incapable of giving consent due to the person's incapacitation by the use or consumption of drugs and/or alcohol, or if a physical or mental condition as described above is present. That is, consent is not present or valid when:

- a. The person was, in fact, incapable of giving consent because the person was incapacitated by the use or consumption of drugs and/or alcohol such that the person could not understand the fact, nature, or extent of the sexual situation, or the person was incapable of providing knowing or voluntary consent due to a physical or mental condition; and
- b. From the standpoint of a reasonable person, the Respondent knew, or reasonably should have known, that the person was incapable of giving consent because the person was incapacitated by the person's use or consumption of drugs and/or

alcohol such that the person could not understand the fact, nature, or extent of the sexual situation, or that the person's physical or mental condition would prevent knowing and voluntary consent.

- d. **Complainant:** The Complainant is an individual who is alleged to be the victim of conduct that could constitute a violation of this Policy. In some cases (such as, e.g., cases in which a person involved in an incident of alleged sexual misconduct, domestic or dating violence or misconduct, stalking, or related retaliation does not wish to participate in the process but La Salle University decides that the alleged misconduct needs to be investigated), La Salle University may pursue an investigation and adjudication under this Policy without a designated complainant. In these cases, La Salle University may extend some or all of the rights of a complainant as defined in this Policy to affected parties as deemed appropriate by the Vice President for Student Affairs and Enrollment Management.
- e. **Respondent:** The Respondent is an individual who has been reported to be the perpetrator of conduct that could constitute a violation of this Policy. For ease of reference, the term "respondent" is also used throughout this Policy to refer generally to an individual who allegedly engaged in prohibited conduct as defined in this Policy.
- f. **Supportive Measures and Accommodations:** Supportive Measures are actions that the University may take in order to maintain protect the health and safety of the community. At any time during the process described in this Policy, the University may take interim steps to provide for the rights and safety of the complainant and respondent parties, as well as the campus community. These may include, but are not limited to, interim suspension from the University and/or interim removal from housing, adjustments to academic classes or University residence assignments for the complainant or the respondent, access to University facilities, the issuance of no-contact orders, etc. Interim measures may be modified throughout this process, and may in some instances last beyond the investigation and adjudication of a complaint. Restrictive measures are used only when deemed necessary. Students wishing to access such services during or after the investigation should contact the Vice President for Student Affairs and Enrollment Management. Students who are subjected to Interim Measures may request a review of those measures by contacting the Assistant Vice President for University Life.

1. **Emergency Removal**

When there is an actual or perceived threat to the rights and safety of either party or the campus community, based on a threat assessment completed by University Public Safety, the University may issue an Emergency Removal. At the discretion of the Director of Student Conduct, students who are removed from campus in this manner may be prohibited from attending classes or exams, residing in University owned housing, or being present on campus for any purpose but to respond to matters related to the conduct case and with prior permission from the Director of Student Conduct or University Public Safety.

2. **No Contact Order**

When a violation of this Policy has been alleged, or when otherwise deemed appropriate under the circumstances, the University may issue No Contact Orders to the students involved. A No Contact Order is used to restrict encounters and communications between individuals. No Contact Orders can be issued whether or not disciplinary action is taken and may remain in effect after the adjudication of a conduct case, regardless of the findings. While a No Contact Order in and of itself does not constitute discipline and will not appear on a student's disciplinary record, refusal to adhere to the order after written or verbal notification of its terms is prohibited and may result in disciplinary action, including suspension or expulsion.

3. **Persona Non-Grata**

The University may also initiate a no-trespass/ *persona non-grata* (PNG) status, indicating that an individual is not welcome on University property and could face criminal arrest for trespassing.

4. **Academic Accommodations**

The University may assist students with a variety of academic accommodations such as changing class schedules, providing alternate exam locations, and having relevant absences excused.

5. **Housing Accommodations**

Pending availability, the University can assist students with housing accommodations such as providing an alternate living space on campus or emergency housing for off-campus students.

6. **Safety Plans**

The University will assist students in developing personal safety plans for both on and off-campus.

7. **Counseling**

Both parties can access counseling services through the Student Wellness Services and University Ministry and Support.

C. Prohibited Behaviors under this Policy

- a. **Sexual Assault:** Sexual assault may be actual, or attempted, rape, fondling without consent, incest, statutory rape, as defined in the Clery Act and below:

- a. Rape is 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.
- b. Fondling is the touching of the private body parts of another person for the purpose of sexual gratification, without the consent (as defined below) of the victim, including instances where the victim is incapable of giving consent because of their temporary or permanent mental incapacity.
- c. Incest is sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law in the applicable jurisdiction.
- d. Statutory rape is sexual intercourse with a person who is under the statutory age of consent in the applicable jurisdiction.

Sexual assault can be committed by any person against any other person, regardless of gender, gender identity, sexual orientation, or past or current relationship status. Sexual assault may occur with or without physical resistance or violence.

- b. **Sexual Exploitation:** Sexual exploitation occurs when a person takes non-consensual, sexual advantage of another person for the benefit of anyone other than that other person. Examples of behavior that could constitute sexual exploitation include, but are not limited to the following:
1. Intentional non-consensual contact with the private body parts of another person that does not meet the definition of behaviors prohibited under the definition of "Sexual Assault," above;
 2. Prostituting another person;
 3. Recording or capturing through any means images (e.g., video, photograph) or audio of another person's sexual activity, intimate body parts, or nudity without that person's consent;
 4. Distributing images (e.g., video, photograph) or audio of another person's sexual activity, intimate body parts, or nudity, if the individual distributing the images or audio knows, or reasonably should have known, that the person(s) depicted in the images or audio did not consent to such disclosure and object(s) or would object to such disclosure;
 5. Viewing another person's sexual activity, intimate body parts, or nudity in a place where that person would have a reasonable expectation of privacy, without that person's consent, if the individual viewing the other person's or persons' sexual activity, intimate body parts, or nudity in such a place knows, or reasonably should have known, that the person(s) being viewed would object to that.
 6. Exposing one's genitals without the consent of the other parties.
 7. Knowingly exposing another person to a Sexual Transmitted Infection without their consent.
- c. **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 person subjected to the violence. The existence of such a relationship shall be determined based on the complainant's statement and with consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship.

For the purposes of this definition, dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse, if the involved individuals are, or have been, dating as determined using the criteria listed above.

For the purposes of this definition, violence means conduct that involves the use, or threatened use, of physical force against a person, or creates a reasonable belief that physical force may be used against a person in the course of the conduct.

Dating violence does not include acts covered under the definition of domestic violence stated below.

- d. **Domestic Violence:** Domestic violence is violence committed by:
1. a current or former spouse or intimate partner of the person subjected to the violence;
 2. a person with whom the person subjected to the violence shares a child in common;
 3. a person who is cohabitating with, or has cohabitated with, the person subjected to the violence as a spouse or intimate partner;
 4. a person similarly situated to a spouse of the person subjected to the violence under the domestic or family violence laws of the jurisdiction in which the violence occurred; or
 5. any other person against an adult or youth who is protected from that person's acts under the domestic or family violence laws of the jurisdiction in which the violence occurred.

For the purposes of this definition, domestic violence includes but is not limited to sexual or physical abuse or the threat of such abuse, if involving individuals who are or have been in a domestic relationship as defined above.

For the purposes of this definition, violence means conduct that involves the use, or threatened use, of physical force against a person, or creates a reasonable belief that physical force may be used against a person in the course of the conduct.

- e. **Harassment:** Harassment is verbal, written, visual, or physical conduct based on or motivated by an individual's actual or perceived sex, sexual orientation, gender identity or expression, race, creed, color, place of birth, ancestry, ethnicity, religion, national origin, age, disability, marital status, or other characteristics as defined and protected by law that has the purpose or effect, from the point of view of a reasonable person, of objectively and substantially: (a) undermining and detracting from or interfering with an individual's educational or work performance or access to University resources; or (b) creating an intimidating, hostile, or offensive educational, work, or living environment. Harassment may include repeated slurs, or taunts in the guise of jokes, or disparaging references to others, use of epithets, stereotypes, comments, gestures, threats, graffiti, display or circulation of written or visual materials, taunts on manner of speech, and negative reference to customs when such conduct is based on or motivated by one or more of the protected characteristics identified above, or other characteristics protected by applicable law.
- f. **Discrimination:** Discrimination is adverse conduct directed at an individual based on race, creed, color, place of birth, ancestry, ethnicity, national origin, religion, sex, sexual orientation, gender identity or expression, age, marital status, genetic information, disability and/or any other status or characteristic protected by applicable law.

- g. **Stalking:** Stalking is defined as 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.

For the purposes of this definition:

- a. Course of conduct means two or more acts, including, but not limited to, acts in which the alleged stalker directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with a person's property.
- b. Reasonable person means a reasonable person under similar circumstances and with similar identities to the person subjected to the stalking.
- c. Substantial emotional distress means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling.
- d. Examples of stalking behaviors or activities include, but are not limited to the following, if they occur in the context of stalking as defined above:
 1. Non-consensual communication, including face-to-face communication, telephone calls, voice messages, e-mails, text messages, written letters, gifts, or any other communications that are unwelcome.
 2. Use of online, electronic or digital technologies in connection with such communication, including but not limited to:
 - a. Posting of pictures or text on social media or other websites;
 - b. Sending unwanted/unsolicited e-mail or talk requests;
 - c. Posting private or public messages on Internet sites, social media, or in other public spaces.
 3. Non-consensual surveillance of another, including, but not limited to:
 - a. Installing spyware on a person's computer;
 - b. Using Global Positioning Systems (GPS) or similar technology to monitor a person;
 - c. Pursuing, following, waiting for, or showing up uninvited at or near a residence, workplace, classroom, or other places frequented by the person;
 - d. Other types of observation including staring or "voyeurism";
 - e. Trespassing;
 - f. Vandalism;
 - g. Gathering information about an individual from friends, family, or co-workers;
 - h. Accessing private information through unauthorized means
 4. Additional stalking behaviors can include, but are not limited to:
 - a. Non-consensual touching that is not covered under Sexual Assault or Exploitation;
 - b. Direct verbal or physical threats;
 - c. Threats to harm self or others;

d. Defamation and/or lying to others about the person; or

5. Using a third party or parties to accomplish any of the above.

h. **Retaliation**

Retaliating directly or indirectly against a person who has in good faith made a report under this Policy or participated in an investigation is prohibited. Retaliation includes, but is not limited to, ostracizing the person, pressuring the person to drop or not support the complaint or to provide false or misleading information, engaging in conduct that may reasonably be perceived to affect adversely that person's educational, living, or work environment, threatening, intimidating or coercing the person, or otherwise discriminating against any person for exercising their rights or responsibilities under this Policy. Depending on the circumstances, retaliation may also be unlawful. Retaliation under this Policy may be found whether or not the underlying complaint is ultimately found to have merit. In the event an individual believes that he or she has been retaliated against, an investigation will be conducted and appropriate disciplinary action will be taken, if warranted. That investigation may be independent of or may be combined with the existing investigation, as determined by the Director of Student Conduct.

D. POLICY PROCEDURE/GENERAL PRINCIPLES

a. **Reporting Options**

a. **Confidential Reporting Option:** There are options for individuals to confidentially report incidents reasonably believed to be in violation of this Policy. Confidential reporting options will not disclose any details of the report with anyone. At La Salle University, these confidential reporting options are the Student Counseling Center, the Student Health Center, designated individuals in Ministry, Service, and Support, a designated Coordinator for Sexual Misconduct Advocacy and Education, and a designated Respondent Advocate.

Sharing information with a Confidential Resource will not result in a report to La Salle University or investigatory or disciplinary action against a respondent. Statistical information about confidentially-reported incidents may still be included in the University's annual Clery Act reporting, but such statistical information will not include any identifying information about any student.

b. **Reporting to a non-Confidential Resource:** All La Salle University faculty and staff who are not listed above as Confidential Resources are required by the University to report information received relating to violations of this Policy. Faculty and staff receive annual notification and training regarding their duty and obligation to report knowledge of sexual misconduct involving a member(s) of the campus community and are instructed to report any such acts to the Vice President for Student Affairs and Enrollment Management, who has been specifically trained to receive and respond to allegations of violations of this Policy. Students who have experienced a

violation of this Policy and would like La Salle University to respond by offering resources and/or investigating the incident should fill out a report of Sexual Misconduct in the MyLaSalle Portal or contact the Coordinator for Sexual Misconduct Advocacy and Education.

- c. **Confidentiality and Privacy:** Only Confidential Resources can offer confidentiality. However, even non-Confidential Resources (such as faculty and staff members) will maintain privacy to the greatest extent possible. Privacy is not confidentiality; if reported to a non-Confidential Resource, confidentiality cannot be guaranteed and there may be circumstances in which the University may need to investigate a report of a violation of this Policy and take appropriate actions to fulfill its legal obligations, even if the complainant wishes to maintain confidentiality or to not pursue an investigation and adjudication of an incident violating this Policy. The determination of when to proceed with an investigation or adjudication against the complainant's wishes shall be at the discretion of the University based on the facts and circumstances of the case, including, but not limited to, the health and safety of the complainant, the health and safety of others, the safety of the campus community, and the rights of the parties.

The information provided to a non-Confidential Resource will be shared only as necessary for an investigation and/or to seek resolution. To the extent practicable, non-Confidential Resources will inform a potential complainant of their responsibility to report any case of a potential violation of this Policy and the options for confidential reporting on campus. At that time, the potential complainant can decide to move forward and share the information with the non-Confidential Resource or choose to access a Confidential Resource.

b. Timeliness of Report or Complaint

The University will take prompt and appropriate steps to respond to complaints of a violation of this Policy. While there is no time limit for reporting a violation of this Policy, the complainant is encouraged to report any incident as soon as possible in order to maximize the University's ability to respond and investigate promptly and effectively.

c. Timeliness of Investigations

The investigation generally will take no longer than 120 days; however, complex cases, the availability of witnesses, and other exceptional circumstances may require additional time and/or the modification of the timeframes described herein. If there are delays in the investigation, the Director of Student Conduct or other appropriate individual will notify the parties of the delays and explain the circumstances causing the delays.

La Salle University is not obligated wait for the conclusion of a criminal investigation or proceeding to begin its own investigation and resolve complaints under this Policy. The University will, however, comply with valid requests by law enforcement in a criminal investigation. As such, La Salle University may need to temporarily delay an investigation under this Policy while law enforcement is in the process of gathering evidence. Once law enforcement has completed its gathering of evidence, the University will promptly resume and complete its investigation.

d. **Standard of Proof**

La Salle University addresses reports of a violation of this Policy using a preponderance of the evidence standard, meaning that the outcome will be based on a conclusion of what was more likely than not to have occurred. Formal rules of evidence do not apply to investigations or adjudications under this Policy.

e. **Prior Sexual History**

The complainant's or respondent's past sexual history generally may not be referenced throughout the process described herein, except that either party (complainant or respondent) may reference a prior sexual relationship between the complainant and the respondent. Sexual history that relates to past complaints or findings of responsibility under this Policy may be considered when determining an appropriate sanction if a respondent is found responsible.

f. **Mental Health Diagnosis and/or Treatment**

Both the reporting and responding parties have the right to exclude information relating to their own mental health diagnosis and/or treatment. It should be noted however, that in cases where the complainant's capacity to consent is being assessed, information regarding the use of medication may be relevant.

g. **Role of Alcohol and Other Drug Use**

La Salle University's primary concern is ensuring that individuals feel comfortable reporting a complaint. The health and safety of every student at La Salle University is of the utmost importance. La Salle University recognizes that students who have been drinking and/or using drugs (whether such use is voluntary or involuntary) at the time that an alleged violation of this Policy occurs may be hesitant to report such incidents due to fear of potential consequences for their own conduct. The University strongly encourages students to report an alleged violation of this Policy to the appropriate La Salle University official. A complainant, bystander, or witness acting in good faith that discloses any incident of an alleged violation of this Policy to a responsible employee or law enforcement will not be subject to La Salle University's code of conduct for violations of alcohol and/or drug policies (see Alcohol & Other Drugs Policy) occurring at or near the time of the commission of the alleged violation of this Policy.

The consumption of alcohol and/or use of other drugs, in and of itself, is not an excuse for a violation of this Policy, but may be considered as a factor in the adjudication of matters under this Policy.

h. **Equal Rights and Opportunities**

To the extent permitted by law, the complainant and respondent will be afforded the same rights and opportunities throughout the investigation and adjudication process, including the opportunity to recommend witnesses, submit evidence, and appeal the outcome of any formal University disciplinary process.

i. **Cooperation of Parties**

The parties to a complaint and/or investigation conducted under this Policy are expected to

cooperate fully with the resolution of the complaint and/or investigation by providing complete, accurate, and truthful information and any potentially relevant documentation in any format. In the event that the complainant chooses not to cooperate, the University may be obligated to continue with an investigation and adjudication. If the respondent chooses not to cooperate with the investigation or adjudication, the adjudication of the complaint will proceed without input or involvement from the respondent. The University will also cooperate with other colleges or universities if the respondent or complainant is from a university other than La Salle University.

j. Cooperation of Witnesses

All witnesses interviewed or contacted in the investigation are required to cooperate fully by providing complete, accurate, and truthful information. They may also be expected to sign statements or other materials documenting the information they provide, and may be asked to keep the substance of the interview confidential. In the event the witness cannot meet in person, the witness will be offered the option to participate electronically via technology. Failure to cooperate fully with the investigation may subject a witness to conduct action up to and including possible suspension or expulsion. Failure to cooperate includes, but is not limited to, providing false, misleading, or incomplete information, failure to provide requested documentation, whether in paper or electronic format, or intentional destruction of relevant or requested evidence.

k. Related Charges under the University's Code of Conduct

In cases where multiple allegations and/or multiple violations arise out of the same event or series of related events, the University shall have the discretion to direct that a single investigation be conducted under procedures set forth in this Policy.

l. Effect of Withdrawal, Transfer, or Degree Conferral While Investigation or Adjudication Pending

In the event that a respondent withdraws or seeks to transfer while an investigation is pending but unresolved, the University may elect to proceed with the investigation in the respondent's absence. In addition, in the University's sole discretion, hold may be placed on the respondent's account during the pendency of an investigation, with no degrees to be awarded or official transcripts to be provided until the investigation has resolved.

m. Role of Advisors and Advocates

a. Advocates

Should they so desire, the complainant and respondent will each be provided one University-designated advocate to assist them through this process if they so choose. All advocates are members of the University community who have been approved by the University to serve in their role as an advocate. The advocates will be available to meet with the reporting party or respondent before and after a hearing, and will also assist in preparation. Advocates, as opposed to advisors, may assist the complainant or respondent during the formal hearing. Students are not

required to work with an Advocate to participate in this process or to access any of the resources provided by the University.

b. Advisors

Both the complainant and the respondent may each be accompanied at any point in this process, including at a hearing or appeal, by one advisor of their choice. Hearings will not be postponed due to the unavailability of the student's advisor of choice.

The complainant and the respondent are responsible for presenting their own information and therefore an advisor is limited to a supportive, non-participatory role and may not speak, write, record, or otherwise communicate on behalf of the complainant or the respondent at any point during this process, including by formulating questions for the party during proceedings. An advisor who fails to comply with these requirements, hinders this process or is otherwise disruptive, may be asked to leave during this process. In cases where the complainant or respondent have chosen legal counsel as advisors, the University reserves the right to have University counsel present as well. The University reserves the right to impose additional parameters on an advisor's role and acceptable conduct throughout this process at its discretion.

n. Making a Criminal Complaint to Law Enforcement

Initiating the University's student conduct process does not preclude reporting the incident to the police. Students have the opportunity at all times, but are not required, to file criminal complaints and student conduct complaints simultaneously. Students who wish to make a police report may contact the Philadelphia Police directly, or may also contact La Salle University Public Safety or a designated University advocate to assist in making such a report.

o. False Reports or Complaints

The intentional reporting of false reports or complaints will not be tolerated and may subject the individual making the false report or complaint to disciplinary action and potential criminal and/or civil liability. A finding of not responsible in and of itself does not constitute a false complaint or report.

p. Investigation and Adjudication of Reported Cases

a. Initial Assessment

1. In most cases, within five (5) business days of receiving notification of a violation of this Policy, Coordinator for Sexual Misconduct Advocacy and Education will contact the complainant and offer to set up a meeting to gather preliminary information about the report or complaint, inform the complainant of the contents of this Policy, provide information about on- and off-campus resources, discuss potential interim measures, provide the

complainant with a link to this Policy, review the conduct process and other relevant procedures (including the University's prohibition against retaliation), as well as provide instructions on how to file a Formal Report with the University.

2. Once a Formal Report is received, the Vice President for Student Affairs and Enrollment Management and Director of Student Conduct shall make an initial assessment of whether, if the complainant's allegations are true, the allegations would constitute a violation of this Policy.
 - a. If the Complainant's allegations, even if true, would not constitute a violation of this Policy, then the Director of Student Conduct shall inform the Complainant of that decision and no formal or informal process will move forward. The complainant will receive this notification in writing and will be provided with instructions on how to appeal this decision. The complainant shall still be offered campus resources and may also be entitled to interim measures. Any doubt as to whether an investigation is warranted should be resolved in favor of proceeding with an investigation.
 - b. If it is determined that the complainant's allegations, if true, would constitute a violation of the Student Conduct of Conduct other than this policy, the allegations will be addressed through the standard procedures outlined in the Student Guide to Rights, Resources, and Responsibilities.
3. If the Director of Student Conduct, in consultation with the Vice President for Student Affairs and Enrollment Management, determines that supportive measures are appropriate, the Director of Student Conduct will impose supportive measures.
4. The Vice President for Student Affairs and Enrollment Management in their discretion will determine whether an informal resolution process is an option under the circumstances presented by the complaint. Informal resolutions will generally not be appropriate for allegations that present significant disputed issues of fact or circumstances, or where the alleged conduct is of a nature that may warrant the imposition of a sanction of suspension or expulsion. Informal resolutions are not eligible for appeal.
 - a. The Informal Resolution Process will only be used if both the Complainant and Respondent agree to an informal resolution.
 - b. At any point in the conduct process prior to a Formal Hearing, either party can request an Informal Resolution. The Vice President for Student Affairs and Enrollment Management and Director of Student Conduct will review the request, may speak with the other party, and will make a determination as to whether or not to offer an Informal Resolution.
 - c. If it is determined that the informal resolution process may be used, the Coordinator for Sexual Misconduct Advocacy and Education and Respondent Advocate will discuss the option of an informal resolution

with the respective parties. If the parties agree to move forward with an informal resolution, the Director of Student Conduct will assign a trained staff member from the Division of Student Affairs and Enrollment Management to facilitate the informal resolution.

- d. An informal resolution will not be used unless both parties agree, and a party will not be required to meet face-to-face with the other party at any time in connection with the process of reaching an informal resolution unless both parties agree.
5. If the Vice President for Student Affairs and Enrollment Management determines that a formal investigation should be conducted, or if either party requests a formal investigation and the Vice President for Student Affairs and Enrollment Management determines that a formal investigation is appropriate, the investigation and adjudication thereof shall be conducted pursuant to the process described immediately below.

b. Formal Investigation

- a. The University's investigation and adjudication process under this Policy is not a legal proceeding. The University's investigation and adjudication process provides a fundamentally fair process as defined and described by the procedures set forth below. This process does not provide for direct contact between the parties, but, as described below, does allow the parties to provide information that they consider relevant to the case.
- b. If the Vice President for Student Affairs and Enrollment Management determines a formal investigation is to be conducted, an investigator will be selected by the Vice President for Student Affairs and Enrollment Management to conduct the formal investigation (the "Investigator(s)").
- c. Following the appointment of the Investigator(s), both parties will be contacted to schedule a meeting with the Investigator(s).
- d. At their respective meetings, the Investigator(s) will notify the complainant and the respondent that they may each submit a written statement to the Investigator(s), addressing the allegations presented in the Formal Report and provide a list of potential witnesses that each party would like the Investigator(s) to interview. The complainant and the respondent may also provide the Investigator(s) with any other relevant evidence they would like the Investigator(s) to consider and may provide the Investigator(s) with lists of specific questions to be asked of the witnesses and/or each another. It is at the discretion of the Investigator(s) to determine the evidence to consider and the witnesses to interview; the Investigator(s) is not required to consider the evidence identified by the parties or to interview any particular witness, even if identified by one of the parties, nor to ask any or all of the questions provided by either party. Additionally, the investigator is not limited to the only witnesses suggested by the complainant and respondent and may interview any additional witnesses they deem relevant.
- e. Within a reasonable amount of time following the above steps, the Investigator(s) shall generate a draft of the completed Investigatory Report and notify the parties. Electronic copies of the draft Investigatory Report will be provided to both parties. The draft Investigatory Report should contain: (1) a summary of the factual

allegations against the respondent; (2) the policy provision the alleged conduct, if true, would violate; (3) summaries of the information obtained by the Investigator(s) from the parties and witnesses; and (4) copies of other relevant information obtained by the Investigator(s). Where, in his/her discretion, a summary of material points in agreement and points of disagreement would be of assistance to the fact finder, the Investigator(s) may also include such a summary in the draft Investigative Report. The complainant and the respondent shall have 10-business days to review the draft Investigatory Report to provide their written responses, if any.

- f. The Investigator(s) will review the complainant's and the respondent's written responses, if any, and determine, within his/her sole discretion, if any additional investigation is warranted and/or whether revisions to the draft Investigatory Report are warranted, based on information provided in the parties' responses.
- h. Once the Draft Final Report has been finalized by the Investigator(s) following the parties' written responses, the Final Investigatory Report, along with all other relevant evidence shall be forwarded to the Director of Student Conduct and made available to the complainant and the respondent in the same manner the draft Investigatory Report was shared.

c. Formal Adjudication Procedure

- a. Following receipt of the Final Investigatory Report, the Director of Student Conduct shall provide notice to the complainant and respondent referencing the specific provision of this Policy alleged to have been violated and the possible outcomes, as well as the date, time, and location of the scheduled hearing. Except in extenuating circumstances, both parties will be given at least 5-business days' notice of the hearing.
- b. The hearing shall be presided over by the Director of Student Conduct and an additional one or two co-hearers (selected from a pool of trained hearing officers). In the event that a material conflict of interest is deemed to exist, the Vice President for Student Affairs and Enrollment Management shall designate an alternate(s) to preside over the hearing.
- c. Both the complainant and the respondent shall have an opportunity to present evidence and testimony during the hearing. A list of potential witnesses, as well as any additional information either party plans to present, must be submitted to the Investigator(s) no less than five (5) business days in advance of the hearing. Whether a proposed witness is permitted to present evidence at the hearing is in the sole discretion of the Director of Student Conduct. It is the responsibility of the parties to inform their witnesses of the date and time of the hearing.
- d. The hearing will be private and audio recorded.
- e. The complainant and respondent do not have to be in the same room at the same time if they do not wish to be. The Director of Student Conduct may make other arrangements (such as use of video conferencing) to allow the testimony while not depriving either party of access to the evidence and participation in the hearing. Students are asked to request such accommodations 48 hours before the scheduled hearing.
- f. Only the Director of Student Conduct and the co-hearer(s) may directly ask questions of the individual parties and any witnesses. Both the complainant and respondent will have the opportunity to ask questions to one another through the Director of Student Conduct, who may choose, in their sole discretion, to reframe questions or omit questions that are deemed to be irrelevant or redundant. The Director of Student

Conduct and co-hearer(s) may also permit additional questions to be asked during the course of the hearing.

- g. If the Director of Student Conduct and co-hearer(s) determine that unresolved issues exist that would be clarified by the presentation of additional information and/or speaking to any party, the Director of Student Conduct may postpone the hearing and reconvene it in a timely manner to receive such additional information.
- h. Both the complainant and the respondent shall have the option not to participate in the hearing; however, any statements made during the investigation will not be considered in the decision-making process. Non-participation will not prevent the University from moving forward with the conduct process. Non-participation may not be the sole factor in determining an outcome.
- i. Both the complainant and the respondent shall have the opportunity to make an impact statement prior to the Director of Student Conduct and co-hearer(s)'s determination of the hearing outcome and corresponding sanction if applicable.
- j. The Director of Student Conduct and co-hearer(s) will then make a decision as to whether, by a preponderance of the evidence, that this Policy was violated. The decision will be communicated to both the complainant and the respondent in written, electronic notification concurrently, within five (5) business days after the hearing has concluded, barring any exigent circumstances that may cause reasonable delays. To the extent permitted by law, the Hearing Outcome Letter will include:
 - 1. The name of the respondent;
 - 2. The alleged violation(s) of the Code of Conduct and the finding of responsibility;
 - 3. The sanction(s) imposed, if any;
 - 4. The factual findings supporting the determination; and,
 - 5. Information regarding the appeal process.
- k. Both the complainant and the respondent will be informed of the outcome of the hearing without a commitment to protect the confidentiality of the information. It shall be the decision of the complainant or the respondent to disclose or discuss the outcome of the hearing.
- l. If a finding of responsibility is made, the Director of Student Conduct and co-hearer(s) will consider, as part of their deliberations, whether a sanction will:
 - 1. Bring an end to the violation in question;
 - 2. Reasonably prevent a recurrence of a similar violation; and
 - 3. Remedy the effects of the violation on the complainant and La Salle University Community.
- m. In determining an appropriate sanction, the Director of Student Conduct and co-hearer(s) may consider any record of past violations of the Code of Conduct, as well as the nature and severity of such past violation(s). Any sanction imposed will be explained and supported by factual findings in the written rationale of the Director of Student Conduct and co-hearer(s).
- n. The range of sanctions that may be imposed for a violation of this Policy include warning, probationary status, deferred suspension, suspension, or expulsion, and/or any

additional conditions deemed appropriate by the Director of Student Conduct and co-hearer(s).

- o. In cases where a respondent is found responsible for non-consensual sexual intercourse, suspension or expulsion is the likely outcome.
- p. If suspension is assigned reinstatement or readmission criteria may include, but are not limited to, evidence of satisfactory progress by the respondent on relevant educational components to the sanction, such as counseling and training.
- q. The conditions of reinstatement or readmission will be communicated to both parties. If the respondent's return will coincide with the complainant's presence at La Salle University, additional accommodations for the complainant and/or conditions on the respondent to preserve the right of the complainant to a safe environment may be assigned, including but not limited to room assignment consideration, class changes, No Contact Order adjustments, and/or building or extracurricular activity restrictions.
- r. Long-term remedies may also be offered or provided to the complainant following sanctioning, which may include: providing an escort on campus; assistance with academics including rescheduling exams and assignments; facilitating a classroom change; housing assignment relocation; restriction of campus access for the respondent (restricted from specific buildings, areas, etc.); no-contact orders; campus employment reassignment; and counseling referrals.

d. APPEALS

Each party may appeal (1) the dismissal of a formal report or any included allegations and/or (2) a determination regarding responsibility. To appeal, a party must submit their written appeal within five (5) school days of being notified of the decision, indicating the grounds for the appeal.

The limited grounds for appeal available are as follows:

1. Procedural irregularity that affected the outcome of the matter (i.e. a failure to follow the institution's own procedures);
2. New evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made, that could affect the outcome of the matter;
3. The Investigator and/or members of the hearing board had a conflict of interest or bias for or against an individual party, or for or against complainants or respondents in general, that affected the outcome of the matter.

The submission of appeal stays any sanctions for the pendency of an appeal. Supportive measures and remote learning opportunities remain available during the pendency of the appeal.

If a party appeals, the institution will as soon as practicable notify the other party in writing of the appeal, however the time for appeal shall be offered equitably to all parties and shall not be extended for any party solely because the other party filed an appeal.

Appeals should be submitted in a Microsoft Word document or Portable Document Format (PDF) using CAMBRIA or TIMES NEW ROMAN, 12-point font, and single-spaced, and shall not exceed 5 pages. Appeals should use footnotes, not endnotes. Appeals that do not meet these standards may be returned to the party for correction, but the time for appeal will not be extended

unless there is evidence that technical malfunction caused the appeal document not to meet these standards.

Appeals will be decided by the University Appeals Board, who will be free of conflict of interest and bias, and will not include anyone who served as investigator, advisor, or hearing board member in the same matter.

Outcome of appeal will be provided in writing simultaneously to both parties, and include rationale for the decision.

E. OFFICIAL COMMUNICATION

All written notices to the complainant or respondent may be delivered at the University's discretion to any e-mail or mailing address on file with the University. All written notices will be deemed received when sent.

F. DESIGNATIONS

Whenever an official University title or office is named throughout this Policy, the official's or office's designee may act in the official's or office's role.

G. UNIVERSITY RESOURCES

Campus Confidential Resources:

Coordinator for Sexual Misconduct Advocacy and Education	215-951-1387
Respondent Advocate	215-951-1470
Student Counseling Center	215-951-1355
Student Health Center	215-951-1565
Ordained Priest in Ministry, Service and Support	215-951-1976

Additional Campus Resources:

Student Conduct Office, La Salle Union 303, 215/951-1916
Office of Residence Life, La Salle Union 205, 215/951-1350
La Salle Public Safety, Good Shepard, 215/951-1300 or 215/991/2111 for emergencies

Off Campus Resources:

Medical Concerns/Treatments:

PA Sexual Assault Response Center: SVU 300 E. Hunting Park Ave., Philadelphia, PA <i>Call Public Safety (215.951.1300) for free transport.</i>	215-685-3251
Abington Hospital 1200 Old York Road Abington, PA 19001	215-481-2000

24 Hour Hotlines:

Women Organized Against Rape (WOAR):	215-985-3333
Philadelphia Domestic Violence Hotline (<u>Women Against Abuse</u>):	1-866-723-3014
AIDS Hotline:	215-985-AIDS
<u>Rape, Abuse & Incest National Network</u> (RAINN):	1-800-656-4673

Spanish/Bilingual Services:

Congreso de Latinos Unidos:	1-866-723-3014
Bilingual Domestic Violence Project (24-hour bilingual domestic violence hotline):	215-763-8870 x1300

Services for Lesbian and Bisexual Women

Women in Transition Hotline:	215-751-1111
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State Resources for Sexual Assault

Pennsylvania Commission on Human Relations:	215-560-2496
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Criminal Prosecution

Philadelphia Special Victims Unit:	215-685-3251
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Resources for Respondents (Male or Female):

Men's Resource Center:	215-564-0488
Menergy:	215-242-2235
John J. Peter's Institute:	215-701-1560

H. RESPONSIBLE OFFICE/DEPARTMENT

1. The Student Conduct Office/Division of Student Affairs and Enrollment Management

I. EFFECTIVE DATE

1. August 14, 2020