

Prohibited Conduct

Sexual Harassment: For purposes of this Policy, Sexual Harassment is defined as unwelcome sexual advances, requests for sexual favors, other verbal, visual or physical conduct of a sexual nature, such as sexual assault or acts of sexual violence or other offensive behavior directed toward an individual because of or on account of the individual's sex, whether by a person of the opposite or same gender, when either:

- Submission to, rejection, or toleration of such conduct is made explicitly or implicitly a term or condition of an individual's employment, education (i.e., grades), living environment, or participation in a Lynn University program or activity; or
- Submission to, rejection, or toleration of such conduct is used as a basis for or a factor in decisions affecting that individual's employment, education, living environment or participation in a Lynn University program or activity; or
- Such conduct creates a Hostile Environment (see Hostile Environment Harassment).

Hostile Environment Harassment: For purposes of the Policy, Hostile Environment Harassment is defined as the unlawful harassment against an individual on the basis of his or her sex, or gender-related status when the conduct is either:

- Sufficiently serious (i.e., severe, pervasive, or persistent) and objectively offensive so as to deny or limit the individual's ability to participate in or benefit from the University's programs or activities; or
- The conduct has the purpose or effect of unreasonably interfering with an individual's employment or education.

The determination of whether an environment is "hostile" must be based on all of the circumstances, giving consideration to whether a reasonable person in a similar situation would have perceived the conduct as objectively offensive. Also, the following factors will be considered:

- The degree to which the conduct affected one or more students' education or individual's employment;
- The nature, scope, frequency, duration, severity, and location of incident or incidents; and
- The identity, number, and relationships of persons involved.

A single or isolated incident of Hostile Environment Harassment may create a hostile environment if the incident is sufficiently severe. The more severe the conduct, the less need there is to show a repetitive series of incidents to provide a hostile environment, particularly if the harassment is physical in nature.

Forms of Sexual Harassment or Gender-Based Hostile Environment Harassment: Sexual Harassment or Hostile Environment Harassment based on one's sex or gender-related status may include acts of verbal, nonverbal, or physical aggression, intimidation, or hostility based on sex or gender-related status, even if the acts do not involve conduct of a sexual nature. In either type of harassment, the effect will be

evaluated based on the standard of a reasonable person in the position of the Complainant. Sexual Harassment or Hostile Environment Harassment can take many forms:

- It may be blatant and intentional and involve an overt action, a threat or reprisal, or may be subtle and indirect, with a coercive aspect that is unstated.
- It does not have to include intent to harm, be directed at a specific target, or involve repeated incidents.
- It may be committed by anyone, regardless of gender, age, position, or authority. While there is often a power differential between two persons, perhaps due to differences in age, social, educational, or employment relationships (e.g., supervisor to subordinate, faculty member to student, coach to student-athlete, student leader to first year student), harassment can occur in any context and between persons of equal power status (e.g., student to student, staff to staff, faculty member to faculty member, visitor/contracted employee to staff).
- It may be committed by a stranger, an acquaintance, or someone with whom the complainant has an intimate or sexual relationship.
- It may be committed by or against an individual or may be a result of the actions of an organization or group.
- It may occur by or against an individual of any sex, gender identity, gender expression, or sexual orientation.
- It may occur in the classroom, in the workplace, in residential settings, over electronic media (including the internet, telephone, and text), or in any other setting.
- It may be a direct proposition of a sexual nature.
- It may be a one-time event or part of a pattern of behavior.
- It may be committed in the presence of others or when the parties are alone.
- It may affect the complainant and/or third parties who witness or observe harassment.

Examples of behavior that might be considered Sexual or Hostile Environment Harassment include, but are not limited to:

- Threats, either directly or by implication, of adverse employment or academic action if sexual favors are not granted or punishing, either directly or by implication, for refusing to tolerate harassment, for refusing to submit to sexual activity, or for reporting harassment;
- Promising favorable treatment or continued employment in return for sexual favors;
- Change of academic or employment responsibilities (increase in difficulty or decrease of responsibility) based on sex or gender-related status;

- Unwanted, unnecessary and objectively inappropriate physical contact or suggestive body language, such as touching, patting, pinching, hugging, kissing, or brushing against an individual's body;
- Sexual Assault;
- Physical coercion or pressure of an individual to engage in sexual activity or punishment for a refusal to respond or comply with sexual advances;
- Display or distribution of pornographic material or sexual explicit drawings, pictures, or written materials;
- Sexual rumors or ratings of sexual activity/performance or the circulation, display, or creation of e-mails or websites of a sexual nature;
- Excessively offensive remarks, including unwelcome graphic or suggestive comments about an individual's body, appearance or dress,
- Jokes and humor about sex or gender-specific traits;
- Inappropriate use of sexually explicit or offensive language or derogatory language directed at another person's sexuality, gender, gender identity, sexual orientation or gender expression;
- Insults and threats based on sex, gender, gender identity, sexual orientation or gender expression;
- The display in the workplace of sexually suggestive objects or pictures which create an intimidating or hostile work environment;
- The display or circulation of written materials or pictures degrading to an individual(s) or gender group where such display is not directly related to an educational/pedagogical, artistic, or work goal;
- Acts of verbal, nonverbal, or physical aggression, intimidation, or hostility based on sex or sex-stereotyping. Harassment for exhibiting what is perceived as a stereotypical characteristic for one's sex, or for failing to conform to stereotypical notions of masculinity and femininity, regardless of actual or perceived gender related status of the harasser or her/his/their target;
- Abusive, disruptive or harassing behavior, whether verbal or physical, which endangers another's mental or physical health, including but not limited to threats, acts of violence, or assault based on gender related status and/or in the context of intimate partner violence;
- Other unwelcome and unwanted conduct of a sexual nature, such as leering, name calling, suggestive comments and sexual propositions or innuendos and other oral, written or electronic communications of a sexual nature that an individual communicates is unwanted and unwelcome.

Sexual Violence: Sexual violence refers to physical sexual acts perpetrated against a person's will or where a person is incapable of giving consent (e.g., due to the student's age or use of drugs or alcohol, or because of an intellectual or another disability that prevents the student from having the capacity to give consent). A number of different acts fall into the category of sexual violence, including **Rape, Sexual Assault, Sexual Battery, Sexual Abuse** and **Sexual Coercion**. All such acts of Sexual Violence are forms of sex discrimination prohibited by Title IX.

Sexual Assault: Sexual Assault is defined by this Policy to include:

Non-Consensual Sexual Contact: Any intentional sexual touching, however slight and with any object or body part, that is without consent (as defined in this Policy) and/or by threat, intimidation, coercion, duress, violence, or by causing a reasonable fear of harm. This includes intentional contact with breasts, buttocks, groin, mouth, or genitals, as well as any other intentional bodily contact that occurs in a sexual manner.

Non-Consensual Sexual Intercourse (Rape): Any sexual penetration or copulation, however slight and with any object or body part that is without consent and/or by force or coercion. Intercourse includes anal or vaginal penetration by a penis, object, tongue, or finger, and oral copulation (mouth and genital/anal contact), no matter how slight the penetration or contact.

The above definition will be used in determining whether a Respondent has violated this Policy.

Sexual Battery: In the State of Florida, Sexual Assault is legally referred to as sexual battery and law enforcement will utilize this definition in determining whether to pursue criminal charges. Florida State Statute 794.011 defines sexual battery as: "Any oral, anal, vaginal penetration by, or union with, the sexual organ of another or the anal or vaginal penetration of another by any other object performed without consent and not for a bona fide medical purpose."

Sexual Coercion: Sexual Coercion is the improper use of unreasonable and persistent pressure to compel another individual to initiate or continue sexual activity against an individual's will. Coercion can include a wide range of behaviors, including intimidation, manipulation, threats and blackmail. Coercion may be emotional, intellectual, psychological or moral. A person's words or conduct are sufficient to constitute coercion if they wrongfully impair another individual's freedom of will and ability to choose whether or not to engage in sexual activity.

Force: Force is the use or threat of physical violence or intimidation to overcome an individual's freedom of will to choose whether or not to participate in sexual activity.

Domestic Violence: For purposes of this Policy, Domestic Violence is defined as 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 the jurisdiction receiving grant monies, 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 the jurisdiction.

Domestic Violence in the State of Florida is defined as any assault, aggravated assault, battery, aggravated battery, sexual assault, sexual battery, stalking, aggravated stalking, kidnapping, false

imprisonment or any criminal offense resulting in physical injury or death of one family or household member by another family or household member. "Family or household member" means spouses, former spouses, persons related by blood or marriage, persons who are presently residing together as if a family or who have resided together in the past as if a family, and persons who are parents of a child in common, regardless of whether they have been married. With the exception of persons who have a child in common, the family or household members must be currently residing or have in the past resided together in the same single dwelling unit. Florida law enforcement agencies will utilize this definition in determining whether to pursue criminal Domestic Violence charges.

Dating Violence: For purposes of this Policy, Dating Violence is defined as violence by a person who has been in a romantic or intimate relationship with the victim. Whether there was such relationship will be gauged by its length, type, and frequency of interaction.

Dating Violence in the State of Florida is defined as violence between individuals who have or have had a continuing and significant relationship of a romantic or intimate nature. The existence of such a relationship shall be determined based on the consideration of the following factors:

1. A dating relationship must have existed within the past six months;
2. The nature of the relationship must have been characterized by the expectation of affection or sexual involvement between the parties; and
3. The frequency and type of interaction between the persons involved in the relationship must have included that the persons have been involved over time and on a continuous basis during the course of the relationship.

Florida law enforcement agencies will utilize this definition in determining whether to pursue criminal Dating Violence charges.

Stalking: For purpose of this Policy, "Stalking" is defined as engaging in a course of conduct (e.g., repeatedly following, harassing, threatening or intimidating another by telephone, mail, electronic communication, social media, or any other action, device or method) 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 other emotional distress.

The University also considers Stalking to include the concept of cyber-stalking, a particular form of stalking in which electronic media such as the internet, social networks, blogs, cell phones, texts, or other similar devices or forms of contact are used to pursue, harass, or to make unwelcome contact with another person in an unsolicited fashion.

Examples of stalking include:

- Unwelcome and repeated visual or physical proximity to a person;
- Repeated oral or written threats;
- Unwelcome/unsolicited written communication, including letters, cards, emails, instant messages, and messages on on-line bulletin boards;

- Unwelcome/unsolicited communications about a person, their family, friends, or co-workers;
- Sending/posting unwelcome and/or unsolicited messages with another username;
- Implicitly threatening physical conduct or any combination of these behaviors directed toward an individual person.

Stalking in the State of Florida is defined as the willful, malicious and repeated following or harassing of a specific person that would cause a reasonable person to fear for his or her safety or the safety of others; or suffer substantial emotional distress; or an aggravated stalking, which means the willful, malicious and repeated following or harassing another with credible threats with the intent to place that person in reasonable fear of death or bodily injury; or willfully, maliciously, repeatedly following or harassing a minor under age 16; or after injunction for protection or any court-imposed prohibition of conduct, knowingly, willfully, maliciously and repeatedly follows or harasses another person. Florida law enforcement agencies will utilize this definition in determining whether to pursue criminal Stalking charges.

Sexual Exploitation: Sexual exploitation is an act or omission to act that involves a member of the Lynn University community taking non-consensual, unjust, humiliating, or abusive sexual advantage of another, either for the individual's own advantage or to benefit anyone other than the one being exploited. Examples of sexual exploitation include but are not limited to the following:

- Creating pictures, movies, web cam, tape recording, graphic written narrative or other means of memorializing sexual behavior or a state of undress of another person without the other's knowledge and consent;
- Sharing items described in the paragraph above, beyond the boundaries of consent where consent was given. For example, showing a picture to friends where consent to view it was given for oneself only;
- Observing or facilitating observation by others of sexual behavior or a state of undress of another person without the knowledge and consent of that person;
- "Peeping Tom"/Voyeuristic behaviors;
- Engaging in sexual behavior with knowledge of an illness or disease (HIV or STD) that could be transmitted by the behavior;
- Engaging in or attempting to engage others in illegal "escort services" or illegal "dating services" which include or encourage in any way sexual behavior in exchange for money;
- Surreptitiously providing drugs or alcohol to a person for the purpose of sexual exploitation; and
- Causing another person to be exposed to pornographic material without the person's advance knowledge or consent.

Retaliation: Retaliation is defined as taking adverse action against an individual making a complaint under this Policy or against any person cooperating or participating in the investigation of a complaint or the enforcement of any interim measures or sanctions under this Policy. Retaliation includes

intimidation, threats, harassment, and other adverse action including adverse job action and adverse academic action against any such complainant or third party.

Intimidation: Intimidation is defined as implied threats or acts that cause an unreasonable fear of harm in another.

Aiding or Facilitating Sexual or Gender-Based Misconduct: Promoting, aiding, facilitating or encouraging the commission of any behavior prohibited under this Policy.