

NONDISCRIMINATION, HARASSMENT, OR RETALIATION – NEW YORK

I. PURPOSE

The purpose of this policy is to establish standards to prevent and address discrimination, harassment, and retaliation. Misconduct that meets the definition of sexual harassment under Title IX will be addressed under the *Title IX Policy*.

II. SCOPE

All applicants, employees, students, and third parties who are members of our community

III. PROCEDURE

A. POLICY

Lincoln Educational Services (Lincoln) is committed to maintaining an educational and work environment free from discrimination and harassment based on age, race, color, sex, gender, sexual orientation, religion or creed, national or ethnic origin, and disability. Lincoln does not discriminate, nor will it permit or tolerate discrimination or harassment against a student, employee, or other member of each school's community, on any of the listed bases in its programs, activities and services. This Policy also prohibits retaliation. Lincoln also makes reasonable accommodation for qualified students and employees with disabilities.

This Policy covers all employees and students of Lincoln, applicants for enrollment or employment, interns whether paid or unpaid, contractors, as well as any third parties who are members of our community and/or conducting business on our premises.

Any inquiries regarding this Policy can be directed to the Compliance Coordinator for each campus. The Compliance Coordinator can be reached at the address, email address and phone number in each school's catalog or to the Office for Civil Rights (OCR), at the U.S. Department of Education, at www.ed.gov, or to both the Compliance Coordinator and OCR.

Employment and educational opportunities are open to all qualified applicants solely on the basis of their experience, aptitude, and ability. This Policy applies to all policies, programs, and areas of employment and educational opportunities, including but not limited to admissions, recruiting, hiring, training, promoting, compensating, benefits, transfers, disciplinary actions, terminations, layoffs, and job-related social or recreational programs.

This Policy applies to prohibited conduct that occurs in a Lincoln program, activity or service, which includes conduct:

1. on campus;
2. in the context of any Lincoln program, activity or service; and
3. at any other location, event, or circumstance over which Lincoln exercises substantial control over both the Respondent and the context in which the alleged violation of this Policy occurs.

B. PROHIBITED CONDUCT

1. **Discrimination:** Discrimination includes, but is not limited to, conduct that, on the basis of any of the grounds listed above, excludes participation in, denies the benefits of, or otherwise subjects an individual to different treatment or other discrimination in a Lincoln program, activity, or service.
2. **Harassment:** Harassment is defined conduct, based on any of the grounds listed above, that has the purpose of effect or interfering with an individual's work or educational performance or creating an intimidating, hostile, or offensive work or educational environment. (Misconduct that meets the definition of sexual harassment under Title IX will be addressed under the Title IX Policy.)

Whether conduct is sufficiently severe or pervasive to constitute a hostile environment is determined both from a subjective and objective perspective. A hostile environment can be created by oral, written, graphic, or physical conduct, and can take many forms including but not limited to:

- Racial slurs
- Ethnic jokes
- Disparaging or insensitive remarks about an individual's religion, age, physical ability or sexual orientation
- Physical or verbal threats

A determination of a hostile environment considers the totality of the circumstances and includes: 1) the degree of interference; 2) the type, frequency, and duration of the conduct; 3) the relationship between the Respondent and the Complainant; 4) the nature and severity of the conduct; 5) whether the conduct was directed at more than one person; 6) whether the conduct arose in the context of other discriminatory conduct; and 7) whether the conduct implicates concerns related to academic freedom or protected speech. A single instance may be sufficient for a finding of a hostile environment if the conduct is serious enough to reasonably support such a finding, particularly if the conduct is physical.

3. Sexual Harassment: Sexual harassment is considered a form of sex discrimination and is unlawful under federal, state and local law. Sanctions will be enforced against individuals engaging in sexual harassment and against supervisory and managerial personnel who knowingly allow such behavior to continue without reporting the conduct to the Compliance Coordinator.

Sexual harassment includes unwelcome conduct which is either of a sexual nature, or which is directed at an individual because of that individual's sex when:

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

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

Examples of sexual harassment

The following describes some of the types of acts that may be unlawful sexual harassment and that are strictly prohibited:

- Physical assaults of a sexual nature, such as:
 - Touching, pinching, patting, grabbing, brushing against another individual's body or poking another employees' body;
 - Rape, sexual battery, molestation or attempts to commit these assaults.
- Unwanted sexual advances or propositions, such as:
 - Requests for sexual favors accompanied by implied or overt threats concerning the

- victim's educational benefits or opportunities, or job performance evaluation, a promotion or other job benefits or detriments;
 - Subtle or obvious pressure for unwelcome sexual activities.
 - Sexually oriented gestures, noises, remarks, jokes or comments about a person's sexuality or sexual experience, which create a hostile environment.
 - Sexual or discriminatory displays or publications anywhere in the workplace, such as:
 - Displaying pictures, posters, calendars, graffiti, objects, promotional material, reading materials or other materials that are sexually demeaning or pornographic. This includes such sexual displays on workplace computers or cell phones and sharing such displays while in the workplace.
 - Hostile actions taken against an individual because of that individual's sex, sexual orientation, gender identity and the status of being transgender, such as:
 - Interfering with, destroying or damaging a person's workstation, tools or equipment, or otherwise interfering with the individual's ability to perform the job;
 - Sabotaging an individual's work;
 - Bullying, yelling, name-calling.
4. Retaliation: This Policy prohibits any form of retaliation, including intimidation, threats, coercion, harassment, and other discrimination taken or threatened against any person for the purpose of interfering with any right or privileged under this Policy or against a person for reporting or filing a complaint or any person who testifies or otherwise cooperates in the investigation under this Policy. Action is deemed adverse if it would deter a reasonable person in the same circumstances from opposing practices prohibited by this Policy. However, if it is determined that an individual lodged a complaint of harassment or discrimination in bad faith or knowingly provided false information during the course of an investigation, appropriate disciplinary action may be taken up to and including termination.

Retaliation may result in disciplinary or other action independent of the sanctions or remedies imposed in response to the underlying allegations of discrimination or harassment.

C. REPORTING

When an individual believes that he or she has been discriminated or harassed against on one of the protected bases in this Policy, or retaliated against, the misconduct should be reported immediately or as soon as possible to the individual's supervisor/teacher or the Compliance Coordinator at the campus. Individuals may also report incidents of discrimination, harassment, or retaliation to the Alertline system at 1-866-844-1427. You may also report discrimination, harassment or retaliation by completing and submitting a complaint using the [Online Reporting Site](#). In the event a complaint involves the Compliance Coordinator, the complaint should be submitted to the Group President.

Written complaints are preferred. However, if an individual makes an oral complaint, the complaint will be converted to writing by staff and then reviewed by the student for accuracy. The statement should be as specific as possible regarding the action(s) or inaction(s) that precipitated the complaint: date, place, persons involved, efforts made to settle the matter informally (if applicable), and the remedy sought.

Individuals are encouraged to file complaints promptly. A complaint should be filed within 180 days of the alleged discrimination (or longer if extenuating circumstances exist).

D. INVESTIGATION

All complaints will be investigated thoroughly, promptly, and kept confidential to the maximum extent possible. Lincoln will conduct a fair and impartial investigation of all allegations, with due regard for the rights of all parties.

In conducting the investigation, the Compliance Coordinator may forward a copy of the complaint and/or complaint statement to the persons whose actions (or inactions) are the subject of the complaint, and may request a written response from appropriate individuals at the school. The

investigation will include an interview of each party, as well as an opportunity for both parties to suggest witnesses and present other evidence. The Compliance Coordinator may choose to interview witnesses, to meet with concerned parties, to receive oral or written statements, and to make other appropriate inquiries.

Lincoln strives to complete the investigation and resolution process promptly, generally within ninety (90) Business days. The process may be delayed or extended for good cause, such as the absence of parties or witnesses, concurrent law enforcement activity, or the accommodation of disabilities. Lincoln will inform the parties in writing of the delay or extension and the reason(s) for the delay or extension.

Lincoln will notify the parties in writing about the outcome of the investigation and resolution process. A copy of the decision will also be sent to the Director of Education/Academic Dean. Additionally, if discrimination, harassment, or retaliation is found, Lincoln will take steps to promptly and effectively end the discrimination, harassment or retaliation, prevent its recurrence and remedy its effects. Violations of this Policy may result in disciplinary action up to and including termination.

In the event that the party who filed the complaint is not satisfied with the resolution of the complaint, an appeal may be made. The appeal should be filed within ten (10) Business days with the Compliance Coordinator, who will direct the appeal and all appropriate records to Lincoln's Regulatory Department (specifically to the VP of Regulatory) for review and disposition within thirty (30) Business days of receiving notice of the result of the investigation.

Lincoln will take reasonable interim measures to prevent or stop the occurrence or recurrence of any discrimination, harassment, or retaliation in order to provide a safe and nondiscriminatory environment for employees and students, and to the extent provided by law without impeding the investigation, to protect the confidentiality of complainants, the accused, and witnesses.

E. LEGAL PROTECTIONS AND EXTERNAL REMEDIES

Sexual harassment is not only prohibited by Lincoln but is also prohibited by state, federal, and, where applicable, local law.

Aside from the internal process at Lincoln, individuals may also choose to pursue legal remedies with the following governmental entities at any time.

New York State Division of Human Rights (DHR)

The Human Rights Law (HRL), codified as N.Y. Executive Law, art. 15, § 290 et seq., applies to employers in New York State with regard to sexual harassment, and protects students, employees, paid or unpaid interns and non-employees regardless of immigration status. A complaint alleging violation of the Human Rights Law may be filed either with DHR or in New York State Supreme Court. Complaints with DHR may be filed any time within one year of the harassment. If an individual did not file at DHR, they can sue directly in state court under the HRL, within three years of the alleged discrimination. An individual may not file with DHR if they have already filed a HRL complaint in state court.

Complaining internally to Lincoln does not extend your time to file with DHR or in court. The one year or three years is counted from date of the most recent incident of harassment. You do not need an attorney to file a complaint with DHR, and there is no cost to file with DHR. DHR will investigate your complaint and determine whether there is probable cause to believe that discrimination has occurred. Probable cause cases are forwarded to a public hearing before an administrative law judge. If discrimination is found after a hearing, DHR has the power to award relief, which varies but may include requiring your employer to take action to stop the harassment, or redress the damage caused, including paying monetary damages, attorney's fees and civil fines.

DHR's main office contact information is: NYS Division of Human Rights, One Fordham Plaza, Fourth

Floor, Bronx, New York 10458, (718) 741-8400, www.dhr.ny.gov Contact DHR at (888) 392- 3644 or visit www.dhr.ny.gov/complaint for more information about filing a complaint. The website has a complaint form that can be downloaded, filled out, notarized and mailed to DHR. The website also contains contact information for DHR’s regional offices across New York State.

United States Equal Employment Opportunity Commission (EEOC)

The EEOC enforces federal anti-discrimination laws, including Title VII of the 1964 federal Civil Rights Act (codified as 42 U.S.C. § 2000e et seq.). An individual can file a complaint with the EEOC anytime within 300 days from the harassment. There is no cost to file a complaint with the EEOC. The EEOC will investigate the complaint, and determine whether there is reasonable cause to believe that discrimination has occurred, at which point the EEOC will issue a Right to Sue letter permitting the individual to file a complaint in federal court. The EEOC does not hold hearings or award relief, but may take other action including pursuing cases in federal court on behalf of complaining parties. Federal courts may award remedies if discrimination is found to have occurred.

If an employee believes that he/she has been discriminated against at work, he/she can file a “Charge of Discrimination.” The EEOC has district, area, and field offices where complaints can be filed. Contact the EEOC by calling 1-800-669-4000 (1-800-669-6820 (TTY)), visiting their website at www.eeoc.gov or via email at info@eeoc.gov

If an individual filed an administrative complaint with DHR, DHR will file the complaint with the EEOC to preserve the right to proceed in federal court.

United States Department of Education Office for Civil Rights

Any inquiries regarding this Policy can be directed to the Office for Civil Rights (OCR), at the U.S. Department of Education, at www.ed.gov.

Local Protections

Many localities enforce laws protecting individuals from sexual harassment and discrimination. An individual should contact the county, city or town in which they live to find out if such a law exists. For example, employees who work in New York City may file complaints of sexual harassment with the New York City Commission on Human Rights. Contact their main office at Law Enforcement Bureau of the NYC Commission on Human Rights, 40 Rector Street, 10th Floor, New York, New York; call 311 or (212) 306-7450; or visit www.nyc.gov/html/cchr/html/home/home.shtml.

Contact the Local Police Department

If the harassment involves physical touching, coerced physical confinement or coerced sex acts, the conduct may constitute a crime. Contact the local police department.

This Policy is to be maintained in the schools’ catalogs and on each campus’s website. All students who enroll receive a copy of the catalog and new employees will receive the Policy as part of their new hire paperwork.