



LIFE CHIROPRACTIC
COLLEGE WEST

Gender Based Misconduct and Sexual Violence Policy 2018

Title IX of the Education Amendments of 1972

“No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any educational program or activity receiving federal financial assistance.”

Title IX is a comprehensive federal law that prohibits discrimination on the basis of sex in any federally funded education program or activity. Title IX promotes equity in academic programs and other activities, preventing hostile environments on the basis of sex, sexual misconduct, and preventing discrimination against pregnant and parenting students. Life West upholds a zero tolerance policy for gender-based discrimination and sexual misconduct and does not discriminate on the basis of sex in its educational programs or activities. Sexual misconduct includes non-consensual sexual intercourse, non-consensual sexual contact, sexual exploitation, interpersonal/relationship violence, sex/gender-based stalking, and sexual harassment. Gender-based discrimination and sexual misconduct can occur between people of different sexes or genders or of the same sex or gender.

Gender-based discrimination includes sexual harassment, sexual assault (non-consensual sexual contact and non-consensual sexual intercourse), and sexual exploitation. Gender-based discrimination includes violent actions, discrimination, hazing, bullying, domestic violence, dating violence, and stalking when such behaviors are perpetrated because of one's gender. Members of the college community, guests, and visitors have the right to be free from sexual and gender-based misconduct and the college prohibits such behavior. All members of the campus community are expected to conduct themselves in a manner that does not infringe upon the rights of others. This Policy applies to all Life West students.

Physical violence, assault, battery, sexual violence, dating violence, domestic violence, and stalking are all crimes and are covered under California statutes and can be reported to law enforcement. While the college utilizes different standards and definitions than the California Code, sexual misconduct often overlaps with the crimes of rape, sexual assault, sexual harassment, stalking, dating violence, and domestic violence. Federal laws, specifically Title IX and the Clery Act, which mandates the contents of this policy, also protect victims of these behaviors.

If a student is accused of sexual misconduct, other gender-based violence, sexual assault, sexual harassment, stalking, dating violence, or domestic violence, he or she is subject to action in accordance with the Disciplinary Policies and Procedures and college catalog. If a faculty member or staff members is accused of sexual misconduct, other gender-based



LIFE CHIROPRACTIC COLLEGE WEST

violence, sexual assault, sexual harassment, stalking, dating violence, or domestic violence, he or she is subject to action in accordance with the Employee Handbook.

The college treats all forms of sexual violence and gender-based discrimination very seriously and has a network of resources on- and off-campus to assist victims in obtaining medical treatment, counseling, advocacy services, and other assistance. When a student, faculty member, or staff member reports an incident of sexual misconduct or sexual violence, whether the offense occurred on or off-campus, the college will provide the person with a written explanation of the options, resources, and support services on and off- campus.

Sexual Violence Prevention and Response

Life West seeks to provide a consistent, caring, and timely response when sexual and gender- based misconduct occurs within the college community. The college requires faculty and staff to undertake sexual harassment training every two years including on the California State definitions of domestic violence, dating violence, sexual assault, stalking, and consent in reference to sexual activity.

Resources On- and Off-Campus

If you are the victim of sexual violence, your personal safety is most important. You are encouraged to go to a safe place if you are somewhere you do not feel comfortable. If or when you are comfortable, share what has occurred with someone you trust. Sharing as much specific information as you can remember, along with any physical evidence, with this individual may help in the event that you decide you want to report the incident to college staff and/or the police.

HELP IS AVAILABLE WHETHER YOU CHOOSE TO REPORT A SEXUAL VIOLENCE INCIDENT OR NOT.

Students wishing to seek confidential assistance may do so by speaking with professionals who have the privilege of maintaining confidentiality except in extreme cases of immediacy of threat or abuse of a minor. Confidential resources include on and off-campus mental health counselors, health service providers, local rape crisis counselors, domestic violence resources, and members of the clergy and chaplains. The Life West on campus counsellor is Lori Pino, Counsellor, lpino@lifewest.edu or (510) 7804500 x 2061.

For 24 hour, confidential support, you can contact:

- *Alameda County Highland Hospital Sexual Assault Center (Oakland)
24/7 Crisis Line: 510-534-9290 or 9291



**LIFE CHIROPRACTIC
COLLEGE WEST**

[http://oaklandwiki.org/Alameda County/Sexual Assault Center](http://oaklandwiki.org/Alameda_County/Sexual_Assault_Center)

- *San Francisco General Hospital Trauma Recovery Center/Rape Treatment Center
Non-24/7 Line 415-437-3000
www.traumarecoverycenter.org
- Bay Area Women Against Rape (BAWAR) (Oakland)
24/7 Crisis Line (English/Spanish): 510-845-RAPE (7273)
<http://www.bawar.org/get-help-for-yourself/>
- San Francisco Women Against Rape (SFWAR) (San Francisco)
24/7 Crisis Line: 415-647-7273
<http://www.sfwar.org/>
- A Safe Place (Oakland)
24/7 Crisis Line: 510-536-SAFE (7233)
<http://www.asafeplacedvs.org/>
- National Suicide Prevention Hotline
24/7 Crisis Line: 1-800-273-8255
- East Bay Kaiser Permanente
Oakland Medical Center
Spirituality Services
Non-24/7 Line 510-752-6281

*This Emergency Department is where you should go within 72 hours for a Medical Forensic Exam.

Reporting Resources and Process

Anyone with knowledge about sexual misconduct, gender-based violence, or the crimes of rape, sexual assault, sexual harassment, stalking, dating violence, or domestic violence is encouraged to report it immediately to the EVP and Title IX Coordinator. Reports may also be made to Campus Facilities Manager, the Office of Student Life, deans, chairs, vice presidents, coaches, administrators with supervisory responsibilities, and to staff in Human Resources. The college considers these people to be “responsible employees”. Notice to them is official notice to the college. The reporting party will be provided with written information regarding his or her options including the choice to report to law enforcement and available medical and mental health treatment options.

Reporting an incident to the college means that only people who need to know will be



**LIFE CHIROPRACTIC
COLLEGE WEST**

told, and information will be shared only as necessary with investigators, witnesses, and the accused individual. The college has a duty to immediately investigate a complaint of sexual harassment, sexual assault, dating violence, domestic violence, stalking, and sexual exploitation even if the reporting party asks that it not do so. In deciding how to proceed, the college will weigh the request for confidentiality against the following factors: the seriousness of the alleged discrimination, harassment or sexual misconduct; any potential threats to community safety; the respective ages and positions of the complainant and the respondent; whether there have been other discrimination and harassment complaints against the respondent; and the respondent's right to receive information under applicable federal and state laws and regulations.

Anonymous reports can be made to LCCW responsible employees. The Title IX Coordinator will review and make a determination whether there is adequate information to initiate an investigation.

Protective measures for victims are available from the college whether or not a victim chooses to report to local and/or campus law enforcement, and irrespective of whether a victim pursues a formal complaint through the college resolution process. Protective measures may include such actions as interim suspensions and/or no contact orders, such as in cases where the accused person's behavior represents a risk of violence, threat, pattern, or predation.

Both Title IX and the Clery Act provide protections for whistleblowers who bring allegations of non-compliance with the Clery Act and/or Title IX to the attention of appropriate campus administrators. The college does not retaliate against those who raise concerns of non-compliance. Any concerns should be brought to the immediate attention of the campus EEO and Title IX Coordinator, Sunita Ranadive and/or to officials of the U.S. Department of Education.

EEO and Title IX Coordinator

Sunita Ranadive

EEO and Title IX Coordinator

HR Office, Life Chiropractic
College West

25001 Industrial Blvd,
Hayward, CA 94545

(510) 780-4541



LIFE CHIROPRACTIC COLLEGE WEST

The EEO and Title IX Coordinator oversees the college's affirmative action programs and monitors compliance with policies and laws which ensure equal opportunity for students, faculty, and staff. The EEO and Title IX Coordinator is ultimately responsible for assuring in all cases that the behavior is brought to an end, the college acts to reasonably prevent its recurrence, and the effects on the victim and the community are remedied. The EEO and Title IX Coordinator is also responsible for assuring that training is conducted annually for all advocates, investigators, hearing officers, panelists, and appeals officers that encompass a hearing process that protects the safety of victims and promotes accountability. Training will focus on sexual misconduct, domestic violence, dating violence, sexual assault, stalking, sexual harassment, retaliation, and other behaviors that can be forms of sex or gender discrimination covered by Title IX and the Clery Act. Training will help those decision-makers in the process of protecting the safety of victims and promoting accountability for those who commit offenses.

Campus Safety Services

You should contact Campus Facilities Department and the Campus Security Officer to report an emergency, report a crime, or request assistance. Reports can be made 24 hours a day, 365 days a year on (510) 828-0593. You are not required to file an incident report with Campus Facilities Department or file a criminal report with law enforcement in order to access resources and support services on or off-campus.

Criminal Report of Sexual Violence

You may also report an incident of sexual assault, dating violence, domestic violence, stalking and sexual exploitation to Hayward Police Department on (510) 293-7000 or the local law enforcement agency where the incident occurred. Campus Facilities Department can assist a victim with making the report to law enforcement. Victims have the option to notify law enforcement directly, or to be assisted in doing so by campus authorities. An officer can meet with you at the police station or somewhere on campus.

Life West must notify local law enforcement when sexual violence is reported to the college, typically without providing any personally identifiable information about the incident, unless a victim wishes that information to be shared or an emergency requires disclosure. College proceedings may be carried out prior to, simultaneously with, or following civil or criminal proceedings off campus. A complainant may also choose not to pursue criminal action, and under most circumstances, law enforcement will not force a complainant to pursue charges if the complainant is not willing to do so.

At the request of law enforcement, the college may agree to delay its investigation until after the initial stages of a criminal investigation. The college will promptly resume its fact



LIFE CHIROPRACTIC COLLEGE WEST

gathering as soon as it is informed that law enforcement has completed its initial investigation. The college's policy, definitions, and burden of proof may differ from California criminal law. Neither law enforcement's determination of whether to prosecute a respondent, nor the outcome of any criminal proceeding, are determinative of whether a violation of the college's policy has occurred.

Office of Student Life

Reports may also be made to the Office of Student Life ("OSL") concerning incidents involving students. OSL serves as a resource for students in all areas of campus life and supports extracurricular activities including communication with Student Council. OSL can assist students (both students filing complaints and accused students) by informing them of their rights, providing information about on and off-campus resources and reporting options. Students can also choose to request assistance with academic and living accommodations.

Human Resources Office

The Human Resources Office serves as a resource to employees by assisting the college community to develop and maintain a positive work environment, and preventing and resolving problems that arise out of or affect work situations.

CAMPUS SEXUAL ASSAULT VICTIM'S BILL OF RIGHTS

The "Campus Sexual Assault Victims' Bill of Rights" exists as a part of the campus security reporting requirements, commonly known as the Jeanne Clery Act. In connection with reporting sexual misconduct, including sexual assault, a complainant/victim has these rights:

- Shall be notified of their options to notify law enforcement, and to be assisted in notifying such authorities if s/he so chooses;
- The right to decline to speak with local law enforcement, should they be notified;
- Information about existing on and off-campus counseling, mental health, medical or other services;
- Options for, and available assistance in, changing academic, living, transportation, and working situations and other interim measures;
- The complainant and the accused are entitled to the same opportunities to have others present during a disciplinary proceeding, including the opportunity to be accompanied to any related meeting or proceeding by an advisor of their choice;
- Both the complainant and the accused shall be simultaneously informed, in writing, of the:
 - applicable policy and procedures for complaint investigations



LIFE CHIROPRACTIC COLLEGE WEST

- outcome of any disciplinary proceeding that arises from an allegation of domestic violence, dating violence, sexual assault, or stalking;
- procedures for the accused and the victim to appeal the results of the disciplinary proceeding;
- any change in the results before they become final;
- when the results become final.

IMPORTANT INFORMATION IF YOU ARE A VICTIM OF SEXUAL VIOLENCE

If you are the victim of sexual misconduct, gender-based violence, or the crimes of rape, acquaintance rape, sexual assault, sexual harassment, stalking, dating violence, or domestic violence, some or all of these safety suggestions may guide you after an incident has occurred:

1. Go to a safe place and speak with someone you trust. Tell this person what happened. If there is any immediate danger, dial 911 or contact Campus facilities at (510) 828-0593.
2. Consider securing immediate professional support (e.g., counseling, victim advocacy, medical services, etc.) to assist you in the crisis.
3. If you are on campus during regular business hours, you may go to the counseling office, HR Office, Office of Student Life for support and guidance. These are confidential resources. After regular business hours, or in any situation where you wish, local resources are also available and may be able to provide confidential assistance through the (see Help Available section above, pages 13-14).
4. For your safety and well-being, immediate medical attention is encouraged. Seeking a medical forensic exam, ideally within 72 hours, is important in the case of rape or sexual assault. It is also important to note the exam should be conducted at a hospital within in the county where the rape/sexual assault occurred. Generally, there is no charge for the exam. An exam typically takes about three hours. The victim can also receive free STD testing, free antibiotic medications to prevent STDs and emergency contraception as well as referral to other resources that may be of benefit.
5. Preserve evidence following an incident of sexual assault, dating violence, domestic violence, or stalking.
6. If an incident of sexual assault, dating violence, domestic violence, or stalking occurs, it is important to preserve evidence to aid in the possibility of a successful criminal prosecution or obtaining a protection order.
7. In cases of sexual assault, avoid washing, douching, using the toilet, or changing clothing prior to a medical exam.
8. Any clothing removed should be placed in a paper bag.
9. Evidence of violence, such as bruising or other visible injuries, should be documented including through photographic evidence.



LIFE CHIROPRACTIC COLLEGE WEST

10. Evidence of stalking including any communication, such as written notes, voice mail, social media postings, or other electronic communications should be saved and not altered in any way.
11. Typically, if police are involved or will be involved, they will obtain evidence from the scene, and it is best to leave things undisturbed until their arrival. They will gather bedding, linens or unlaundered clothing, and any other pertinent articles that may be used for evidence. It is best to allow police to secure items in evidence containers, but if you are involved in transmission of items of evidence, such as to the hospital, secure them in a clean paper bag or clean sheet to avoid contamination.
12. If you have physical injuries, photograph or have them photographed, with a date stamp on the photo.
13. Record the names of any witnesses and their contact information. This information may be helpful as proof of a crime, to obtain an order of protection, or to offer proof of a campus policy violation.
14. Try to memorize details (e.g., physical description, names, license plate number, car description, etc.), or even better, write notes to remind you of details, if you have time and the ability to do so.
15. If you obtain external orders of protection (e.g., restraining orders, injunctions, protection from abuse), please notify Campus Facilities Department so that those orders can be observed on campus.
16. Even after the immediate crisis has passed, consider seeking support from college counseling services, or the local YWCA Rape Crisis Center.
17. Contact the EEO and Title IX Coordinator if you need assistance with concerns, such as no- contact orders or other protective measures. The college is able to offer you reasonable academic support, changes to living arrangements, transportation resources or modifications, escorts, no contact orders, counseling services access, and other supports and resources as needed.

Definitions

THE VIOLENCE AGAINST WOMEN ACT DEFINITIONS

Sexual assault is any sexual act directed against another person, forcibly and/or against that person's will; or not forcibly or against the person's will where the victim is incapable of giving consent, as well as incest or statutory rape.

Domestic violence includes felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim.

Dating violence means violence committed by a person who is or has been in a romantic or intimate relationship with the victim.



**LIFE CHIROPRACTIC
COLLEGE WEST**

Stalking is engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for their safety or the safety of others or suffer substantial emotional distress.

STATE OF CALIFORNIA DEFINITIONS

Rape is an act of sexual intercourse accomplished with a person not the spouse of the perpetrator, under any of the following circumstances:

1. Where a person is incapable, because of a mental disorder or developmental or physical disability, of giving legal consent, and this is known or reasonably should be known to the person committing the act.
2. Where it is accomplished against a person's will by means of force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the person or another.
3. Where a person is prevented from resisting by any intoxicating or anesthetic substance, or any controlled substance, and this condition was known, or reasonably should have been known by the accused.
4. Where a person is at the time unconscious of the nature of the act, and this is known to the accused.
5. Where a person submits under the belief that the person committing the act is someone known to the victim other than the accused, and this belief is induced by any artifice, pretense, or concealment practiced by the accused, with intent to induce the belief.
6. Where the act is accomplished against the victim's will by threatening to retaliate in the future against the victim or any other person, and there is a reasonable possibility that the perpetrator will execute the threat.
7. Where the act is accomplished against the victim's will by threatening to use the authority of a public official to incarcerate, arrest, or deport the victim or another, and the victim has a reasonable belief that the perpetrator is a public official.

Any sexual penetration, however slight, is sufficient to complete the crime.

The use of force, fear, or threats to accomplish sexual intercourse against the will of the assailant's spouse is known as the "spousal rape law."

Other sexual offenses include the following: sodomy (forced anal intercourse); oral copulation (forced oral-genital contact); rape by a foreign object (forced penetration by a foreign object, including a finger); and sexual battery (the unwanted touching of an intimate part of another person for the purpose of sexual arousal).

In California, sexual consent is defined as **affirmative consent**. Affirmative consent



LIFE CHIROPRACTIC COLLEGE WEST

means affirmative, conscious, and voluntary agreement to engage in sexual activity. It is the responsibility of each person involved in the sexual activity to ensure that he or she has the affirmative consent of the other or others to engage in the sexual activity. Lack of protest or resistance does not mean consent, nor does silence mean consent. Affirmative consent must be ongoing throughout a sexual activity and can be revoked at any time. The existence of a dating relationship between the persons involved, or the fact of past sexual relations between them, should never by itself be assumed to be an indicator of consent.

The State of California definition of **stalking** is when any person who willfully, maliciously, and repeatedly follows or willfully and maliciously harasses another person and who makes a credible threat with the intent to place that person in reasonable fear for his or her safety, or the safety of his or her immediate family.

The State of California definition of **domestic violence** is abuse committed against an adult or a minor who is a spouse, former spouse, cohabitant, former cohabitant, or person with whom the suspect has had a child or is having or has had a dating or engagement relationship.

CALIFORNIA HATE CRIME DEFINITIONS

As defined by California Penal Code, §§ 422.55, 422.6, a hate crime is a criminal act committed, in whole or in part, because of one or more of the following actual or perceived characteristics of the victim:

- Disability
- Gender
- Nationality
- Race or ethnicity
- Religion
- Sexual orientation
- Association with a person or group with one or more of these actual or perceived characteristics

HATE CRIME CATEGORIES OF BIAS UNDER THE CLERY ACT

- **Race** – A preformed negative attitude toward a group of persons who possess common physical characteristics genetically transmitted by descent and heredity which distinguish them as a distinct division of humankind
- **Gender** – A preformed negative opinion or attitude toward a group of persons because those persons are male or female
- **Gender Identity** – A preformed negative opinion or attitude toward a person or group of persons based on their actual or perceived gender identity, e.g., bias



LIFE CHIROPRACTIC COLLEGE WEST

- against transgender or gender nonconforming individuals
- **Religion** – A preformed negative opinion or attitude toward a group of persons who share the same religious beliefs regarding the origin and purpose of the universe and the existence or nonexistence of a supreme being
 - **Sexual Orientation** – A preformed negative opinion or attitude toward a group of persons based on their sexual attraction toward, and responsiveness to, members of their own sex or members of the opposite sex
 - **Ethnicity** – A preformed negative opinion or attitude toward a group of persons who identify with each other through common heritage (common language, common culture and/or ideology that stresses common ancestry)
 - **National Origin** – A preformed negative opinion about a group of persons based upon them being from a particular country or part of the world
 - **Disability** – A preformed negative opinion or attitude toward a group of persons based on their physical or mental impairments/ challenges, whether such disability is temporary or permanent, congenital or acquired by heredity, accident, injury, advanced age or illness

LIFE WEST DEFINITIONS

Sexual Misconduct

Sexual misconduct is an umbrella term for inappropriate actions that are sexual or are sexual in nature inclusive of sexual harassment, sexual assault (non-consensual sexual contact and, nonconsensual sexual intercourse), and sexual exploitation.

Life West considers Non-Consensual Sexual Intercourse violations to be the most serious, and therefore typically imposes the most severe sanctions, including suspension or expulsion for students and suspension and termination for employees. However, the college reserves the right to impose any level of sanction, ranging from a reprimand up to, and including, suspension or expulsion/termination, for any act of sexual misconduct or other gender-based offenses, including intimate partner or relationship (dating and/or domestic) violence, non-consensual sexual contact, sexual exploitation, and stalking based on the facts and circumstances of the particular grievance. Acts of sexual misconduct may be committed by any person upon any other person, regardless of the sex, gender, sexual orientation and/or gender identity of those involved.

Consent

In order for individuals to engage in sexual activity of any type with each other, there must be clear, knowing and voluntary consent prior to, and during, sexual activity. Consent can be given by word or action, but non-verbal consent is not as clear as talking about what you do and don't want sexually. Consent to some form of sexual activity cannot be automatically taken as consent to any other form of sexual activity. Silence



LIFE CHIROPRACTIC COLLEGE WEST

without actions demonstrating permission cannot be assumed to show consent. Additionally, there is a difference between seduction and coercion. Coercion happens when someone is pressured unreasonably for sex. Coercing someone into sexual activity violates college policy in the same way as physically forcing someone into sex.

Because alcohol or other drug use can place the capacity to consent in question, sober sex is less likely to raise such questions. When alcohol or other drugs are being used, a person will be considered unable to give valid consent if they cannot fully understand the details of a sexual interaction (who, what, when, where, why, or how) because the person lacks the capacity to reasonably understand the situation. Individuals who consent to sex must be able to understand what they are doing. “No” always means “No,” and “Yes” may not always mean “Yes.” Anything but a clear, knowing, and voluntary consent to any sexual activity is equivalent to a “no.” To encourage reporting and minimize the risk of harm to victims, the College will not pursue disciplinary action against victims reporting violations under this policy who were voluntarily under the influence of alcohol or drugs at the time of the incident.

Force

Force is the use of physical violence and/or imposing on someone physically to gain sexual access. Force also includes threats, intimidation (implied threats), and coercion that overcome resistance or produce consent (e.g. “Have sex with me or I’ll hit you. Okay, don’t hit me; I’ll do what you want”). There is no requirement that a party resists the sexual advance or requests someone to stop. Resistance is a clear demonstration of non-consent. The presence of force is not demonstrated by the absence of resistance. Sexual activity that is forced is by definition nonconsensual, but non-consensual sexual activity is not by definition forced. The use of force is not “worse” than the subjective experience of violation of someone who has sex without consent. However, the use of physical force constitutes a stand-alone nonsexual offense as well, as it is the college’s expectation that those who use physical force (restrict, battery, etc.) would face not just the sexual misconduct charge, but charges for the additional assaultive behavior.

Coercion

Coercion is unreasonable pressure for sexual activity such as compelling another person to do something through emotional or physical pressure, threats, or other forms of intimidation. Real or perceived power differentials between individuals also may create an atmosphere of coercion that can significantly impair the ability to consent. Coercive behavior differs from seductive behavior based on the type of pressure someone uses to get consent from another. When someone makes it clear to you that she/he does not want sex, that she/he wants to stop, or that she/he does not want to go past a certain point of sexual interaction, continued pressure beyond that point can be coercive.

Incapacitation

Incapacitation is a state where someone cannot make rational, reasonable decisions because one lacks the capacity to give knowing consent (e.g., to understand the who, what, when, where, why and how of their sexual interaction). Any time sexual activity takes place where the person did not understand any one of these six conditions, incapacity is at issue. An awareness of all six must be present for consent. Incapacitation may result from mental disability, sleep, involuntary physical restraint, or from the consumption of alcohol or drugs. Possession, use and/or distribution of any controlled substances, including Rohypnol, Ketamine, GHB, Burundanga, etc., is prohibited, and administering one of these drugs to another student is a violation of college policy. More information on these drugs can be found at <http://www.911rape.org>. Because alcohol or other drug use can place the capacity to consent in question, sober sex is less likely to raise such questions. If the accused person knew or reasonably should have known that the victim was incapable of providing consent due to the use alcohol or another drug, the accused person is in violation of college policy. The accused person's use of alcohol or other drugs does not diminish his or her responsibility for committing the sexual misconduct. Use of alcohol or other drugs will never function as a defense for any behavior that violates college policy.

Non-Consensual Sexual Intercourse

Non-consensual sexual intercourse is defined as any sexual penetration or intercourse (anal, oral or vaginal), however slight, with any object, by a person upon another person that is without consent and/or by force. Sexual penetration includes vaginal or anal penetration by a penis, tongue, finger, or object, or oral copulation by mouth to genital contact or genital to mouth contact, no matter how slight the penetration or contact.

Non-Consensual Sexual Contact

Non-consensual sexual contact is defined as any intentional sexual touching, however slight, with any object, by a person upon another person that is without consent and/or by force. Sexual touching includes any bodily contact with the breasts, groin, genitals, mouth, or other bodily orifice of another individual, or any other bodily contact in a sexual manner.

Sexual Harassment

Life West has adopted the following definition of sexual harassment, in order to address the special environment of the academic community, which consists not only of employer and employees, but of students as well:

Sexual harassment is unwelcome, sexual or gender-based verbal, written, online and/or physical conduct. Sexual harassment creates a hostile environment, and may be disciplined when it is sufficiently severe, persistent/pervasive and objectively offensive that it has the effect of unreasonably interfering with, denying or limiting employment opportunities or the ability to participate in, or benefit from, the college's educational or social program, and is based on power differentials (*quid pro quo*), the creation of a hostile environment or retaliation.

Sexual Exploitation

Sexual exploitation refers to a situation in which a person takes non-consensual or abusive sexual advantage of another, and situations in which the conduct does not fall within the

definitions of Sexual Harassment, Non- Consensual Sexual Intercourse, or Non-Consensual Sexual Contact.

Examples of sexual exploitation include, but are not limited to:

- Sexual voyeurism (such as watching a person undressing, using the bathroom, or engaged in sexual acts without the consent of the person observed);
- Taking pictures or video or audio recording another in a sexual act, or in any other private activity without the consent of all involved in the activity, or exceeding the boundaries of consent (such as allowing another person to hide in a closet and observe sexual activity, or disseminating sexual pictures without the photographed person's consent);
- Prostitution;
- Exposing one's genitals in non-consensual circumstances or inducing another to expose their genitals in non-consensual circumstances; and
- Engaging in sexual activity with another person while knowingly infected with human immunodeficiency virus (HIV) or other sexually transmitted disease (STD) and without informing the other person of the infection, and further includes administering alcohol or drugs (such as "date rape" drugs) to another person without his or her knowledge or consent.

Other Misconduct Offenses when the Act is Based on Sex or Gender

The behaviors listed below are misconduct **if they are based upon gender, which is inclusive of gender identity, gender expression, and sexual orientation.**

- **Threatening or causing physical harm, extreme verbal abuse, or other conduct** which threatens or endangers the health or safety of any person;
- **Discrimination**, defined as actions that deprive other members of the community of educational or employment access, benefits, or opportunities on the basis of gender;
- **Intimidation**, defined as implied threats or acts that cause an unreasonable fear of harm in another;
- **Hazing**, defined as any method of initiation or pre-initiation into a student organization or student body, whether or not the organization or body is officially recognized by the college, which is likely to cause serious bodily injury, psychological harm, or social ostracism, to any former, current, or prospective student;
- **Bullying**, defined as repeated and/or severe aggressive behavior likely to intimidate or intentionally hurt, control, or diminish another person, physically or mentally (that is not speech or conduct otherwise protected by the 1st Amendment);
- **Violence between those in an intimate relationship** (this includes romantic relationships, dating, domestic and/or relationship violence). The existence of such a relationship shall be determined based on a consideration of the following factors: the length of the relationship, type of relationship, and the frequency of interaction between the persons involved in the relationship. Intimate relationship violence is a

pattern of abusive behavior in any relationship that is used by one partner to gain or maintain power and control over another intimate partner. Intimate partner violence can be physical, sexual, emotional, economic, or psychological actions or threats of actions that influence another person. This includes any behaviors that intimidate, manipulate, humiliate, isolate, frighten, terrorize, coerce, threaten, blame, hurt, injure, or wound someone; and

- **Stalking**, defined as, a pattern of repeated and unwanted attention, harassment, contact, or any other course of conduct directed at a specific person that would cause a reasonable person to feel fear for his or her safety or the safety of others.

Sex Offender Registration – Campus Sex Crimes Prevention Act

Megan’s Law

The Campus Sex Crimes Prevention Act (CSCPA) of 2000, a federal law, requires institutions of higher education to provide the campus community with information on where they may obtain information on registered sex offenders in the state of California. It also requires sex offender registrants who are already required to register in the state to provide notice, as required under state law, to each institution of higher education for which the person is currently enrolled as a student, full- or part-time employee (with or without compensation), or those participating in a vocation (California Penal Code Section 290.009). The registration process must be conducted at the Hayward Police Department. Local law enforcement may also notify the public about high-risk and serious sex offenders who reside in, are employed in, or frequent the community. This registry is available <https://oag.ca.gov/sex-offender-reg>

Procedures for Addressing Sexual Misconduct

Procedurally, when the college receives a report of sexual misconduct, gender-based violence, or other sex or gender discrimination, the college’s EEO and Title IX Coordinator is notified. After a report is made, the college will provide reasonable protection against further acts of misconduct, harassment, or retaliation as needed, as well as services and resources to allow the continued equal access to an education at Life West. The EEO and Title IX Coordinator will offer assistance to victims and accused students in the form of interim or long-term measures, such as opportunities for academic accommodations, changes in housing for the victim or the responding student, visa and immigration assistance, changes in working situations, and other assistance as may be appropriate and available on campus or in the community (such as no contact orders, campus escorts, transportation assistance, targeted interventions, etc.).

If the victim wishes to access local community agencies and/or law enforcement for support, the college will assist the victim in making these contacts. If the victim so desires, that individual will be connected with a counselor on or off-campus, as well as with an on or off-campus victim’s advocate. No victim is required to take advantage of these services and resources, but the college provides them in the hopes of offering help and support without condition or qualification. A summary of rights, options, supports, and procedures

is provided to all victims, whether they are students, employees, guests, or visitors.

LCCW also will identify emotional support resources and consider reasonable academic and other campus accommodation requests by any party during an investigation, or during the course of any related proceedings have been completed. The College, in its' discretion, will respond to each situation on a case by case basis consistent with the appropriate policies applicable to students and employees.

Obtaining an Order of Protection or Similar Protective Order

In addition to obtaining a no-contact order under college policy, individuals may also seek to obtain a restraining order under California State law. A restraining order (also called a "protective order") is a court order that can protect someone from being physically or sexually abused, threatened, stalked, or harassed. For more information, please visit the Superior Court, County of Alameda Self Help website. Life West is committed to protecting victims from any further harm and will honor such requests and comply with these orders.

IMPORTANT INFORMATION ABOUT THE COLLEGE'S INVESTIGATION AND DISCIPLINARY PROCESS

Life West is committed to providing a prompt, fair, and impartial investigation and resolution process for all students, faculty, and staff involved. On notice of a report of sexual violence or other form of gender-based discrimination, the EEO and Title IX Coordinator will commence an investigation, which may lead to the imposition of sanctions based upon a preponderance of evidence (what is more likely than not), upon a responding student or other accused individual who violated college policy. The investigation will be conducted by a professional staff member or independent investigator (herein referred to as "investigator") who has received annual training in these types of cases. The role of the investigator is to be a neutral fact-finder and the EEO and Title IX Coordinator oversees the investigation. Disciplinary proceedings will be conducted by officials who receive annual training on issues related to dating violence, domestic violence, sexual assault, stalking, and on how to conduct a hearing that protects the safety of victims and promotes accountability.

In any complaint of sexual misconduct, sexual assault, stalking, dating violence, domestic violence, or other sex or gender-based discrimination covered under federal law, the person bringing the accusation and the responding party are entitled to the same opportunities for a support person of their choice throughout the process and to fully participate in the process, including any meeting, conference, hearing, appeal, or other procedural action.

The College will provide accused students with advance written notice of the allegations constituting a violation of policy including sufficient details with sufficient time to prepare for meaningful participation and an opportunity to respond before any disciplinary related

meeting or hearing. The notice will summarize the identities of the parties involved, the specific code section allegedly violated, the precise conduct constituting the potential violation, and the dates and location of the alleged misconduct.

Both parties will be given equal and timely access to information that will be used in informal or formal disciplinary proceedings consistent with the Family and Educational Right to Privacy Act and applicable privacy laws. Additionally, the parties may obtain an extension of time for good cause during the investigation or disciplinary proceedings. The College will inform all parties of any extension that is granted including the supporting reasons.

The parties to a student or employee discipline processes will be informed, in writing, of the outcome, including the finding, the sanctions (if any), and the rationale. In the case of sexual assault, dating violence, domestic violence, and stalking the parties will be notified simultaneously of the outcome. In all other Title IX cases, the victim will receive simultaneous notice and information about sanctions in student cases will be included whenever they rate directly or indirectly to the victim. Delivery of this outcome to the parties will occur without undue delay between notifications. All parties will be informed of the college's appeal processes, and their rights to exercise a request for appeal. Should any change in outcome occur prior to finalization, all parties will be timely informed in writing and will be notified when the results of the resolution process become final.

Procedures detailing the investigation and resolution processes of Life West student complaints can be found on the college's website here: <http://lifewest.edu/wp-content/documents/Disciplinary-Policies-Procedures-Manual.pdf> . Procedures detailing the investigation and resolution processes of Life West involving alleged sexual violence and other forms of sexual misconduct by an employee of Life West can be found online in the Employee Handbook here: <http://lifewest.edu/wp-content/documents/2016-employee-handbook.pdf>

The college respects the privacy interests of students, faculty, and staff. All information reported to the EEO and Title IX Coordinator will be shared only with those college employees or agents who will assist in the investigation and resolution of the complaint. The investigation and records of the resolution conducted by the college are maintained confidentially. The college will take all reasonable steps to investigate and respond to the complaint consistent with the request for confidentiality or request not to pursue an investigation, but its ability to investigate may be limited by the request for confidentiality. Under these circumstances, the college will weigh the request for confidentiality against the following factors: the seriousness of the alleged discrimination, harassment or sexual misconduct, any potential threats to community safety, the respective ages and positions of the complainant and the respondent, whether there have been other discrimination and harassment complaints against the respondent, and the respondent's right to receive information under applicable federal and state law and regulations.

Where information must be shared to permit the investigation to move forward, the person bringing the accusation will be informed. Privacy of the records specific to the investigation

is maintained in accordance with California law and the federal Family Educational Rights and Privacy Act (FERPA). Any public release of information needed to comply with the open crime logs or timely warning provisions of the Clery Act will not include the names of victim or information that could easily lead to a victim's identification. Additionally, the college maintains privacy in relation to any accommodations or protective measures afforded to a victim, except to the extent necessary to provide the accommodations and/or protective measures. Typically, if faculty members or administrators are asked to provide accommodations for a specific student, they are told that such accommodations are necessary under Title IX or the Clery Act, but they are not given any details of the incident, or what kind of incident it is. Irrespective of state law or public records access provisions, information about victims is maintained privately in accordance with Title IX and FERPA.

Sanctions

The college may impose one or more sanctions on a student, staff member, or faculty member who violated college policy. Factors considered when determining a sanction/responsive action may include:

- The nature, severity of, and circumstances surrounding the violation
- An individual's disciplinary history
- Previous grievances or allegations involving similar conduct
- Any other information deemed relevant by the Panel
- The need for sanctions/responsive actions to bring an end to the discrimination, harassment and/or retaliation
- The need for sanctions/responsive actions to prevent the future recurrence of discrimination, harassment and/or retaliation
- The need to remedy the effects of the discrimination, harassment and/or retaliation on the victim and the community

The range of sanctions for discrimination, harassment, and sexual misconduct are subject to the full range of disciplinary action, inclusive of a warning to expulsion and termination:

- Verbal or Written Warning
- Educational Sanctions and Training
- Contributed Service
- No Contact Directive
- Restitution
- Loss of Privileges including limitation on use of or access to college-related facilities, services and activities for a specified period of time
- Demotion or Reassignment
- Disciplinary Probation
- Deferred Suspension
- Interim Suspension in exceptional circumstances or other disciplinary action pending a hearing, especially in matters of safety or for the good of the community
- Suspension
- Expulsion or Termination from the college
- Other Actions: in addition to or in place of the above sanctions, the college may

assign any other sanction(s) and impose corrective action as deemed appropriate.