



# LIFE CHIROPRACTIC COLLEGE WEST

## 2020 Annual Security Report

Office of the Executive Vice President  
Safety and Security (Clery) Committee

September 22, 2020

## 2020 ANNUAL SECURITY AND FIRE SAFETY REPORT

Life Chiropractic College West (Life West) values the safety and security of all our students, faculty, staff and visitors. The college community can only remain safe and secure through the cooperation of all our community. To comply with the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (Clery Act), the Office of the Executive Vice President prepares the Annual Security Report and works with the Clery Administrator and Safety and Security (Clery) Committee, as well as college offices and departments to collect this information. The purpose of this report is to provide significant safety information such as crime, fire, and security data to the campus community, and to inform the college community on ways the college works to keep the community safe.

This report is provided on an annual basis by October 1<sup>st</sup> each year. It is available on the college website at <https://lifewest.edu/about/disclosures-policies/>. A hard copy can be requested by contacting the Clery Administrator (Director of Facilities) at 510 780 4500, ext 2810.

<u>Contents</u>	
Procedures for Reporting Crimes and Other Emergencies	4
Reporting Crime and Other Emergencies on Campus	4
Timely Warning	5
Campus Security Authorities	6
Procedures for Preparing the Annual Security Report	7
Crime and Incident Summary	7
Campus Law Enforcement	7
Campus Safety Law Enforcement Authority	7
Reporting Crimes and Other Emergencies on Campus	8
Crime Reporting to Campus Counselors	8
Monitoring and Recording Student Off-Campus Criminal Activity	8
Campus Facilities; Security and Access	8
Crime Awareness and Prevention Programs	9
Presentations to New Students	9
Personal Safety Programs	10
Emergency Response and Evacuation Procedures	10
Emergency Mass Notification System	10
Emergency Contact Directory	11
Applicability and Scope	11
Tests, Training, and Exercises	13
Alcohol and Other Drug Use Policy	13
Drug Free Schools and Campuses Act	13
Student Code of Conduct - Drugs	13
Drug-Free Workplace Policy	14
Alcoholic Beverage Policy	14
Select California State Laws on Alcohol	16
Student Code of Conduct- Alcohol	16
General health risks associated with the use of alcohol and other drugs	17
Cannabis (marijuana, hashish)	17

Cocaine (crack and other stimulants)	17
Hallucinogens (LSD, mescaline, psilocybin)	17
Heroin (other opiates)	17
Tobacco (cigarettes, chew, and other products)	18
Resources for Students	18
State and federal criminal sanctions	20
Federal Trafficking Penalties – Drugs	21
Federal Trafficking Penalties – Marijuana	22
Marijuana Policy	23
Life Chiropractic College West Title IX Policy	25
Title IX of the Education Amendments of 1972	25
Introduction	25
Scope of Policy	25
Obligation to Report	25
Anonymous Reporting, Campus and Community Resources	26
Campus Safety Services	26
Administration of Title IX	27
Procedures for Receiving, Investigating & Adjudicating Complaints	31
Formal Complaint	33
Investigation	36
Hearing	38
Appeal Procedures	41
Reporting Resources	42
Campus Title IX Coordinator & Deputy Coordinators	42
Title IX Task Force	43
Other Campus Resources	43
Title IX Task Force Training	44
External Support & Resources	44
Campus Sexual Assault Victim’s Bill of Rights	45
Definitions	47
The Violence Against Women Act	48
California Hate Crimes	49
Sex Offender Registration – Megan’s Law	53
Campus Fire Safety Annual Compliance Report	55
College Fire Policies, Procedures, and Standards	56
College Standards, Policies, and Procedures: Building Evacuations & Fire Safety	56
Smoke Free Policy	58
Fire Safety Training for Students, Faculty, and Staff	58
Appendix A – Statistics and Related Information Regarding Fires (2017-19)	59
Appendix B – Campus Crime Statistics (2017-19)	60
Appendix C – Clery Geography Map	66
Change Log	67

## Procedures for Reporting Crimes and Other Emergencies

### **Reporting Crimes and Other Emergencies on Campus**

Life West students, faculty, staff, and guests are encouraged to report all campus crimes and safety-related incidents and emergencies to any Campus Security Authority (CSA). These include all college administrators, athletics staff, club faculty advisors, Health Center mentors and staff. They will either complete the Incident Report on your behalf, or direct you to where you can complete it yourself. The form can be accessed at <https://lifewest.edu/report-an-incident-or-complaint/>

For emergencies, please contact campus security through the Facilities Department 24 hours a day, 7 days a week at 510 828-0593 (Facilities Director) or 510 456-6239 (security officer) to ensure the college can assess security concerns and inform the community if there is an ongoing threat.

Life Chiropractic College West does not have a campus police department. The college has contracted with South County Security Services to provide ongoing campus security services and they can be reached at 510 783-2696.

The on-site security officer is available on campus 8:00am-11:00pm and can be contacted at the security desk located at the Student Entrance. The security officer regularly patrols the building and grounds and addresses security concerns. If they are not available at the security desk please contact them at 510-456-6239.

Dial 911 in the event of an emergency. A 911 Call Center will dispatch emergency services to the requested location. The Hayward Police Department is located at 300 West Winton Avenue, Hayward CA. The telephone number for Hayward Police Department is 510 293-7000.

To report a non-emergency security or safety related matter on campus: contact Campus Facilities Department at 510 828-0593 or the on-site security officer at 510 456-6239 or complete the Incident Report at <https://lifewest.edu/report-an-incident-or-complaint/>

### **Voluntary, Confidential Reporting**

If you are the victim of a crime or want to report a crime you are aware of, but do not want to pursue action within the college or criminal justice system, we ask that you consider filing a voluntary, confidential report. With your permission, any CSA can file a report on the details of the incident without revealing your identity. The purpose of a confidential report is to comply with your wish to keep the matter confidential, while taking steps to ensure your future safety and the safety of others. With such information, the college can keep an accurate record of the number of incidents involving students, faculty, and staff, as well as determine whether there is a pattern of crime concerning a particular location, method, or assailant, and alert the campus community to

potential dangers. Reports filed in this manner are counted and disclosed in the annual crime statistics for the campus.

### **Timely Warning**

College administrators must issue immediate timely warnings for incidents reported to them that pose a substantial threat of bodily harm or danger to members of the campus community. Timely warnings are issued on a case-by-case basis for Clery Act crimes or other serious incidents reported to campus security authorities (CSAs) or local police agencies and that pose “serious and ongoing threats” to students and employees on campus or in the immediate campus community. In deciding whether to issue a timely warning, the college considers all of the facts surrounding the incident such as the nature of the crime, the continuing danger to the campus community, and the possible risk of compromising law enforcement efforts. Incidents that may result in issuing a timely warning include the following Clery Act crimes:

- Murder
- Non-negligent Manslaughter
- Manslaughter by negligence
- Sexual Assault
- Hate crimes
- Domestic Violence
- Robbery
- Aggravated Assault
- Burglary
- Motor Vehicle Theft
- Arson

The intent of a timely warning is to enable members of the campus community to protect themselves. A timely warning will include information that promotes safety and aids in the prevention of similar crimes. Such information may include:

- ✓ A brief statement of the incident
- ✓ Possible connection to other incidents, if applicable
- ✓ Physical description of the suspect, if available
- ✓ Composite drawing of the suspect, if available
- ✓ Date and time of the incident
- ✓ Other relevant information

The college will issue a timely warning as soon as it determines there is a serious and ongoing threat to students or employees on campus and/or in the immediate campus community. The determination will be made based on the information that administration or Hayward Police Department has available to it at the time. The Executive Vice President or their designee is responsible for preparing and distributing timely warning reports. In most instances, the timely warning will be issued through the Omnilert alert system to all students, faculty, and staff. Depending on the particular circumstances of the crime or threat, administration may also post a safety bulletin through the Omnilert alert system.

Anyone with information about a Clery Act crime or other serious incidents should report the circumstances to the Facilities Department 24 hours a day, 7 days a week at 510 828-0593 (Facilities Director) or 510 456-6239 (security officer).

To report a crime or an emergency off campus, dial 911.

**Campus Security Authorities**

While the college prefers that members of the campus community promptly report all crimes and other emergencies to Campus Facilities Department or the Hayward Police Department, we also recognize that some may prefer to report to other individuals or college offices. The Clery Act recognizes certain college officials and offices as Campus Security Authorities (CSAs). These individuals are “officials of an institution who have significant responsibility for student and campus activities, including, but not limited to, student housing, student discipline, and campus judicial proceedings.” CSAs are required to report all crimes to campus security officer or Director of Facilities as soon as reasonably possible. While the college has identified a number of CSAs, we officially designate the following community members to whom crimes may be reported:

Executive Vice President	(510) 780-4545 Executive Offices, Room 102C
Director of Facilities	(510) 828-0593 Room 142
Manager of Student Life	(510) 780-2358 Student Life, Room 120
Academic Counselor	(510) 780-2061 Office of Academic Affairs, Room 107D
Director of Human Resources	(510) 780-4541 Business Office, Room 156
HC Customer Service Manager	(510) 780-4660 Health Center, Room HC102

These individuals and others throughout the college are required to report Clery Act crimes disclosed to them to campus security officer or Director of Facilities for statistical purposes and inclusion in the Daily Security Log and the Annual Security Report. If confidentiality is requested,

these individuals may report Clery Act crimes to the campus security officer or Director of Facilities without disclosing identifying information of the parties involved.

### **Procedures for Preparing the Annual Security Report**

The Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (The Clery Act 20 § 1092(f)) requires Life West to make its security policies and procedures, as well as statistics for specific criminal offenses, available to current and prospective students and employees through the Annual Security Report. The Office of the Executive Vice President prepares the Annual Security Report, in coordination with the Director of Facilities (Campus Clery Act Coordinator), Safety and Security Committee (SSC), Title IX Coordinator, Manager of Student Life, and the Academic Counselor. The report is maintained on the college website and is available upon request by calling (510) 780-4545. The Annual Disclosure of Campus Crime Statistics is prepared by the Campus Clery Act Coordinator in cooperation with local law enforcement, the Hayward Police Department. Each year the College disseminates copies of the ASR to all current employees and students by email. All prospective students and employees will be notified of the availability of the ASR. The ASR is uploaded to the college website at <https://lifewest.edu/about/disclosures-policies/>.

### **Crime and Incident Summary**

The Facilities Director maintains the daily security log, which is normally updated each business day and includes all crimes reported to CSAs including the security officer and Facilities Director. This log is available at the Campus Facilities Department for public inspection. Logs are kept for seven years.

Criminal acts reported to Campus Facilities Department or additions to existing entries in the log will be entered into the crime log within two business days unless that disclosure is prohibited by law or would jeopardize the confidentiality of the victim.

### **Campus Law Enforcement**

Campus Safety Law Enforcement Authority:

Campus Facilities Department personnel and the on-site security officer have the authority to ask persons for identification, to determine whether individuals have lawful business at Life West, and to issue parking notices to and tow away vehicles on campus. The on-site security officer is not a peace officer as defined by Section 830 of the California Penal Code, and does not have arrest authority. Criminal incidents are referred to the local police who have jurisdiction on the campus. All crime victims and witnesses are strongly encouraged to immediately report all crimes and public safety incidents to the campus security officer or Director of Facilities in a timely manner.

The Director of Facilities takes crime reports for campus crimes and notifies the Hayward Police Department for the purpose of investigation and prosecution if required. All campus Incident Reports that involve students are forwarded to the Office of the Executive Vice President for review and potential welfare or disciplinary action by that office.

### **Reporting Crimes and Other Emergencies on Campus**

Community members, students, faculty, staff, and guests are encouraged to report all campus crimes and safety-related incidents to the on-site security officer or Director of Facilities in a timely manner. To report a crime or emergency on campus, contact the on-site security officer at 510 456-6239, or call the Hayward Police Department at 510 293-7000.

To report a non-emergency security or safety related matter on campus, contact the Director of Facilities at 510 828-0593, or contact the on-site security officer at 510 456-6239.

### **Crime Reporting to Campus Counselors**

Campus academic counselors and professional off-campus counselors are not required to report crimes for inclusion in the annual disclosure of crime statistics. As a matter of policy, they are encouraged to inform persons being counseled of the procedures to report crimes on a voluntary basis for inclusion in the annual crime statistics. Professional counselors and academic counselors are also strongly encouraged to voluntarily report incidents of crimes without personally identifiable information for inclusion in the annual crime statistics.

### **Monitoring and Recording Student Off-campus Criminal Activity**

Life West maintains a cooperative relationship with local and surrounding police agencies. The Hayward Police Department is typically the proper law enforcement agency for any off-campus crime and safety concerns surrounding the Campus. The college does not have law enforcement authority off-campus and does not operate campus housing or off-campus student organized facilities. The Office of the Executive Vice President addresses any potential violations of the Student Conduct Code through the college Incident Report system.

The Hayward Police Department and Campus Facilities Department routinely communicate about serious incidents occurring on campus or in the immediate neighborhood and business areas surrounding the campus.

### **Campus Facilities: Security and Access**

All college students, faculty, and staff are issued a college ID card for the purpose of photo identification as a Life West student, faculty, or staff member. The ID acts also as an access card. Public and commercial access to any campus location must be cleared in advance by the appropriate campus manager. The general public accesses the campus and receives chiropractic services at the Health Center on campus. Parking on campus is restricted and monitored by external security cameras 24 hours a day. Permits for parking are obtained through the Office of Student Life and enforced by the Campus Facilities Department and the on-site security officer.

Members of the Campus Facilities Department and the on-site security officer regularly patrol the campus and parking areas. Many areas of the campus, inside and outside, are monitored by video cameras operated by the Campus Facilities Department. Video surveillance is not a substitute for eyewitness reports of crimes and safety hazards. Community members and guests are encouraged to report any suspicious person or circumstance to the Campus Facilities Department or the on-site security officer as soon as possible. It is also important to provide as much information as possible, including a description and current location of the person. The Campus Facilities Department or on-site security officer will respond and confront any suspicious person.

The Campus Facilities Department maintains the college building and grounds with a concern for safety and security. The Campus Facilities Department has procedures in place with departments throughout campus for reporting maintenance and repair issues. Any potential safety hazards are prioritized and repaired beginning with those that present the most immediate and significant safety concerns.

### **Crime Awareness and Prevention Programs**

The Life West Campus Facilities Department and on-site security officer provide protection and security services to the campus. While the Facilities Department and its personnel are responsible for ensuring that the campus remains as safe as possible, the primary responsibility for crime prevention and personal safety rests with each individual.

As with other colleges and universities, property crimes account for the majority of all crimes at the college. The most common types of crime at Life West are theft of unattended property such as books, bags, laptop computers, cell phones, and theft or burglary from cars. In an effort to reduce the frequency of crimes, the college offers the following crime awareness and prevention programs.

### **Presentations to New Students**

On a quarterly basis representatives from Student Life and Facilities speak to students at new Student Orientation or in the Freshman Forum classes about crime prevention and personal safety tips, as well as descriptions of

the services and programs provided by the college. During Orientation all new students receive information on topics such as personal safety on and off campus, the application of the Student Conduct Code on and off campus, and campus and local resources.

### **Personal Safety Programs**

All new students are required to complete a web-based education and awareness program that addresses alcohol and other drug misuse and sexual and interpersonal violence. This program is tailored to the needs of graduate students. The program is inclusive of information on reporting misconduct and accessing resources.

### **EMERGENCY RESPONSE AND EVACUATION PROCEDURES**

The Life West Emergency Preparedness and Response Plan (EPRP) is available on the college community drive and website at

<https://info.lifewest.edu/hubfs/PDFs/Life%20West%20Emergency%20Preparedness%20and%20Response%20Plan%204.2020.pdf>

The goals of Life Chiropractic College West in responding to an emergency situation include the safety of all staff, students, patients, and guests, the physical and emotional well-being of staff, students, patients, and guests, the timely stabilization of an emergency situation, the protection of Life Chiropractic College West facility, property, and the belongings of staff, students, patients, and guests.

### **Emergency Mass Notification System (MNS)**

The college's emergency mass notification system (Omnilert) is activated as needed for significant emergencies, dangerous situations, or other conditions that present an imminent risk or immediate threat to the health and safety of students, faculty, staff, or visitors to the campus. The MNS may also be activated for conditions that present an imminent risk to college property or the environment, or as required by the Higher Education Act, state law, or other applicable procedure. Students, faculty and staff are automatically enrolled in the MNS through:

<https://lifewest.omnilert.net/subscriber.php>

## Emergency Contact Directory

Title	ICS Position	Internal Phone	Cell Phone
Executive VP Anatole Bogatski	Incident Commander	(510)-780-4500 ext.4545	(510) 861-9820
VP of Health Center Scott Donaldson	Incident Deputy 1	(510) 780-4500 ext.2180	(510) 750-4330
Director of Facilities Michael Baldwin	Operations Chief	(510) 780-4500 Ext.2810	(510) 828-0593
HR Director Tarsha Addison	Operations Deputy 1	(510) 780-4500 ext.4541	(510) 320-0761
CFO Angelito Tolentino	Operations Deputy 2	(510) 780-4500 ext.4532	(510) 928-4065
Student Life Manager Dani Lorta	Planning Section Chief	(510) 780-4500 ext.2610	(510) 825-8177
Student Life Office Manager Loretta Saunders	Planning Section Deputy 1	(510) 780-4500 ext.2025	(510) 427-2300
HC Exec. Assistant Amiee Fiorito	Planning Section Deputy 2	(510) 780-4500 ext.4560	
Facilities Assistant Shane Huber	Logistics Deputy 1	None	(510) 856-7144

### Applicability and Scope

The scope of the EPRP is intended to encompass all hazards including fire and evacuation, medical emergency, bomb threat, hostile intruder and active shooter, utility failure and natural disasters, floods, tornadoes, earthquakes, shelter in place, suspicious package or object. This plan is consulted when responding to any and all emergencies. The EPRP is the responsibility of the college Safety and Security (Clery) Committee (SSC). The committee reviews and updates this plan at least annually. Revisions are made as needed throughout the year. A Zone Director is in charge of a general color coded geographic area and manages the division captains. They are responsible for organizing the area for drills, and evacuations as well as being responsible for reporting any potential safety or security issue in that area. Division Captains assist the Zone Director in room checks, evacuations, etc.

#### **ZONE 1: BLUE**

<b>ZONE DIRECTOR Events Manager (RADIO 1)</b>	<b>ext 4547</b>
<b>Zone Captain 1: Events Assistant</b>	<b>ext 4554</b>
<b>Zone Captain 2: Executive Assistant</b>	<b>ext 4543</b>
<b>Zone Captain 3: Academic Support Coordinator</b>	<b>ext 2060</b>

**Zone Captain 4: Café Au Life Manager** **RADIO 12**

**ZONE 2: YELLOW**

**ZONE DIRECTOR: HC Cust. Service Manager (RADIO 2)** ext 4660  
**Zone Captain 1: Faculty Assistant in ASC** ext 4530  
**Zone Captain 2: Chiropractic Assistant** ext 4567

**ZONE 3: PINK**

**ZONE DIRECTOR: Executive Assistant HC (RADIO 3)** ext 4560  
**Zone Captain 1: Clinical Ed Coordinator** ext 4280  
**Zone Captain 2: Dr. Kathleen Kinney** ext 4640  
**Zone Captain 3: Dr. Rhina Patania** ext 4400

**ZONE 4: GRAY**

**ZONE DIRECTOR: HR Manager (RADIO 4)** ext 4541  
**Zone Captain 1: HR Specialist** ext 4544  
**Zone Captain 2: HR Coordinator** ext 4565

**ZONE 5: GREEN**

**ZONE DIRECTOR: Bookstore Supervisor (RADIO 5)** ext 4502  
**Zone Captain 1: Museum Director** ext 4440  
**Zone Captain 2: East Bay Upright MRI** RADIO 13

**ZONE 6: ORANGE**

**ZONE DIRECTOR: Lab Manager (RADIO 6)** ext 2271  
**Zone Captain 1: Museum Curator** ext 4440

**ZONE 7: RED**

**ZONE DIRECTOR: Marketing Director (RADIO 7)** ext 2910  
**Zone Captain 1: Research Faculty** ext 2363  
**Zone Captain 2: Director of Research** ext 2500

**ZONE 8: PURPLE**

**ZONE DIRECTOR: Director of Financial Aid (RADIO 8)** ext 2560  
**Zone Captain 1: Director of Enrollment** ext 2680  
**Zone Captain 2: Library Director** ext 2940

**ZONE 9: BROWN**

**ZONE DIRECTOR: Director of Facilities (RADIO 9)** ext. 4532  
**Zone Captain 1: Facilities Assistant** (510) 856-6201  
**Zone Captain 2: Facilities Assistant** (510) 856-6212

## **Test, Training, and Exercises**

Life West conducts student training during Orientation and emergency drills are held at random intervals, at least once quarterly. All employees and students are expected to participate in all emergency training procedures and drills. Class representatives are requested and expected to discuss the emergency procedures outlined in this manual with their respective class. The college Safety and Security Committee is required to provide periodic training to ensure that all employees working in their department are knowledgeable of the college emergency action plans.

## **ALCOHOL AND OTHER DRUG USE POLICY**

Drug Free Schools and Campuses Act:

The DFSC Act of 1989 requires that as a condition of receiving funds or any other form of financial assistance under any federal program, an institution of higher education must certify that it has adopted and implemented a program to prevent the unlawful possession, use or distribution of illicit drugs and alcohol by students and employees. This policy provides protocols and processes to ensure Life West compliance with the Act.

It is the goal of Life West to maintain a drug-free workplace and campus. The unlawful manufacture, distribution, possession, and/or use of controlled substances or the unlawful possession, use, or distribution of alcohol is prohibited on the Life West campus, in the workplace or as part of any of the college's activities. This includes the unlawful use of controlled substances or alcohol in the workplace even if it does not result in impaired job performance or unacceptable conduct.

The unlawful presence of any controlled substance or alcohol in the workplace and campus itself is prohibited. Violations will result in disciplinary action up to, and including, termination of employment for faculty and staff or expulsion of students. A disciplinary action may also include the completion of an appropriate rehabilitation program. Violations may also be referred to the appropriate law enforcement authorities for prosecution.

### **Student Code of Conduct - Drugs**

The following acts may subject students to disciplinary action: illegal use, possession, or distribution of drugs; the use or possession of equipment, products, or materials that are used or intended for use in manufacturing, growing, using, or distributing any drug or controlled substance; possessing, concealing, storing, carrying, or using any drug paraphernalia as defined in California Health and Safety Code §11364.5, including, but not limited to, objects intended for use, or designed for use in ingesting, inhaling, or otherwise introducing marijuana, cocaine,

hashish, or hashish oil into the human body. A reported violation of this section will result in the confiscation and immediate disposal of drugs and drug paraphernalia by college administrators.

### **Drug-Free Workplace Policy**

The following policy applies to all college employees: unlawful manufacture, distribution, dispensing, possession, or use of controlled substances is prohibited in the workplace. Employees who violate this prohibition are subject to corrective or disciplinary action as deemed appropriate, up to and including termination.

As an on-going condition of employment, employees are required to abide by this prohibition, and to notify Human Resources of any criminal drug statute conviction they receive for a violation occurring in the workplace. Notification must be provided in writing no later than five days after such a conviction. The college will notify the appropriate governmental agency within ten days of learning of the conviction.

If an employee receives such a conviction, the college will take appropriate disciplinary action against the employee, up to and including termination, or require the employee to participate satisfactorily in an approved drug-abuse assistance or treatment program. Human Resources makes available information about drug counseling and treatment. It is the responsibility of all college faculty, staff, and students to comply with this policy and to inform visitors of this policy.

### **Alcoholic Beverage Policy**

The Alcoholic Beverage Policy is set in the context of the legal requirements governing the sale, consumption, and distribution of alcoholic beverages and in the context of community expectations for, not only upholding the laws but also sharing responsibility for the safety and welfare of other members of the college community. The college considers intoxication, disorderliness, or offensive behavior deriving from the use of alcoholic beverages to be unacceptable.

The service and consumption of alcoholic beverages on the campus and at campus sponsored events off campus will be done in compliance with applicable municipal, state, and federal laws and regulations, and in accordance with college policies and procedures. All persons on the campus or at any college sponsored event off campus where alcoholic beverages are being served or consumed are expected to abide by and respect all such laws, regulations, policies, and procedures.

Alcoholic beverages at events held on campus will be supplied and sold only by a designated, licensed agent of the college. No other individual person or private party will supply or sell alcoholic beverages at on-campus events or hold the license for the sale of alcoholic beverages on campus. The sponsorship of events by alcoholic beverage companies or distributors is limited

to cash donations, donated products (other than those that directly promote or advertise alcoholic beverages) in support of fundraising or other special events as approved by the appropriate vice president.

If a unit or sub-unit of LCCW or recognized student organization holds a function off-campus where alcohol is to be served, the following rules and regulations must be observed:

- There will be no functions where alcoholic beverages are the main focal point of the event. Any advertising for the function will not include specific references to the fact that alcoholic beverages will be provided.
- Any activity that contributes to alcohol overindulgence or abuse is strictly prohibited.
- At a student function, before anyone receives and consumes alcoholic beverages, a driver's license or other official identification that lists the age of that individual must be checked by a person designated by the student organization hosting the event to ensure that the individual is of legal drinking age. At all other functions, the sponsoring organization will take reasonable measures to ensure that all local and state laws regarding the consumption of alcohol are followed.
- At any function where alcohol is served, non-alcoholic beverages must be continuously available in equal or greater quantity. Food must also be available.
- No visibly intoxicated person shall be served alcohol at any function.
- If alcohol is to be served at a student organized function or by a student organization, the Manager of Student Life must be notified in writing in advance of such an event and that alcohol will be served at such event.
- If a function lasts two hours or more, the serving of alcoholic beverages must stop at least 45 minutes before the scheduled end of the activity.
- It is strongly encouraged that any organization that allows alcohol at its activities provides alternative transportation to any individual in attendance who has overindulged in alcohol.

Adherence to these policies will be the individual and personal responsibility of each member of the student body, staff, faculty, or administration of LCCW.

Alcoholic beverages will not be served or consumed in public areas of the campus except at authorized college events. Public areas include all indoor and outdoor spaces on the campus except individual departmental work areas and offices.

Alcoholic beverages will not be served or consumed at any college sponsored intercollegiate or club sport athletic event or recreational sports activity.

The sponsorship of events by alcoholic beverage companies or distributors is limited to cash donations, donated products (other than those that directly promote or advertise alcoholic

beverages) in support of fundraising or other special events as approved by the appropriate vice president.

### **Select California State Laws on Alcohol**

1. It is a misdemeanor to sell, furnish, or give alcoholic beverages to a person under the age of 21.
2. It is an infraction for a person under the age of 21 to purchase or possess alcoholic beverages.
3. It is a crime to sell alcohol without a valid liquor license or permit.
4. It is a crime for any person to drink while driving, to have an open container of alcohol in a moving vehicle, or to drive under the influence of alcohol.
5. It is a misdemeanor to be intoxicated in a public place.
6. Intoxication is presumed at blood levels of 0.08 percent or higher and may be found with blood alcohol levels from 0.05 percent to 0.08 percent.

### **Student Code of Conduct- Alcohol**

The following acts may subject students to disciplinary action: possession, consumption, sale, or action under the influence of alcoholic beverages by persons under the age of 21; furnishing alcoholic beverages to persons under the age of 21; consumption of alcoholic beverages in a public place (all areas other than private offices and scheduled private functions); excessive and inappropriate use of alcoholic beverages. A reported violation of this section will result in the confiscation and immediate disposal of alcoholic beverages and related equipment.

### **General health risks associated with the use of alcohol and other drugs**

Many well-documented risks are associated with alcohol and other drugs, affecting not only the individual user but also his/her family, friends and communities. Alcohol is frequently implicated in cases of sexual misconduct on campus, for example, and the misuse of other drugs is sometimes a factor in other violent behavior. Problems associated with alcohol and other drugs include impaired brain function; poor academic or job performance; relationship difficulties, including sexual dysfunction; a tendency to verbal and physical violence; financial distress; injuries or accidents; violations of the law such as driving under the influence; willfully destroying property; and death.

The following summaries describe some of the additional substance-specific risks associated with the use and misuse of alcohol and other substances.

## **Alcohol**

For men, at-risk drinking is drinking more than four standard doses (or drinks) of alcohol a day and/or more than 14 drinks per week. For women, at-risk drinking is drinking more than three standard doses (or drinks) drinks a day and/or more than seven drinks a week. (One drink is equal to 12 oz beer, 5 oz wine, or 1.5 oz liquor.) While any alcohol use has the potential to contribute to problems (e.g., alcohol use impairs brain function and motor skills even when not legally drunk), studies show that certain “at-risk” drinking patterns are associated with an increased likelihood of negative outcomes.

At-risk drinking can cause poor performance in school or at work, accidents, injuries, arguments, legal problems (including DUI), strained relationships, undesirable or even dangerous sex, and verbal or physical violence, including the perpetration of sexual assault. At-risk drinking also contributes to sleep problems, prolonged intoxication aka hangovers, cancer, liver disease, stroke, depression, anxiety, and Alcohol Use Disorder.

At-risk alcohol consumption is involved in the majority of violent acts on campuses, including sexual assault, vandalism, fights, and accidents involving cars, pedestrians and bicycles.

Although not necessarily obvious in the traditional college age (18-24) population, there is addiction among users.

## **Cannabis (marijuana, hashish)**

THC, the active chemical in marijuana, is stored in the fat cells of the body, and depending on the amount used and duration of time, can stay in the body for anything from a few days to about two months. Marijuana use can impair or distort short-term memory and comprehension, alter the user’s sense of time, and reduce coordination. Use may also result in a compromised immune system and an increased risk of lung cancer.

## **Cocaine (crack and other stimulants)**

The immediate effects of cocaine use include dilated pupils, and increased blood pressure, heart rate, and respiration rate followed by a crash when the drug wears off. Over the longer term, cocaine users often have nasal passage and nasal septum problems. There is a high rate of addiction among users.

## **Hallucinogens (LSD, mescaline, psilocybin)**

Hallucinogens cause illusions and distortions of time and perception. The user may experience episodes of panic, confusion, suspicion, anxiety and loss of control. Flashbacks can occur even after use has stopped. PCP or phencyclidine has been shown to produce violent behaviors which can lead to injuries to the user or a bystander.

## **Heroin (other opiates)**

Heroin causes the body to experience diminished pain. If injected, it can result in blood vessel damage (and possibly the transmission of infections such as hepatitis and HIV if needles are shared). There is a high rate of addiction among users.

### **Tobacco (cigarettes, chew, and other products)**

Tobacco use has been proven not only to be addictive, but to have serious, well-documented health consequences. While many people, particularly students, look to smoking as a way of reducing stress, it should be remembered that there is no comparison between the stress of facing emphysema or lung cancer and the stress of preparing for mid-terms. There is a high rate of addiction among users.

### **Resources for Students**

Students and Employees are encouraged to seek immediate help through any of the following resources.

Alameda County Behavioral Care Access Hotline

(800) 491-9099

[www.acgov.org](http://www.acgov.org)

Offers referrals to substance abuse services in Alameda County.

Al-Anon and Alateen in Northern California

<http://ncwsa.org/community/san-francisco/>

Alcoholics Anonymous

<https://eastbayaa.org/>

East Bay Intergroup, Inc. An official Alcoholics Anonymous website.

CommPre

A program of Horizon Services

(510) 885-8741

Offers prevention strategies to reduce alcohol and medication misuse among older adults.

[www.Drug-Rehab.org](http://www.Drug-Rehab.org)

(888) 268-3714

A non-profit drug and alcohol rehab referral and placement service.

East Bay Community Recovery Project

[www.ebcprp.org](http://www.ebcprp.org)

Provides substance abuse, mental health and other health services in Hayward and Oakland to women and children. Helps underserved people of Alameda County with a focus on those dealing with substance abuse and psychiatric disorders.

Horizon Services, Inc.

(510) 582-2100

[www.horizonservices.org](http://www.horizonservices.org)

A safe, effective and affordable environment for drug and alcohol recovery, offering residential and non-residential programs. Offers a variety of programs and services throughout San Mateo, Santa Clara and Alameda Counties; including youth programs.

Humanistic Alternatives to Addiction Research and Treatment

20094 Mission Blvd.

Hayward 94541

(510) 727-9755

[www.haarthayward.org](http://www.haarthayward.org)

[info@haarthayward.org](mailto:info@haarthayward.org)

Offers both short/long-term treatments for problematic opioid use with methadone and suboxone, medical monitoring, counseling, psychotherapy.

MPI Chemical Dependency Treatment Services

Summit Medical Center

3012 Summit St.

Providence Pavillion (South), 5<sup>th</sup> Floor

Oakland 94609

(510) 652-7000

A local organization that can be contacted 24/7; their mission is to provide affordable, high quality chemical dependency treatments including detoxification, inpatient and residential rehabilitation, day treatments and morning/evening intensive outpatient programs.

New Bridge Foundation

2323 Hearst Avenue

Berkeley, CA 94709

Addiction treatment programs

[\(866\) 772-8491](tel:8667728491)

<https://www.newbridgefoundation.org/>

Recovery Programs and Treatment Centers

[www.recoverycorps.org](http://www.recoverycorps.org)

An online resource for help w/drug and alcohol recovery and treatment programs. A very user-friendly site which allows you to search for resources in your area and provides names, addresses, phone numbers and descriptions of a variety of facilities.

Terra Firma Diversion/Educational Services  
30086 Mission Blvd.  
Hayward 94544  
(510) 675-9362

<http://www.terrafirmadiv.com/aboutus.htm>

M-F 9:30am to 7pm

Saturdays 9am to 4pm

Offers a variety of resources and educational tools including a 20-week drug/alcohol counseling program for individuals who wish to abstain from drugs/alcohol and create a supportive environment for recovery.

Women On The Way Recovery Center

20424 Haviland Ave.

Hayward 94541

(510) 276-3661

[www.wotwrc.org](http://www.wotwrc.org)

A non-profit residential drug/alcohol recovery program; safe haven for abused, battered, addicted and betrayed women to become educated and empowered to take control of their lives.

### **State and federal criminal sanctions**

The following is a brief summary of the state and federal criminal sanctions that may be imposed upon someone who violates the alcohol and other drug policy at LCCW or elsewhere in the state of California.

- A violation of California law for the unlawful sale of alcohol may include imprisonment in the county jail for six months, plus fines and penalties.
- A violation of California law for the use of alcohol by obviously intoxicated individuals will vary with the particular circumstances but may include imprisonment in the county jail and substantial fines and penalties. Additionally, minors who are arrested for violations concerning the use of alcohol run the risk of having their driving privileges suspended or revoked until they are 18.
- A violation of California law for the possession, use and/or sale of narcotics, marijuana and/or other illicit drugs includes imprisonment in the county jail or state prison for one to nine years, plus fines up to \$100,000 for each count (see marijuana policy below)
- A violation of federal law for the possession, use and/or sale of narcotics, marijuana and/or other illicit drugs may include imprisonment in the federal penitentiary for one to

fifteen years plus substantial financial penalties (see Federal Trafficking Penalties table below).

- A violation of the law involving an individual being under the influence of a combination of alcohol and other drugs (itself potentially deadly), may result in an increase in criminal sanctions and penalties.

### Federal Trafficking Penalties - Drugs

The following table summarizes federal criminal laws and sanctions for drug offenses.

DRUG/SCHEDULE	QUANTITY	PENALTIES	QUANTITY	PENALTIES
Cocaine (Schedule II)	500 - 4999 gms mixture	First Offense:  Not less than 5 yrs, and not more than 40 yrs. If death or serious injury, not less than 20 or more than life. Fine of not more than \$2 million if an individual, \$5 million if not an individual  Second Offense:  Not less than 10 yrs, and not more than life. If death or serious injury, life imprisonment. Fine of not more than \$4 million if an individual, \$10 million if not an individual	5 kgs or more mixture	First Offense:
Cocaine Base (Schedule II)	5-49 gms mixture		50 gms or more mixture	Not less than 10 yrs, and not more than life. If death or serious injury, not less than 20 or more than life.
Fentanyl (Schedule II)	40 - 399 gms mixture		400 gms or more mixture	Fine of not more than \$4 million if an individual, \$10 million if not an individual.
Fentanyl Analogue (Schedule I)	10 - 99 gms mixture		100 gms or more mixture	Second Offense:
Heroin (Schedule I)	100 - 999 gms mixture		1 kg or more mixture	Not less than 20 yrs, and not more than life. If death or serious injury, life imprisonment. Fine of not more than \$8 million if an individual, \$20 million if not an individual.
LSD (Schedule I)	1 - 9 gms mixture		10 gms or more mixture	2 or More Prior Offenses:
Methamphetamine (Schedule II)	5 - 49 gms pure or 50 - 499 gms mixture		50 gms or more pure or 500 gms or more mixture	Life imprisonment
PCP (Schedule II)	10 - 99 gms pure or 100 - 999 gms mixture		100 gm or more pure or 1 kg or more mixture	
<b>PENALTIES</b>				

Other Schedule I & II drugs (and any drug product containing Gamma Hydroxybutyric Acid)	Any amount	First Offense: Not more than 20 yrs. If death or serious injury, not less than 20 yrs, or more than Life. Fine \$1 million if an individual, \$5 million if not an individual.  Second Offense: Not more than 30 yrs. If death or serious injury, not less than life. Fine \$2 million if an individual, \$10 million if not an individual
Flunitrazepam (Schedule IV)	1 gm or more	
Other Schedule III drugs	Any amount	First Offense: Not more than 5 years. Fine not more than \$250,000 if an individual, \$1 million if not an individual.
Flunitrazepam (Schedule IV)	30 to 999 mgs	Second Offense: Not more 10 yrs. Fine not more than \$500,000 if an individual, \$2 million if not an individual
All other Schedule IV drugs	Any amount	First Offense: Not more than 3 years. Fine not more than \$250,000 if an individual, \$1 million if not an individual.
Flunitrazepam (Schedule IV)	Less than 30 mgs	Second Offense: Not more than 6 yrs. Fine not more than \$500,000 if an individual, \$2 million if not an individual.
All Schedule V drugs	Any amount	First Offense: Not more than 1 yr. Fine not more than \$100,000 if an individual, \$250,000 if not an individual.  Second Offense: Not more than 2 yrs. Fine not more than \$200,000 if an individual, \$500,000 if not an individual.

Federal Trafficking Penalties – Marijuana

DRUG	QUANTITY	1 <sup>st</sup> OFFENSE	2 <sup>nd</sup> OFFENSE
Marijuana	1,000 kg or more mixture; or 1,000 or more plants	Not less than 10 years, not more than life If death or serious injury, not less than 20 years, not more than life Fine not more than \$4 million if an individual, \$10 million if other than an individual	Not less than 20 years, not more than life If death or serious injury, mandatory life Fine not more than \$8 million if an individual, \$20 million if other than an individual

Marijuana	100 kg to 999 kg mixture; or 100 to 999 plants	Not less than 5 years, not more than 40 years If death or serious injury, not less than 20 years, not more than life Fine not more than \$2 million if an individual, \$5 million if other than an individual	Not less than 10 years, not more than life If death or serious injury, mandatory life Fine not more than \$4 million if an individual, \$10 million if other than an individual
Marijuana	more than 10 kgs hashish; 50 to 99 kg mixture  more than 1 kg of hashish oil; 50 to 99 plants	Not more than 20 years If death or serious injury, not less than 20 years, not more than life Fine \$1 million if an individual, \$5 million if other than an individual	Not more than 30 years If death or serious injury, mandatory life Fine \$2 million if an individual, \$10 million if other than individual
Marijuana	1 to 49 plants; less than 50 kg mixture	Not more than 5 years Fine not more than \$250,000, \$1 million other	Not more than 10 years Fine \$500,000 if an individual, \$2 million if
Hashish	10 kg or less		
Hashish Oil	1 kg or less	than individual	other than individual

Source: <http://www.usdoj.gov/dea/agency/penalties.htm>

Students who fail to follow this policy are in violation of the Student Conduct Code and are subject to disciplinary action.

### **Marijuana Policy**

On November 8, 2016, voters in California passed Proposition 64, thereby allowing persons who are 21 and older to possess, transport, and buy up to 28.5 grams of marijuana and use it for recreational purposes. The Bureau of Marijuana Control is the state agency responsible for regulating and licensing marijuana sales.

It continues to be illegal to smoke marijuana in public and at locations where tobacco use is outlawed, such as restaurants, and within 1000 feet of a school, daycare or youth center when children are present. It is also illegal for motorists to be under the influence of marijuana while driving.

Despite the change in state law regarding marijuana, Life West's policy remains unchanged: use and possession of marijuana on campus or in association with any college-sponsored or affiliated activity or program is prohibited. The policy complies with the federal Drug-Free Schools and Communities Act. Under this federal law, as a condition of receiving federal funds, an institution

of higher education such as Life West must certify that it has adopted and implemented a program to prevent the unlawful possession, use or distribution of illicit drugs and alcohol by students and employees on campus and as part of its activities and programs. At the federal level, this law includes any amount of marijuana.

California Proposition 215, passed in 1996, allows for the use of marijuana for medical purposes. Students who qualify under Proposition 215 to use marijuana for medical purposes are not permitted to possess, store, provide, or use the marijuana on college-owned or controlled property (including, but not limited to, academic buildings, athletic facilities, and parking lots), or during a college sanctioned activity, regardless of the location.

Propositions 215 and 64 create a conflict between state and federal laws. When state and federal laws are in conflict, federal law takes precedence. If Life West does not comply with federal law and regulations on marijuana possession and use on campus and in college programs and activities, it risks losing federal funds for student financial aid and other important programs and services. Therefore the college must continue to abide by federal laws and regulations and college policy barring the use and possession of any amount of marijuana on campus or in association with any college sponsored or affiliated activity or program.

## **Life Chiropractic College West Title IX Policy**

### **Discrimination, Sexual Misconduct, Harassment, Dating, Domestic Violence and Stalking**

*“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 education program or activity receiving Federal financial assistance.” 20 U.S.C. § 1681*

#### **INTRODUCTION**

Title IX of the Education Amendments of 1972 (Title IX) is a federal law that prohibits discrimination on the basis of sex in educational programs and activities that receive federal financial assistance. Life Chiropractic College West (Life West) prohibits discrimination on the basis of sex in all of its programs and activities, including academic programs, admissions, grading, employment, athletics, and certain extracurricular activities. This prohibition includes gender-based harassment, sexual violence and other sexual misconduct. In addition, Title IX requires that education institutions promptly respond to a complaint of sexual harassment and discrimination based on sex. The allegations are to be resolved under a grievance process which provides due process to all parties.

#### **SCOPE OF POLICY**

Life West is committed to fostering and maintaining a diverse and inclusive community and does not tolerate sexual harassment or discrimination based on sex, gender, gender identity and sexual orientation. This policy applies to Life West’s students, staff, faculty, visitors, vendors, independent contractors and those who participate in Life West’s programs and activities. If there are complaints against College affiliates, the matter will be handled in accordance with existing agreements. Life West will provide resource options for victims of sexual harassment. The College will consider any requests for confidentiality within the context of the College’s obligation to provide a safe, nondiscriminatory environment for all community members. Further details on how requests for confidentiality are handled in cases of sexual misconduct may be found in the “Reporting Protocols and Confidentiality” section of this policy. Pursuant to the requirements of Title IX, Life West has a responsibility to investigate (apart from any separate criminal investigation by law enforcement) and address sexual violence, even in the absence of a complaint by the alleged victim.

Any questions regarding Title IX or this policy may be referred to Life West Title IX Coordinator, Tarsha Addison at (510) 780-4541 or [taddison@lifewest.edu](mailto:taddison@lifewest.edu), Deputy Title IX Coordinator, David Straub, (510) 780-2590 or Dr. Anatole Bogatski, Executive Vice President at (510) 861-9820, or [abogatski@lifewest.edu](mailto:abogatski@lifewest.edu).

#### **OBLIGATION TO REPORT**

In accordance with mandatory reporting requirements, a Life West student, faculty or staff member, or covered third party who has reasonable cause to believe that there has been a violation of this policy, should immediately file a complaint with Life West Campus Safety or the Title IX Coordinator or Deputy Coordinator.

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 many details as you remember, along with any physical evidence, will help should you decide to file a complaint with the College and/or the police.

## **ANONYMOUS REPORTING, CAMPUS AND COMMUNITY RESOURCES**

Students wishing to seek confidential assistance may do so by speaking with professionals who have the duty to maintain 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. Life West's on-campus Academic Counselor Lori Pino, may be contacted at :

Office of Academic Affairs, Room 107D  
Life Chiropractic College West  
25001 Industrial Blvd.  
Hayward, CA 94545  
[lpino@lifewest.edu](mailto:lpino@lifewest.edu)  
(510) 780-4500 x 2061

There are a number of campus and community resources that are available to assist students or employees with sexual misconduct, harassment and discrimination issues. A list of resources will be provided to all parties upon receipt of a complaint.

## **CAMPUS SAFETY SERVICES**

You should contact the Campus Facilities Department or the on-site Security Officer to report an emergency, crime or to request assistance. Their services are available 24 hours a day, 365 days a year by calling (510) 456-6239.

## **ADVISORS**

The Complainant (the party who files a complaint) and the Respondent (the party accused of engaging in sexual harassment) have the right to be assisted by an advisor of their choice. Life West will provide a list of Advisors for parties to use if they prefer. Both parties have the right to have a private attorney serve as their Advisor, at their own expense. If one party has an Advisor and the other does not have an Advisor, Life West will assign an Advisor.

The College has the right to determine what protocol will be followed by an Advisor. In general:

- Advisors serve in an advisory capacity and may be present at all meetings, interviews, and proceedings with a party.

- The Advisor may not be a fact witness or have a conflict.
- Advisors may provide advice to a party, and cross-examine opposing parties and witnesses during a hearing. Advisors are not permitted to make statements, present witnesses, or participate in any other manner.

An Advisor provided by the College will be trained on College policies, procedures, and resources. Any person who serves as an Advisor should plan to make themselves available for meetings throughout the investigative or disciplinary process.

## **GENERAL INFORMATION: ADMINISTRATION OF TITLE IX**

### **Sanctions/Discipline for Policy Violations**

The imposition of discipline/sanctions will be based on facts of each case and will be designed to eliminate sexual harassment and prevent reoccurrence of such conduct. Any determination for sanctions will be rooted in the College's educational mission, institutional values, and Title IX obligations.

While investigation records are private, sanctions become part of a student's records or an employee's personnel file

Should a formal complaint go to a hearing, the hearing panel will determine the appropriate sanction or disciplinary action. The Title IX Coordinator/Deputy Coordinator, Hearing Panel or Hearing Officer may consult with Human Resources and the appropriate Vice- President/Dean (in the case of an employee respondent) to discuss appropriate sanctions.

Any investigation, hearing, review or appeal procedure will use a preponderance of the evidence standard of proof (i.e., more likely than not).

Sanctions/discipline for a student's violation of this policy can be found in the Student Handbook, and other Life West policies. Sanctions/discipline includes, but is not limited to one or more of the following: a formal written warning, non-academic disciplinary probation, a mandated counseling assessment; denial of the right to hold an office in a student organization or to restrictions on participation in student activities, community service and/or campus restrictions, notation of non-academic conduct issue on transcript, and/or other educational sanctions and non-academic suspension or dismissal from the College.

Sanctions/discipline for a violation of this policy by an employee can be found in the Employee Handbook and other Life West policies. Sanctions/discipline includes, but is not limited to one or more of the following: leave with pay, leave without pay, termination, change in job responsibilities or duties, relocation of assignment, mandated counseling, anger management training, or other mandated training, such as sexual harassment training.

Imposition of sanctions/discipline for a student or employee is based on the following factors:

- the nature of the conduct at issue;
- impact of the conduct on the Complainant;
- impact of the conduct on the College community;
- prior misconduct by the Respondent, including relevant prior discipline history, at the College or elsewhere, and prior criminal convictions;
- how the College has previously sanctioned similar conduct;
- whether the Respondent has accepted responsibility for the conduct;
- maintenance of a safe and respectful learning, living and working environment;
- protection of the College community; and
- other mitigating, compelling or aggravating circumstances

If the Respondent is not a Life West student, faculty or staff member subject to the College's direct control, the College will take the necessary measures, it deems appropriate, to remedy the matter. This may include barring the offender from College property, and/or filing a complaint with law enforcement authorities.

### **Conflict of Interest/Bias**

Life West will take appropriate steps to poll investigators and decision makers for conflicts of interest and bias before initiating the grievance procedure outlined in this policy. If a Complainant or Respondent believes there is a conflict of interest or bias in any step of the complaint, investigation or adjudication process with officials involved in the process (the Title IX Coordinator, Deputy Title IX Coordinator for employees, students, assigned Title IX investigators, Hearing Officer or Hearing Panel or Appellate Decider), written notice describing the potential conflict or bias and its impact must be submitted as soon as a conflict is recognized.

A Title IX Coordinator/Deputy Coordinator for staff, students, investigator; administrator for hearings or appeals or other College official involved in the process may also request to recuse oneself due to a conflict of interest or bias.

The conflict report shall be submitted to the Title IX Coordinator who will assemble a review panel. If the Title IX Coordinator is named as a party in the conflict or bias report then the Deputy Coordinator for students will assemble the panel.

A conflict review panel of at least three members consisting of at least one College administrator and one Title IX official not involved in the complaint will review the report and determine if conflict or bias is substantial enough to unfairly favor one party. The review may include interviews.

If there is a substantial bias or conflict, an alternative official will be assigned by the Title IX Coordinator/Deputy Coordinator. If there is insufficient evidence for significant conflict or bias, the parties will be notified.

The determination will be shared with the Complainant and Respondent in writing within ten (10) days of receipt.

### **Informal Resolution**

The purpose of an informal resolution is to resolve and dispose of a charge by mutual consent of the parties. Informal resolution is not available for matters where an employee is the respondent.

After a formal complaint has been filed, Life West may offer the parties an informal process that resolves the formal complaint without an investigation or formal hearing. Both parties may voluntarily agree to attempt informal resolution at any time with or without an Advisor. Informal resolution may include mediation or restorative justice or any other process mutually agreed to by the complainant, respondent, and College.

Either party may withdraw from the informal resolution process at any time and proceed with the formal grievance procedure under this policy.

If the parties elect to proceed with the informal resolution process, the College will obtain their consent and provide them with a written notice disclosing the allegations in the formal complaint, a description of the informal resolution process, range of sanctions, the right to withdraw and resume the formal grievance process at any time prior to entering into a binding written agreement, and that any records maintained or shared by the parties during informal resolution may be used in the formal grievance process.

The Facilitator in charge of handling informal resolutions will work with both parties to find agreed upon outcomes to adequately address the harm to the Complainant, educate the Respondent, and prevent the recurrence of future violations. This could include actions to address the impact of a policy violation on others, counseling, awareness training or programs.

The Facilitator in charge of handling informal resolutions will record the outcome of the informal process and simultaneously notify both writing within five (5) business days of the outcome.

### **Notice of Outcome and Results**

Whenever a complaint is resolved at any level in the process provided under this policy: the College will inform the Complainant in writing regarding whether or not it found that a violation of policy occurred, any individual remedies offered or provided to the Complainant, any sanctions imposed against the Respondent that directly relate to the Complainant, other steps the College has taken to eliminate and prevent the recurrence of sexual harassment, if any, is found to exist by the College, and the Parties' rights to file an appeal. The Respondent will not be notified of any individual remedies offered or provided to the Complainant.

In cases that involve a Complaint of dating violence, domestic violence, stalking, sexual assault, or a forcible sex offense (rape, sodomy, sexual assault with an object, fondling) or non-forcible sex offense (incest, statutory rape), the College will inform the Complainant

and Respondent of the results of the proceeding, any sanctions that are imposed on the Respondent, and the rationale for the results and the sanctions/discipline consistent with its obligations under the Clery Act and the Violence Against Women Act of 2013. All notices will be simultaneously provided to the Complainant and Respondent within the time frame specified in this policy.

## **Training**

Title IX Coordinators, Deputy Coordinators, Investigators, Decision Makers and Informal Resolution Facilitators receive training on various relevant aspects of the College's Title IX policy and grievance process, including:

- definitions of sexual harassment and consent;
- the scope of Life West's education programs and activities;
- how to conduct fair and impartial investigations, hearings, appeals and informal resolution processes under this policy (as applicable); and
- how to serve impartially, including avoiding prejudgment of the facts at issue, conflicts of interest and bias.
- how various institutional actors must be free of "sex stereotypes" and must promote "impartial investigations."
- how decision-makers must include relevant technology to be used at any live hearing
- the burden of proof used to determine responsibility
- relevant evidence
- admissible and inadmissible evidence

Training record materials will be available on the College's public website.

## **Timelines**

The College believes that timing of processes should be balanced with thoroughness to ensure fairness and promptness.

The College lays out specific timelines within its procedures and will make reasonable efforts to follow these established timelines. The timelines specified may be delayed due to a number of factors including the academic calendar (fall/winter/spring break, College holidays), and the availability of parties, e.g. medical leave. In instances where a Complainant or Respondent is unwilling to meet within the scheduled timelines, procedures will proceed accordingly with the information available at that time. The Title IX Coordinator/Deputy Coordinator is responsible for updating the parties with regard to timing issues including delays.

The College may extend the time frames provided in this policy for good cause with written notice to the Complainant and Respondent, explaining the new timeline and the reason for the delay.

Any time period provided under this policy will be calculated using calendar days as opposed to business days. When the last day of the period falls on a weekend, official College holiday, or holiday break then the next regular, calendar day will be counted.

## **Records**

Records of reports, formal complaints, investigations, hearings, disciplinary sanctions, remedies, appeals, or any informal resolution, and all materials used to train investigators, coordinators, hearing panel members, etc. covered by this policy will be retained for seven years. Conduct records will be kept in accordance with the College Record Retention Policy for student records and employment records.

## **PROCEDURES FOR RECEIVING, INVESTIGATING AND ADJUDICATING COMPLAINTS**

Procedures for receiving, investigating and adjudicating formal complaints related to sexual harassment are as follows:

### **Notice of Sexual Harassment to the College**

Notice of sexual harassment typically occurs in one of the following ways:

- Title IX Coordinator/Deputy Coordinator for students directly receives notice in the form of a complaint from a Complainant or Third Party
- A Complainant files a formal complaint with the Title IX Coordinator, Deputy Coordinator, or a responsible employee using the formal complaint form available at [www.lifewest.edu](http://www.lifewest.edu), under the Title IX webpage, Human Resources or Student Life. A detailed statement of facts is not required to make a formal complaint.
- A responsible employee receives a report, formal complaint, or otherwise becomes aware of prohibited conduct covered under this policy and immediately refers the matter to the Title IX Coordinator or Title IX Coordinator or Deputy Coordinator for students. This includes Student Conduct Administrators that receive notice of a report or formal complaint. The responsible employee must communicate in writing all relevant details about the prohibited conduct shared by the party in writing to the Title IX Coordinator/Deputy Coordinator. This includes the names of the alleged perpetrator(s), any witnesses, and any other relevant facts, including the date, time and specific location of the alleged incident.
- Once a responsible employee or the College becomes aware of a report or a Formal complaint, the complaint will be submitted to the Title IX Coordinator or Deputy Coordinator for students, after assessing the need for immediate health or safety.

### **Conference with Complainant**

The Title IX Coordinator or Deputy Coordinator for students or designee, such as the Student Life Administrator or trained Title IX Investigator, will take the following steps with the Complainant.

- The Complainant identified in the report or formal complaint will be contacted to confirm receipt. If the reporter is a third party, the third party will also be notified.
- Request to meet with the Complainant to discuss the report or formal complaint in detail and examine any evidence provided.
- Discuss supportive measures and the availability of measures irrespective of whether the Complainant chooses to file a formal complaint. Consideration will be given to the Complainant's wishes with respect to supportive measures.
- Explain the process for filing and/or processing a formal complaint, the investigation, hearing, and appeal process as well as potential outcomes. No outcome will be promised or predicted. Care will be taken so as not to coerce a Complainant into filing a formal complaint.
- Explain that a Respondent is presumed not responsible for the alleged conduct until a determination is made at the conclusion of the grievance process
- Provide a range of possible sanctions should the end of the process result in a finding of responsibility.
- Share the option to request Informal Administrative Resolution in lieu of a full investigation and formal hearing, if applicable.
- Share a copy of the relevant policy and written explanation of rights and resources including community resources.
- If supportive measures are not provided to the Complainant, document the reasons.

### **Preliminary Evaluation**

Subsequent to the preliminary conference, the Title IX Coordinator/Deputy Coordinator will evaluate the report or formal complaint and information from the preliminary conference to determine whether the alleged conduct is covered by this policy. Should the Complainant not attend the preliminary conference, only the information that is available will be considered for the evaluation. This evaluation will include:

An examination of the report or formal complaint as received (either in writing, in-person, over the phone or other communications),

Evidence provided and other information related to the parties involved such as review of related prior complaints, disciplinary action or sanctions. Additionally, a review of Title IX records will be included to see if Complainant, Respondent or witnesses have been involved in other incidents.

Assessment of immediate safety needs of the Complainant and the need for Respondent's interim/emergency removal from campus, and/or timely warning/emergency notification. Public Safety will be updated if timely warning/emergency notification is necessary.

Evaluation of possible or requested supportive measures such as reaching out to appropriate campus resources (registrar, housing officers, public safety etc.).

A determination if the complaint is covered by this policy or another policy.

### **Determination That Alleged Conduct is NOT Covered by this Policy**

At any point after a report or formal complaint is submitted or anytime during the formal complaint and grievance process (investigation, hearing, appeal) the Title IX Coordinator/Deputy Coordinator for students may determine that behavior or an incident in a report or formal complaint is not covered by this policy and dismissal of specific charge(s) is required if any of the following occur:

- The facts and evidence presented in the report or formal complaint, if assumed true, fail to meet the definition of prohibited conduct under this policy
- The conduct alleged in the report or formal complaint, did not occur within the College's educational programs or activities
- The conduct alleged in the report or complaint did not occur in the United States

Whenever a formal complaint is dismissed, the College will notify the Complainant and Respondent in writing of the decision, reasons supporting the action, and right to appeal within five (5) business days of the decision. Should other potential policy violations apply, the matter may be referred to the appropriate College officials (Director Human Resources) for handling after the conclusion of any appeal.

### **Determination That Allegations Are Covered by this Policy**

If the allegations in a report or formal complaint support a possible policy violation, the Title IX Coordinator/Deputy Coordinator for students or designee will notify the Complainant in writing within five (5) business days of the following:

- The preliminary review of the complaint confirms that adequate grounds exist to initiate the grievance procedures provided under this policy.
- The Complainant has the right to file a formal complaint or proceed with an investigation and a formal hearing to determine responsibility on the part of the Respondent.
- The Complainant has the right to contact law enforcement with assistance from the College.
- The Complainant will be given notice of support measures in place, if any, and the option to request support measures.
- The Complainant will be advised of the right to have an Advisor of choice in the process.
- The Complainant will be advised that both parties have the right to a fair and impartial investigation, hearing, and appeal
- The Complainant will be advised of the right to receive available remedies in the event that Respondent is determined to have violated this policy.

There is no time limit by which a Complainant must file a formal complaint. However, a period of time will be presented, after which, if no formal complaint has been filed the report will be considered inactive until such a time a formal complaint is filed.

### **FORMAL COMPLAINT**

Only the Complainant or Title IX Coordinator may file a formal complaint. A third party, a friend, parent or other party cannot file a formal complaint on behalf of a Complainant.

Even if a formal complaint is not filed, the College may still take steps to limit the effects of the alleged misconduct and prevent its recurrence without initiating a formal action against the alleged perpetrator or revealing the identity of the student. This may include increased monitoring, security or additional training or communication efforts for students or employees.

### **Formal complaint filed by Complainant**

A formal complaint is a physical or electronic document signed by a Complainant or the Title IX Coordinator specifically requesting an investigation of the allegations of sexual harassment. For consistency, the College maintains a complaint form, but use of other written communication requesting an investigation will suffice. This can include an email from a College email account, for example.

### **Formal complaint filed by Title IX Coordinator or Deputy Title IX Coordinator**

In certain circumstances, the Title IX Coordinator may file a formal complaint on behalf of a Complainant without their participation if it is reasonable under the facts and circumstances. Before doing so, the Title IX Coordinator/Deputy Coordinator for students will consult with the Complainant. In addition to the Complainant's wishes, the Title IX Coordinator will consider a range of factors including, but not limited to, the following:

- Whether there have been multiple complaints about the same alleged perpetrator.
- The legal obligations of the College.
- The increased risk that the Respondent will commit additional acts of prohibited conduct or other violence.
- Whether the Respondent has a history of arrests or records from a prior institution indicating a history of violence.
- Whether the Respondent threatened further prohibited conduct or other violence against the reporting party or others.
- Whether the prohibited conduct was committed by multiple perpetrators.
- Whether the prohibited conduct was perpetrated with a weapon.
- Whether the party receiving the prohibited behavior is a minor.
- Whether the College possesses other means to obtain relevant evidence of the incident (e.g., security cameras or personnel, physical evidence).
- Whether the party receiving the alleged prohibited behavior's report reveals a pattern (e.g., illicit use of drugs or alcohol) at a given location or by a particular group.

The presence of one or more of these factors could lead the Title IX Coordinator to file a formal complaint. If none of these factors are present, a Complaint will not likely be filed.

### **Combining complaints**

The Title IX Coordinator/Deputy Title IX Coordinator may consolidate two or more formal complaints when there are common Complainants or Respondents involved or when the sexual harassment arises out of the same facts or circumstances.

### **Dismissal of Complaints prior to Adjudication**

At any point in the process, the College may dismiss a formal complaint at any time if:

- The Complainant would like to withdraw the complaint;
- The complaint does not fall under the jurisdiction under Title IX;
- The Respondent is no longer enrolled or employed by the College; or
- Specific circumstances prevent the College from gathering evidence sufficient to reach a determination.

### **Notice of Charges**

Once a formal complaint is filed, the Title IX Coordinator/Deputy Coordinator for students or designee will notify the Complainant and Respondent in writing within five (5) business days of the following:

- The specific policy(s) violation(s) being charged, the identity of the parties, the alleged conduct and the date and location of the incident.
- The informal resolution options, if available.
- The formal resolution process (investigation, hearing, and appeal)
- The range of possible sanctions should the end of the process result in a determination of responsibility.
- A written explanation of rights and resources, including right to an Advisor of choice including an attorney (at their own expense), and the role of the Advisor.
- Notice of supportive measures in place that affect the Respondent, if any, and the option for the Respondent to request supportive measures.
- A reminder to parties that a Respondent is presumed not responsible and that a determination of responsibility will not be made until the conclusion of the process.
- That the Parties have the right to inspect and review evidence.
- An explanation of non-retaliation policy and prohibitions on parties making false statements.

The communication with the Respondent will include a request for a preliminary conference to review the charges and submit information related to the complaint. The date, time, location, and purpose of the meeting will be shared and sufficient time (no less than five (5) business days) will be granted to prepare for the meeting.

### **Preliminary Conference with Respondent**

In response to a charge, the Respondent will be provided an opportunity to meet with the Title IX Coordinator or the Deputy Coordinator or designee and provide information and evidence. This meeting will occur within ten (10) business days of notice of charges being provided to the Respondent.

The Respondent has the option to:

Accept responsibility for the charge(s) identified in the formal complaint. If the Respondent accepts responsibility, the Title IX Coordinator/Deputy Coordinator or designee will coordinate with the appropriate Administrator to apprise Respondent of the sanctions/discipline. If the Respondent accepts responsibility but does not accept the sanctions/discipline, then the process proceeds to an investigation and hearing.

1. Request an informal administrative resolution for the charge, if it is appropriate and both parties agree to it.
2. Proceed with a formal investigation and hearing process.
3. The Complainant and Respondent will be simultaneously notified in writing within five (5) business days of the outcome of the meeting.

## **INVESTIGATION**

The Title IX Coordinator/Deputy Title IX Coordinator for students, or trained investigators whom they select for a particular case, are responsible for investigating formal complaints of prohibited conduct, gathering evidence, and summarizing the relevant information. All parties directly involved in the investigation will be informed in a timely manner regarding the process and progress of the investigation. The Complainant and Respondent will be notified five (5) business days in advance of their requested participation in any investigator interview to allow adequate time to prepare. A notice of a party interview may include a request for production of documents or other tangible evidence directly related to the investigation. Additionally, the notice will summarize documents or any tangible evidence that the investigator intends to discuss at the interview and provide instructions on how to access and inspect such evidence prior to the interview.

During the investigation period, the Investigator will gather information, evidence and interview the parties and witnesses. The role of the party's Advisor during the investigation phase is to provide advice and counsel to a party. Advisors may not advocate, ask questions, or otherwise directly or indirectly unduly influence or delay a party's responses or engage in discussions with the Investigator. The Investigator will gather facts, including evidence that may corroborate or impact credibility of evidence and witnesses, a party that does not fully respond to requests for information from the Investigator will be precluded from introducing evidence at the hearing that was within the control of a party and intentionally withheld from the Investigator. Any relevant evidence that is destroyed by a party may be taken into account at the hearing for the purpose of assessing credibility and the weight of evidence in the case.

Questioning or evidence about a Complainant's prior sexual history will not be considered by the investigator except where the Complainant and Respondent have a prior intimate or sexual relationship and it may be deemed relevant to a determination of consent or someone else committed the alleged conduct.

The Investigator will not access, consider, disclose, or use privileged evidence or treatment records made or maintained by a recognized professional, such as a doctor, attorney or pastoral counselor, without a party's voluntary, written consent. If a party decides to share such records with the investigator after providing their written consent, those records become a part of the investigation and are available for review by the opposing party.

The investigators will create a report that will include information on the specific complaint, relevant policies, timeline, involved parties, interview summaries, evidence directly related to the allegations, and possible sanctions if Respondent is found responsible consistent with appropriate disciplinary code (Student handbook, Faculty Handbook and Bylaws, Staff Handbook). However, the report will not include any determination of credibility or findings of responsibility.

The Investigator will send a copy of the investigative report to each party and the party's Advisor and provide access to all evidence directly related to the formal complaint that was obtained as part of the investigation in an electronic format or a hard copy. The parties will be given ten (10) business days to submit a written response to the Investigator for consideration prior to the Investigator's completion of the final investigative report. Before the report is finalized, either party may submit a written response to the Investigator's report challenging the Investigator's determination of relevance and the weight or persuasiveness of relevant evidence before the report is finalized. Nothing in the investigation report precludes a party from making corrections, providing explanations, or challenging the credibility, relevance, or persuasiveness of evidence in the formal hearing. At the close of the ten (10) business day review and comment period the report will be forwarded to Title IX Coordinator/Deputy Coordinator for students. This concludes the investigation.

A confidential file of the investigation including personal notes, all evidence gathered and other information will be kept on file with the & Title IX Coordinator/Deputy Coordinator for students.

The investigation should be reasonably prompt and may take an average of two to three months, depending on circumstances. It is the investigator's responsibility to update the parties in writing as to the timeline for the investigation and any extensions and the reason.

At any point during the investigation, the Complainant or Respondent may choose to pursue an informal administrative resolution.

While the investigator will make efforts to keep information in the investigation private, the College cannot restrain the ability of the parties to discuss the allegations or to gather and present evidence. Neither Party is restricted in any way from discussing the allegations or gathering evidence or information about the allegations. Parties may submit both inculpatory and exculpatory evidence to the investigator. Parties who wish to present evidence from an expert witness must present that witness's report to the investigator prior to completion of the investigation.

## **HEARING**

At the conclusion of the investigation, the Title IX Coordinator/Deputy Coordinator for students will assemble a hearing panel and appoint a hearing officer.

The College has established standard procedures for all sexual harassment complaints under this policy. Hearings will be conducted using video-conferencing technology so that the parties may see and hear each other without being present in the same room. Hearings will either be audio recorded and transcribed or audio visually recorded.

The three-person hearing panel will be made up from various constituencies of the College (staff and/or faculty, and in some cases students). Selection will be made in such a way as to ensure that the panel members are trained appropriately and properly screened for potential conflicts of interest or bias.

The hearing will be presided over by a Hearing Officer who is not a decision maker or voting member of the hearing panel. The Hearing Officer is responsible for coordinating a hearing date and time, communicating with parties, administering an orderly and fair hearing, and assisting the panel with procedural questions and preparation of a hearing report.

### **Pre-Hearing Procedures**

The Hearing Officer will notify the Complainant and Respondent in writing not less than twenty (20) business days prior to the hearing date of the date, time, and location of the hearing, rules regarding access to direct evidence relating to the formal complaint, mandatory pre-hearing disclosures, a description of the hearing process, rules of decorum, and the role of Advisors,

Not less than ten (10) days prior to the live hearing, the parties will submit to the Hearing Officer pre-hearing disclosures, which consists of:

- The Advisor's name and contact information.
- A list of evidence to be presented at the hearing including witnesses' names (other than the parties) with a brief summary of the purpose of their testimony, and any exhibits that they intend to use or submit as evidence at the hearing.

The Title IX Coordinator/Deputy Coordinator for students will submit to the Hearing Officer pre-hearing disclosures, which consist of:

- A summary of all evidence directly related to the formal complaint that was previously sent to the parties along with instructions on access.
- The formal complaint, investigation report, parties' responses to the investigation report, and relevant evidence compiled by the investigator that will be marked for introduction into the record by the investigator.

Not less than five (5) days prior to the hearing, the Hearing Officer/Panel will notify the parties of any witnesses and a list of evidence that it has requested that was not in the pre-hearing disclosures submitted by the parties.

All information submitted will be shared with parties and their Advisors and made available to the Hearing Panel. Parties can access and copy the evidence subject to review and inspection at their own expense. The Hearing Officer will make all evidence that was previously sent to the parties available at the hearing.

Any evidence that a party intends to introduce, but was not available or disclosed due to circumstances beyond a party's reasonable control, must be promptly identified to the Hearing Officer accompanied by a written request containing supporting information. The Hearing Officer will notify the parties regarding the admissibility of the evidence prior to or before the start of the live hearing.

### **Hearing Procedures and Decorum**

Life West will provide a live hearing with all parties, witnesses, and participants physically or virtually present. An audio or audiovisual transcript of the hearing will be created and made available to the parties for inspection and review after the hearing. All hearing participants are expected to conduct themselves in a respectful manner at all times. The Hearing Officer/Panel may remove a participant from the proceedings for refusal to follow the instructions of the Hearing Officer/Panel or inappropriate conduct that is, for example, disruptive, demeaning, belligerent, harassing, or intended to obstruct or cause delay.

During the hearing the Hearing Officer/Panel will:

- Notify the parties of the decision maker(s) in the case
- Explain the preponderance of evidence standard
- Disclose range of sanctions if found responsible
  
- Explain the hearing procedures and rules of decorum to the participants, including rules that apply to Advisors and their ability to cross-examine
  
- Comply with hearing procedures and enforce rules of decorum
- Rule on issues of relevance, including objections to relevance from parties, and give a brief explanation whenever he or she finds that a question is not relevant. Advisors and parties will not be allowed to challenge the Presiding Official/Hearing Officer's relevancy rulings at the hearing.
- Make a decision solely on the evidence presented at the hearing using a preponderance of the evidence standard.

During the hearing, the hearing officer will allow parties to make brief opening statements (5 minutes) about their positions and the evidence that they intend to offer.

The formal complaint will be read into record and the Title IX/Deputy Investigator will be called as a witness to provide an overview of the procedural history of the case and

answer any questions that the presiding official or decision maker(s) have about the investigation report.

Next, the parties will be afforded the opportunity to present relevant evidence starting with the Complainant and Complainant's witnesses followed by Respondent and Respondent's witnesses. The Hearing Officer or Hearing Panel may ask follow-up questions at the conclusion of the direct testimony, but will only act as an impartial fact finder at all times. After the Hearing Officer or Hearing Panel has asked relevant questions of a party or witness, then the other party's Advisor will be given the opportunity to ask relevant cross-examination and follow up questions including those relating to credibility.

The parties will be allowed to make closing statements (10 minutes). The Complainant will go first, followed by the Respondent. A closing statement may include a summary of the information shared during the hearing and the impact the party believes it has on the decision before the Hearing Panel. It may also include how the party has been impacted by the allegations and what their desired outcome of the hearing is.

Other general rules for the investigation and hearing regarding evidence and relevance

- The rape shield provision limiting relevancy of the Complainant's prior sexual behavior to prove consent or that someone else committed the offense applies equally to the investigation and the hearing. Respondent's prior sexual behavior is irrelevant unless he or she is also a Complainant.
- Evidence of a person's character or prior bad acts is admissible and must be admitted and objectively evaluated with respect to relevancy and to determine whether the evidence warrants a high or low level of weight or credibility.
- Any statements contained in testimony or a document that is not supported by a live witness willing to submit to cross-examination must be excluded and cannot be relied upon by the decision maker(s).
- The College reserves the right to appear and submit relevant evidence at the hearing that was previously presented during the investigation or was unavailable due to no fault of its own or any party, after providing the parties with the necessary pre-hearing disclosure statement outlined above. However, the College is not a party to the proceedings and will not advocate on behalf of the Complainant or Respondent.
- No adverse inference may be drawn if a party or witness refuses to testify or respond to a question.
- Questions on cross-examination will be evaluated by the Hearing Officer at the hearing for relevancy before a party or witness is required to answer. The Hearing Officer will explain in real time any decision not to permit a question. However, Advisors may not challenge or speak to the decision maker's ruling.

### **Hearing Panel Determination of Responsibility/No Responsibility**

The three members of the Hearing Panel are equal decision-makers and are responsible for deciding whether the Respondent is or is not responsible for violating College policy

based on the notice of charges provided to the Respondent. A majority of the Hearing Panel must determine whether it is more likely than not that the Respondent committed a violation of this policy. A determination must be made for each policy violation alleged.

The hearing panel will issue a written report within five (5) business days and simultaneously notify the Complainant and Respondent of its determination and findings.

## **APPEAL PROCEDURES**

Both parties have the right to an administrative appeal of the outcome of the hearing. The appeal must be submitted in writing within ten (10) business days to the Title IX Coordinator and must specifically state grounds for appeal and the rationale and evidence in support of the reason for appeal.

### **Appeal Reasons**

The permissible grounds for appeal are limited to the following reasons:

- A procedural error occurred that materially affects the outcome of the hearing (e.g. substantial and material deviation from established procedures, erroneous relevance determinations or failure to objectively evaluate all relevant evidence if they affected the outcome, etc.). It is important that the procedural error and its impact must be explained.
- To consider new evidence not available at the time the determination regarding responsibility or dismissal was made, that could affect the outcome of the matter. A summary of this new evidence and its potential impact must be included along with an explanation showing why the evidence was not presented at the original hearing.
- The Title IX Coordinator/Duty Coordinator, Investigator, or Decision Maker had a conflict of interest or bias for/against Complainants or Respondents generally or one of the parties that affected the outcome of the matter. The conflict of interest or bias and its impact must be explained.
- The sanctions imposed are substantially disproportionate to the severity of the violation and substantially outside the parameters or guidelines set by Life West for this type of offense or the cumulative conduct record of the Respondent. The reasoning and evidence that the sanction was disproportionate or inappropriate must be explained.

### **Appeal Procedures**

The College must notify the other party when an appeal is filed including a copy of the written submission received from the appealing party. The other party will be given five (5) business days to submit a written statement opposing the appeal and supporting the outcome. The College will give a copy of the opposing party's response or opposition to the party filing the appeal.

An Appeal Review Board will be established to review the case. The three-person appeals panel will be selected from various constituencies of the College (students, staff and/or faculty). Selection will be made in such a way as to ensure that the members of the appeals panel are trained appropriately and screened for potential conflicts of interest and bias.

The Appeals Panel may examine all documentation and evidence relating to the case. The responsibility of the Appeals Panel is to conduct a closed and confidential review of the case and report and make recommendations to the Deciding Administrator. The Deciding Administrator in complaints where the Respondent is a student will be the Vice-President, Office Academic Affairs. The Deciding Administrator in complaints where the Respondent is a faculty or staff member will be the Director of Human Resources/Title IX Coordinator.

The Deciding Administrator will make a determination based on the report of the Appeal Review Board and has ultimate authority in all decisions and recommendations. The determination of the Deciding Administrator is considered final and not appealable. Both parties will receive a written decision describing the result of the appeal and the rationale for the decision within ten (10) business days. Simultaneous notice of the written decision will be sent to both parties.

## **REPORTING RESOURCES**

Anyone with knowledge about sexual misconduct, discrimination, 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 Executive Vice President (Dr. Anatole Bogatski: [abogatski@lifewest.edu](mailto:abogatski@lifewest.edu)) and the Title IX Coordinator (Tarsha Addison: [taddison@lifewest.edu](mailto:taddison@lifewest.edu)). Reports may also be made to any of the following personnel on campus:

## **CAMPUS TITLE IX COORDINATOR & DEPUTY COORDINATORS**

**Title IX Coordinator - Staff/Faculty: Tarsha Addison**  
[taddison@lifewest.edu](mailto:taddison@lifewest.edu)  
**(510) 780-4541**

**Deputy Title IX Coordinator - Students: Dave Straub**  
[dstraub@lifewest.edu](mailto:dstraub@lifewest.edu)  
**(510) 780-2590**

## **TITLE IX TASK FORCE:**

**Hearing Officers & Decision Makers**

Dr. Anatole Bogatski, Executive Vice President  
Tarsha Addison, Director of Human Resources and Campus Culture

**Hearing Panel, Chairs:**

Danielle Lorta, Student Life Manager  
Loretta Saunders, Student Life Office Manager  
Julie Truong, Human Resources Generalist  
Andrew Herrera, Health Center, Customer Service Manager

**Investigators:**

Ryan Odell, Health Center, Director of Compliance  
Julie Truong, Human Resources Generalist  
David Straub, Dean of XX, Compliance Officer  
Tarsha Addison, Director of Human Resources  
Danielle Lorta, Student Life Manager

**OTHER CAMPUS RESOURCES**

Campus Facilities Director (Michael Baldwin: [mbaldwin@lifewest.edu](mailto:mbaldwin@lifewest.edu))  
Student Life Manager (Dani Lorta: [dlorta@lifewest.edu](mailto:dlorta@lifewest.edu))  
Faculty Chairs (Ankur Tayal: [atayal@lifewest.edu](mailto:atayal@lifewest.edu), Jeanna Edwards: [jedwards@lifewest.edu](mailto:jedwards@lifewest.edu), Christian Labau: [clabau@lifewest.edu](mailto:clabau@lifewest.edu), David Straub: [dstraub@lifewest.edu](mailto:dstraub@lifewest.edu))  
Vice Presidents (Vice President of Academic Affairs, Dr. Pardeep Kullar: [pkullar@lifewest.edu](mailto:pkullar@lifewest.edu), Vice President of Institutional Advancement, Dr. Mark Zeigler: [mzeigler@lifewest.edu](mailto:mzeigler@lifewest.edu), Vice President of Clinic Operations, Dr. Scott Donaldson: [sdonaldson@lifewest.edu](mailto:sdonaldson@lifewest.edu))  
Athletics Director (Adriaan Ferris: [aferris@lifewest.edu](mailto:aferris@lifewest.edu))  
Administrators with supervisory responsibilities: Human Resources staff (Julie Truong: [jtruong@lifewest.edu](mailto:jtruong@lifewest.edu))

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. Anonymous reports can also be made to Life West Responsible Employees. The Title IX Coordinator will review the report and determine whether there is adequate information to initiate an investigation.

Protective measures for victims are available from the College whether or not the victim chooses to report to local and/or campus law enforcement and irrespective of whether the 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 Equal Employment Opportunity (EEO) and Title IX Coordinator, Tarsha Addison, and/or to officials of the U.S. Department of Education.

Intimidatory or retaliatory acts are prohibited. No recipient or other person shall intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by Section 601 of the Act or this part, or because he or she has made a complaint, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under this part. The identity of complainants shall be kept confidential except to the extent necessary to carry out the purposes of this part, including the conduct of any investigation,

### **TITLE IX TASK FORCE TRAINING**

The Title IX Task Force is ATIXA Certified. ATIXA is an independent, not-for-profit organization served by an Advisory Board. The consulting firm TNG is nationally known for its leading expertise in Title IX compliance, litigation, and expert witness services. TNG now serves as the management company for the association. Title IX Training and Certification Program documents are available to view in the Human Resources Department or you may visit [www.atixa.org](http://www.atixa.org) for more information.

### **EXTERNAL SUPPORT AND RESOURCES**

For 24-hour confidential support, you can contact the following centers:

Alameda County Highland Hospital Sexual Assault Center (Oakland)\*  
24/7 Crisis Line: 510-534-9290 or 9291  
[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](http://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.asafepplacedvs.org/>

Ruby's Place, 20880 Baker Road, Castro Valley 94546  
(510) 581-5626, <https://www.rubysplace.org/>

National Suicide Prevention Hotline  
24/7 Crisis Line: 1-800-273-8255

Spirituality Services  
Non-24/7 Line: 510-752-6281

East Bay Kaiser Permanente\*  
Oakland Medical Center\*

\*This Emergency Department is where you should go within 72 hours for a medical forensic exam. The EEO and Title IX Coordinator oversee the College's affirmative action programs and monitors compliance with policies and laws that ensure equal opportunity for students, faculty, and staff. The Title IX Coordinator is ultimately responsible for ensuring that in all cases the behavior is stopped, 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 are also responsible for ensuring that training is conducted annually for all advocates, investigators, hearing officers, panelists, and appeals officers. Training will 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 SEXUAL ASSAULT VICTIM'S BILL OF RIGHTS**

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

- They shall be notified of their options to notify law enforcement and be assisted in notifying such authorities if they so choose;
- They have the right to decline to speak with local law enforcement should such authorities be notified;
- They have the right to information about existing on- and off-campus counseling, mental health, medical, or other services;
- They have the right to 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 following:
  - the applicable policy and procedures for complaint investigations;

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

## **IF YOU ARE A VICTIM OF SEXUAL VIOLENCE**

If you are a 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 the following 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 the campus Security Officer at (510) 456-6239.
2. Consider securing immediate professional support (e.g., counseling, victim advocacy, and medical services) to assist you in the crisis.
3. If you are on campus during regular business hours, you may go to the Counseling Office, Human Resources Office, and Office of Student Life for support and guidance. These are confidential resources. After regular business hours or in any situation, local resources are also available and may be able to provide confidential assistance.
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 that the exam should be conducted at a hospital 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, emergency contraception, and referrals to other resources that may be of benefit.

Preserve evidence following an incident of sexual assault, dating violence, domestic violence, or stalking:

1. 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 obtaining a successful criminal prosecution or a protection order.
2. In cases of sexual assault, avoid washing, douching, using the toilet, or changing clothing prior to a medical exam.
3. Any clothing removed should be placed in a paper bag.
4. Evidence of violence, such as bruising or other visible injuries, should be documented including through photographic evidence.
5. 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.
6. Typically, if the 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, unlaundered clothing, and any other pertinent articles that may be used as evidence. It is best to allow the police to secure items in evidence containers, but if you are involved in the transmission of items of evidence, such as to the hospital, secure them in a clean paper bag or clean sheet to avoid contamination.

7. If you have physical injuries, photograph or have them photographed with a date stamp on the photo.
8. 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.
9. Try to memorize details (e.g., physical description, names, license plate number, and car description), or even better write notes to remind you of details if you have time and the ability to do so.
10. If you obtain external orders of protection (e.g., restraining orders, injunctions, or protection from abuse), please notify the Campus Facilities Department so that those orders can be followed on campus.
11. Even after the immediate crisis has passed, consider seeking support from the college counseling services or the local YWCA Rape Crisis Center.
12. Contact the Title IX Coordinator or Deputy 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, access to counseling services, and other support and resources as needed.

## **DEFINITIONS**

Life West has adopted the following definition of sexual harassment in order to address the special environment of the academic community that consists of not only employers and employees but also students:

### **Sexual Harassment**

Acts of sexual harassment may be committed by any person upon any other person, regardless of the sex, sexual orientation, and/or gender identity of those involved. Sexual Harassment as an umbrella category includes the offenses of sexual harassment, sexual assault, domestic violence, dating violence, and stalking.

Sexual harassment means conduct on the basis of sex that satisfies one or more of the following:

- **Quid Pro Quo:** An employee of the recipient conditioning the provision of an aid, benefits, or service of the recipient on an individual's participation in unwelcome sexual conduct (i.e., *quid pro quo*); or
- **Hostile Environment:** Unwelcome conduct that a reasonable person would determine is so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the school's education program or activity; or
- **Sexual Assault, defined as sex offenses, Forcible:** Any sexual act directed against another person, without the consent of the Complainant including instances where the Complainant is incapable of giving consent.

## **Sexual Exploitation**

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

### **THE VIOLENCE AGAINST WOMEN ACT:**

- Sexual assault is any sexual act directed against another person, forcibly and/or against that person's will or not forcibly or against that person's will, where the victim is incapable of giving consent. Sexual assault includes incest and 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 is violence committed by a person who is or has been in a romantic or intimate relationship with the victim.
- 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.

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

- 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;
- where it is accomplished against a person's will by means of force, violence, duress, menace, or fear of immediate and unlawful bodily injury to that person or another;
- where a person is prevented from resisting by means of any intoxicating or anesthetic substance or any controlled substance, and this condition was known or reasonably should have been known by the accused;
- where a person is at the time unconscious of the nature of the act, and this is known to the accused;
- 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 the intent to induce the belief;
- where the perpetrator accomplishes the act 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;
- where the perpetrator accomplishes the act against the victim's will by threatening to use the authority of a public official to incarcerate, arrest, or deport the victim or another person, and the victim holds the 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);
- sexual battery (the unwanted touching of an intimate part of another person for the purpose of sexual arousal).

The State of California's definition of sexual consent is defined as **affirmative consent**. Affirmative consent means the 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 they have the affirmative consent of the other person or persons to engage in 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's definition of **stalking** is when any person willfully, maliciously, and repeatedly follows or willfully and maliciously harasses another person and 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's 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 CRIMES**

As defined by the 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 that 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 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 people who identify with one another through common heritage (common language, common culture, and/or an ideology that stresses common ancestry);
- **National Origin** – a preformed negative opinion about a group of persons based on their 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 and congenital or acquired by heredity, accident, injury, advanced age, or illness.

## Sexual Misconduct

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 on the basis of the facts and circumstances of the particular grievance. Acts of sexual misconduct may be committed by any person against 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 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 to have 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 must resist the sexual advances or request 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 non-consensual, but non-consensual sexual activity is not by definition forced. The use of force is not “worse” than the subjective experience of the 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 only the sexual misconduct charge but also 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 may create an atmosphere of coercion that can significantly impair the ability to consent. Coercive behavior differs from seductive behavior on the basis of the type of pressure someone uses to get consent from another. When someone makes it clear to you that they do not want sex, they want to stop, or they do 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 they lack 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 of 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 their responsibility for committing the sexual misconduct. The 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 and with any object, of or with a person by 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 and with any object, of a person by 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.

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

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

- **Threatening or Causing Physical Harm, Extreme Verbal Abuse, or Other Conduct that 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, that 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 that is likely to intimidate or intentionally hurt, control, or diminish another person physically or mentally, which is not speech or conduct otherwise protected by the First Amendment;
- **Violence Between Those in an Intimate Relationship** - includes romantic relationships, dating, domestic, and/or relationship violence. The existence of such a relationship shall be determined on the basis of a consideration of the following factors: the length of the relationship, the 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;

- **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 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 in which they are currently enrolled as a student or full- or part-time employee (with or without compensation). Those participating in a vocation are also required to provide notice (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 for the State of California and the County of Alameda at

<https://oag.ca.gov/sex-offender-reg>  
[https://www.alamedacountysheriff.org/les\\_megan.php](https://www.alamedacountysheriff.org/les_megan.php)

### **Sanctions**

The College may impose one or more sanctions on a student, staff member, or faculty member who violates College policy. When a sanction or responsive action is determined, the factors that are considered may include the following:

- 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 or responsive actions to bring an end to the discrimination, harassment, and/or retaliation;
- the need for sanctions or 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 actions, inclusive of a warning of expulsion and termination. Disciplinary actions include the following:

- verbal or written warning;
- educational sanctions and training;
- contributed service;
- no contact directive;
- restitution;
- loss of privileges including limitations on the 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 under 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

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.

## **CAMPUS FIRE SAFETY ANNUAL COMPLIANCE RERPORT**

The Higher Education Opportunity Act (HEOA) [Public Law 110-315] became law in August 2008, requiring all United States academic institutions to produce an annual fire safety report outlining fire safety practices, standards, and all fire related on-campus housing statistics. The following public disclosure report details all information required by this law as it relates to Life West.

Fire statistics for Life West are found in Appendix A. If you smell smoke or detect a fire, activate the nearest alarm and call 911 immediately from a safe location on- or off-campus. If you find evidence of an extinguished fire that has not been addressed by the college, please contact the Campus Facilities Department at (510) 828-0593.

### **College Fire Policies, Procedures, and Standards**

The following acts may subject students to disciplinary action:

Tampering with, removing, damaging, or destroying fire extinguishers, fire alarm boxes, smoke or heat detectors, emergency call boxes, and other safety equipment anywhere on college property; creating a fire, safety, or health hazard; or failure to respond to fire alarms, evacuate buildings during alarm activation, or respond to the directions of emergency personnel.

### **College Standards, Policies, and Procedures: Building Evacuations & Fire Safety**

The following standards are for the safety of all students. Violation of many of these standards is also punishable by local and state law.

Evacuation is required of all occupants of college buildings whenever an alarm is sounded. Students should be familiar with emergency evacuation routes from buildings in which they spend time.

Specific procedures are:

- Exit the building immediately by the proper pathway.
- Use stairways; do not use the elevators.
- Once outside, move to your designated emergency assembly point.
- Do not return to the evacuated building until the all-clear signal is given and permission is explicitly granted by a Campus Safety Committee officer.

Failure to evacuate for an alarm is a violation of city and state ordinances and will be treated as a serious violation of the Student Conduct Code.

Fire alarms and fire-safety equipment are located throughout the campus building to save lives and property. Initiating a false alarm or tampering with fire-safety equipment is a violation of college policy and Hayward City Ordinance.

## **Smoke Free Policy**

Life West has adopted a smoke-free and tobacco-free policy on the campus. All faculty, staff, students, and visitors to the college are covered by this policy. In addition, all persons using the facilities of the college are subject to this policy.

Smoking means inhaling, exhaling, burning, or carrying of any lighted or heated tobacco product, as well as smoking substances that are not tobacco, and operating electronic smoking devices and other smoking instruments.

Tobacco Product means all forms of tobacco, including but not limited to cigarettes, cigars, pipes, hookahs, electronic smoking devices, and all forms of smokeless tobacco.

Tobacco-Related means the use of tobacco brand or corporate name, trademark, logo, symbol, motto, or selling message that is identifiable with those used for any brand of tobacco products or company which manufactures tobacco products.

## **Fire Safety Training for Students, Faculty, and Staff**

Building evacuation drills are conducted every quarter. Staff members are trained to record/account for those present and submit reports to incident command staff. Records for these building evacuation drills are retained by the Campus Facilities Department.

The Director of Facilities along with a Hayward Fire Department Deputy Fire Marshal conducts annual fire safety inspections of the campus building.

## **APPENDIX A**

### Statistics Regarding Fires

2019: No fires on college campus

2019: No fires on college property

2018: No fires on college campus

2018: No fires on college property

2017: No fires on college campus

2017: No fires on college property

## **APPENDIX B**

### **Campus Crime Statistics**

In compliance with the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act, the Office of Institutional Research prepares and publishes the Annual Crime Disclosure of Crime Statistics. The report is maintained on the college website. This report is prepared in cooperation with the Hayward Police Department and the Office of the Executive Vice President.

The statistics, which include crimes on campus and crimes in adjacent public areas, are collected by the Office of the Vice President. These statistics include crimes reported directly to the college and information provided by the Hayward Police Department.

#### **Crime Definitions:**

Aggravated Assault – an unlawful attack by one person upon another for the purpose of inflicting severe or aggravated bodily injury. This type of assault usually is accompanied by the use of a weapon or by means likely to produce death or great bodily harm.

Arson – any willful or malicious burning or attempt to burn, with or without intent to defraud, a dwelling house, public building, motor vehicle or aircraft, personal property of another, etc

Burglary – the unlawful entry of a structure to commit a felony or a theft.

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 victim; and where the existence of such a relationship shall be determined by the victim with consideration of the length of the relationship, the type of the relationship and the frequency of interaction between the persons involved in the relationship

Destruction/Damage/Vandalism of Property – to willfully or maliciously destroy, damage, deface or otherwise injure real or personal property without the consent of the owner or the person having custody or control of it

Domestic Violence - a felony or misdemeanor crime of violence committed by a current or former spouse or intimate partner 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 or intimate partner, by a person similarly situated to a spouse of the victim under California law, or by any other person against an adult or youth victim who is protected from that person's acts under California law.

Fondling – the touching of the private body part of another person for the purpose of sexual gratification, 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 because of his/her youth or because of his/her temporary or permanent mental incapacity

Hate Crimes – crimes committed against a victim based on the perpetrator's bias against the victim based on the victim's actual or perceived race, gender, gender identity, religion, sexual orientation, ethnicity, national origin, or disability. Hate crimes include all of the crimes listed in the chart below, plus the crimes of larceny- theft, intimidation, destruction/damage/vandalism, and simple assault.

Incest – non-forcible sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law

Intimidation – to unlawfully place another person in reasonable fear of bodily harm through the use of threatening words and/or other conduct, but without displaying a weapon or subjecting the victim to actual physical attack

Larceny-Theft – the unlawful taking, carrying, leading or riding away of property from the possession or constructive possession of another

Manslaughter by Negligence – the killing of another person through gross negligence

Motor Vehicle Theft – the theft or attempted theft of a motor vehicle

Murder/Non-Negligent Manslaughter – the willful (non-negligent) killing of one human being by another.

Rape - 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

Robbery – the taking or attempting to take anything of value from the care, custody, or control of a person or persons by force or violence and/or by putting the victim in fear.

Sexual Assault—Any sexual act directed against another person, forcibly and/or against that person's will where the victim is incapable of giving consent, as well as incest or statutory rape.

Simple Assault – an unlawful physical attack by one person upon another where neither the offender displays a weapon, nor the victim suffers obvious severe or aggravated bodily injury involving apparent broken bones, loss of teeth, possible internal injury, severe laceration, or loss of consciousness

Stalking – 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 of his or her safety or the safety of others

Statutory Rape – non-forcible sexual intercourse with a person who is under the statutory age of consent

### **Clery Geography Location Definitions**

On-campus – (1) Any building or property owned or controlled by an institution within the same reasonably contiguous geographic area and used by the institution in direct support of, or in a manner related to, the institution's educational purposes, including residence halls; and (2) any building or property that is within or reasonably contiguous to paragraph (1) of this definition, that is owned by the institution but controlled by another person, is frequently used by students, and supports institutional purposes (such as a food or other retail vendor)

Non-campus building or property – Any building or property owned or controlled by a student organization that is officially recognized by the institution; or any building or property owned or controlled by an institution that is used in direct support of, or in relation to, the institution's educational purposes, is frequently used by students, and is not within the same reasonably contiguous geographic area of the institution

Public property – All public property, including thoroughfares, streets, sidewalks, and parking facilities, that is within the campus, or immediately adjacent to and accessible from the campus

**Crimes Reported to Campus Safety, Hayward Police Department and Campus Security Authorities 2017 - 2019**

Offense	Year	On-campus Student Residences	On-Campus	Non-Campus	Public Property	Total On-Campus+ Non-Campus + Public Property
Murder / Non-Negligent Manslaughter	2017	0	0	0	0	0
	2018	0	0	0	0	0
	2019	0	0	0	0	0
Manslaughter by Negligence	2017	0	0	0	0	0
	2018	0	0	0	0	0
	2019	0	0	0	0	0
Robbery	2017	0	0	0	0	0
	2018	0	0	0	0	0
	2019	0	0	0	0	0
Aggravated Assault	2017	0	0	0	0	0
	2018	0	1	0	0	1
	2019	0	0	0	0	0
Sexual Assault	2017	0	0	0	0	0
	2018	0	0	0	0	0
	2019	0	0	0	0	0
Rape	2017	0	0	0	0	0
	2018	0	0	0	0	0
	2019	0	0	0	0	0
Fondling	2017	0	1	0	0	1
	2018	0	0	0	0	0
	2019	0	0	0	0	0
Incest	2017	0	0	0	0	0
	2018	0	0	0	0	0
	2019	0	0	0	0	0
Statutory Rape	2017	0	0	0	0	0
	2018	0	0	0	0	0
	2019	0	0	0	0	0
Burglary	2017	0	5	0	0	5
	2018	0	0	0	0	0
	2019	0	0	0	0	0
Motor Vehicle Theft	2017	0	1	0	0	1
	2018	0	2	0	0	2
	2019	0	0	0	1	1
Arson	2017	0	0	0	0	0
	2018	0	0	0	0	0
	2019	0	0	0	0	0

There were no Hate Crimes reported for the years 2017, 2018, and 2019.

**Liquor, Drugs, and Weapons Violations Reported to Campus Safety, Hayward Police Department and Campus Security Authorities 2017 - 2019**

Offense	Year	On-campus Student Residences	On-Campus	Non-Campus	Public Property	Total On-Campus + Non-Campus + Public Property
Liquor Law Violations: Arrests	2017	0	0	0	0	0
	2018	0	0	0	0	0
	2019	0	0	0	1	1
Liquor Law Violations: Disciplinary Referrals	2017	0	0	0	0	0
	2018	0	0	0	0	0
	2019	0	0	0	0	0
Drug-Related Violations: Arrests	2017	0	0	0	1	1
	2018	0	0	0	0	0
	2019	0	0	0	0	0
Drug-Related Violations: Disciplinary Referrals	2017	0	0	0	0	0
	2018	0	0	0	0	0
	2019	0	0	0	0	0
Weapons Possessions: Arrests	2017	0	0	0	0	0
	2018	0	0	0	0	0
	2019	0	0	0	0	0
Weapons Possessions: Disciplinary Referrals	2017	0	0	0	0	0
	2018	0	0	0	0	0
	2019	0	0	0	0	0

### VAWA (Violence Against Women Act) Crimes 2017 - 2019

The Reauthorization of the VAWA was signed into law on March 7, 2013. Its provisions for reporting with the U.S. Department of Education became effective in the year 2014. Prior years did not report data on sex offenses categorized as Domestic Violence, Dating Violence, and Stalking.

Crimes Reported to Campus Safety, Hayward Police Department and Campus Security Authorities 2017 - 2019

Offense	Year	On-campus Student Residences	On-Campus	Non-Campus	Public Property	Total On Campus + Non-Campus + Public Property
Domestic Violence	2017	0	0	0	0	0
	2018	0	0	0	0	0
	2019	0	0	0	0	0
Dating Violence	2017	0	0	0	0	0
	2018	0	0	0	0	0
	2019	0	0	0	0	0
Stalking	2017	0	2	0	0	2
	2018	0	1	0	0	1
	2019	0	0	0	0	0



## Change Log

This publication of the 2020 report is dated 22 September 2020. Changes to the originally published report will be described, dated, and entered in this Change Log.

Section Title	Description of Change	Page(s)	Comment or Rationale for Change
Emergency Response and Evacuation Procedures	EPRP personnel data updated	10	Updated to reflect recent staffing changes and to match existing EPRP.
Appendix B	Campus Crime Statistics 2016-2018	60	Updated to reflect 2017-2019 instead of 2016-2018.
Title IX Policy	Policy revised	25-54	Updated to reflect most recent college Title IX policy

