

Lackawanna College Mandatory Reporters: A Policy for Faculty and Professional Staff

This document outlines Lackawanna College's policy regarding mandated reporting of behaviors, discrimination, harassment, and crimes by employees. Lackawanna College has a blanket mandated reporting responsibility for all employees. If you know about sexual harassment, discrimination, or sexual assault, we need to know what you know.

Mandatory Reporters: What and Why?

There are three federal laws that establish responsibilities for employees of colleges to report certain types of crimes and incidents, especially sexual misconduct---the Clery Act, Title VII and Title IX. Each of these areas of federal law has a different purpose, but generally the laws are intended to protect members of the campus community, visitors, and guests from criminal and discriminatory behavior. The responsibilities established by these laws give rise to the term "mandatory reporter." Additionally, state law imposes mandates with respect to the reporting of child abuse and sexual abuse as follows:

The Legal Context

The Clery Act creates a duty for institutions to report crimes in 15 different categories and has the broadest scope. It is the College that has the duty to report these crimes and failure to do so can result in substantial fines being imposed on the institution by the Department of Education.

Title VII focuses on sexual harassment in the workplace and failure to take appropriate action can lead to financial liability for the College. In this case, the law creates a duty to report for employees who supervise other employees, including students being paid by the College.

Title IX focuses on the adverse consequences faced by victims of gender discrimination and sexual harassment and creates obligations for the College to investigate and to provide a "prompt and effective remedy." If the victim is a student, Title IX means among other things that the College must provide a safe environment that does not interfere with the victim's right to pursue an education. The College incurs this obligation when a victim has given notice to a "responsible employee," or when the College, in the exercise of reasonable care, should have known, about the assault or harassment.

Confidentiality and Reporting of Offenses

All College employees (faculty, staff, and administrators) are expected to report actual or suspected discrimination or harassment to appropriate officials immediately, though there are some limited exceptions. In order to make informed choices, it is important to be aware of confidentiality and mandatory reporting requirements when consulting campus resources. On campus, some resources may maintain confidentiality – meaning they are not required to report

actual or suspected discrimination or harassment to appropriate College officials – thereby offering options and advice without any obligation to inform an outside agency or campus official unless a reporting party has requested information to be shared. Other resources exist for reporting parties to report crimes and policy violations and these resources will take action when an incident is reported to them. The following describes the reporting options at the College:

Confidential Reporting

If a reporting party would like the details of an incident to be kept confidential, the reporting party may speak with:

On-Campus:

- Wellness Program (SWP) Executive Director
- Student Wellness Program (SWP) Coordinator, Marcus Mitchell
- The Clinics at Scranton Primary Health Care Center - Student Health Services
- Athletic Trainers

Off-campus (non-employees):

- Licensed professional counselors
- Local rape crisis counselors
- Domestic violence advocates
- Clergy/Chaplains

All of the above-listed individuals will maintain confidentiality except in extreme cases of immediacy of threat or danger or abuse of a minor. The SWP is available to help free of charge and can be seen on an emergency basis during normal business hours. After normal business hours, emergency consultation is available through Scranton Counseling Center (570) 348-6100 or HELPLINE (570) 829-1341. College employees listed above will submit anonymous statistical information for Clery Act purposes unless they believe it would be harmful to the student/victim.

Formal Reporting Options

All College employees have a duty to report, unless they fall under the “Confidential Reporting” section above. Reporting parties may want to consider carefully whether they share personally identifiable details with non-confidential employees, as those details must be shared with the Title IX Coordinator. Employees must promptly share all details of the reports they receive. Generally, climate surveys, classroom writing assignments or discussions, or events such as Take Back the Night marches or speak-outs do not provide notice that must be reported to the Title IX Coordinator by employees, unless the reporting party clearly indicates that they wish a report to the Title IX Coordinator be made. Remedial actions may result from such disclosures without formal College action.

If a reporting party does not wish for their name to be shared, does not wish for an investigation to take place, or does not want a formal resolution to be pursued, the reporting party may make such a request to the Title IX Coordinator who will evaluate that request in light of the duty to ensure the safety of the campus and comply with federal law. Note that the College's ability to remedy and respond to a reported incident may be limited if the reporting party does not want the institution to proceed with an investigation and/or the Equity Resolution Process.

In cases indicating pattern, predation, threat, weapons and/or violence, the College will likely be unable to honor a request for confidentiality. In cases where the reporting party requests confidentiality and the circumstances allow the College to honor that request; the College will offer interim supports and remedies to the reporting party and the community but will not otherwise pursue formal action. A reporting party has the right, and can expect, to have allegations taken seriously by the College when formally reported, and to have those incidents investigated and properly resolved through these procedures.

Formal reporting still affords privacy to the reporter, and only a small group of officials who need to know will be told, including but not limited to: Public Safety and the Title IX team.

Information will be shared as necessary with investigators, witnesses and the responding party. The circle of people with this knowledge will be kept as tight as possible to preserve a reporting party's rights and privacy. Additionally, anonymous reports can be made by victims and/or third parties using the RAVE Guardian App. Note that these anonymous reports may prompt a need for the College to investigate.

Failure of a non-confidential employee, as described in this section, to report an incident or incidents of sex/gender harassment or discrimination of which they become aware is a violation of College policy and can be subject to disciplinary action for failure to comply.

Federal Timely Warning Obligations

Parties reporting sexual misconduct should be aware that under the Clery Act, College administrators must issue timely warnings for incidents reported to them that pose a substantial threat of bodily harm or danger to members of the campus community. The College will ensure that a victim's name and other identifying information is not disclosed, while still providing enough information for community members to make safety decisions in light of the potential danger.

Mandatory Reporting Under the Clery Act/VAWA, Title VII and Title IX: Guidelines for Employees of Lackawanna College

The College has decided to adopt a policy that defines all employees as mandatory reporters. If you learn about sexual harassment, discrimination or sexual assault, you are expected to

promptly contact the campus Title IX Coordinator, Kelly Schneider, Esq. (570) 961-7890 or Public Safety at (570) 961-7899 / (570) 241-2022. Other serious crimes covered by the Clery Act (defined below) must be reported to the Department of Public Safety.

When reporting sexual harassment or discrimination or sexual assault, a College employee may initially be able to omit personally identifiable information (the name of the victim, the name of the accused individual, and other identifying details about witnesses, location, etc.). The Title IX Coordinator will guide you with regard to how much detail is needed in an initial report.

Subsequent to an initial report, campus officials may need additional information in order to fulfill the College's obligations under Title IX. In taking these subsequent actions, the College will always be guided by the goals of empowering the victim and allowing the victim to retain as much control over the process as possible, but no employee (other than counselors and health care providers) can or should promise confidentiality. Counselors and health service providers are voluntary reporters, not mandated by law, but College policy creates an expectation to report non-personally identifiable information.

The Clery Act requires reporting of 15 serious crimes, including sexual assault. Sexual harassment and discrimination are not covered by the Clery Act, but reporting of such incidents is required under Title IX.

Employees are expected to report crimes covered by the Clery Act to Public Safety. Public Safety will report the crime without delay. Employees may choose -- but are not required -- to provide personally identifiable information (the name of the victim, the name of the accused individual, and other identifying details about witnesses, specific location, etc.) unless a clear threat to health or safety is present, as determined by Public Safety.

The Clery Act does not establish an obligation for Public Safety to conduct an investigation of the reported crime, only to report the crime as a statistic following Clery Act guidelines. In some cases, Public Safety may also be required to release a timely warning to the community about a threat to the community. In such cases, an initial investigation or determination of the nature of the threat may be conducted, after which a warning will be issued immediately.

Summary of Mandatory Reporting Guidelines for Employees of Lackawanna College:

1. The College has defined all employees, both faculty and professional staff, as mandatory reporters, except those designated as "confidential".
2. When an employee becomes aware of an alleged act of sexual harassment, discrimination or assault, the employee must promptly contact the Title IX Coordinator, Kelly Schneider, Esq. (570) 961- 7890 or Public Safety at (570) 961-7899 / (570) 241-2022.
3. If the reported conduct asl constitutes a possible crime, the Title IX Coordinator will promptly

inform Public Safety about the report, though may withhold identifiable information at their discretion.

4. When an employee thinks that a student may be about to report an act of sexual harassment, discrimination or assault, the employee should, if at all possible, tell the student that the College will maintain the privacy of the information, but the employee cannot maintain complete confidentiality and, is required to report the act and may be required to reveal the names of the parties involved. If the student wishes to proceed, the employee should inform the student of the implications of sharing the names of the parties involved, which puts the College on notice.

a. Rather than speaking to the student about confidential information, the employee should offer to refer or accompany the student to the Student Wellness Program, Monday to Friday, 8:00 AM-4:00 PM (except on observed college holidays). Services are free and confidential.

- Program Director, (570)955-1478
- Marcus Mitchell, Program Coordinator, (570)955-1466 or mitchelm@lackawanna.edu
- studentwellness@lackawanna.edu

b. The student can be referred to the following confidential community resources at any time of the day or week, including daily 5 p.m. to 8 a.m. and weekends:

- Abuse and Rape Crisis Center (Towanda) – 570-265-5333
- Blackburn Center (Greensburg) - 1-888-832-2272
- Crime Victims Council of the Lehigh Valley (Bethlehem) –610-437-6611
- Maternal Family Services – 570-595-4496
- Transitions (Sunbury) – 1-800-850-7948
- Turning Point of Lehigh Valley (Bethlehem) – 610-437-3367
- Victims' Intervention Program (Lake Region) – 570-253-4401
- Victims' Resource Center (Tunkhannock) – 570-836-5544
- Victims' Resource Center (Hazleton) – 866-206-9050
- WOAR Philadelphia Center Against Sexual Violence – 215-985-3333
- Women In Need (WIN) / Victim Services (Chambersburg) - 717-264-3056
- WRC (Scranton) – 570-346-4671
- Employees Only - Employee Assistance Program – Mutual of Omaha 1(800) 316-2796 or www.mutualofomaha.com/eap/

5. The Title IX Coordinator is also available to provide guidance on how to handle a situation to faculty and professional staff at any time.

6. Under the Clery Act & VAWA, College employees are mandatory reporters for a broader array of serious crimes, including the following:

a. Criminal Homicide

- i. Murder & Non-Negligent Manslaughter: The willful (non-negligent) killing of one human being by another.
- ii. Negligent Manslaughter: The killing of another person through gross negligence.

b. Sex Offenses: Any sexual act directed against another person without the consent of the victim, including instances where the victim is incapable of giving consent.

- i. Rape: The penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person without the consent of the victim.
- ii. Foundling: The touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the victim, including instances where the victim is incapable of giving consent because of their age or because of their temporary or permanent mental incapacity.
- iii. Incest: Sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.
- iv. Statutory Rape: Sexual intercourse with a person who is under the statutory age of consent.

c. Domestic Violence: includes felony or misdemeanor crimes committed by a current or former spouse or intimate partner of the victim, under the family or domestic violence laws of the jurisdiction receiving grant funding and , in the case of victim services, includes the use or attempted use of physical abuse or sexual abuse, or a pattern of any other coercive behavior committed, enabled, or solicited to gain control over a victim, including verbal, psychological, economic, or technological abuse that may or may not constitute criminal behavior, 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 the domestic or family violence laws of the jurisdiction other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of Pennsylvania.

d. Dating Violence: Violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim. The existence of such a relationship shall be based on the reporting party's statement and with consideration of the length of the relationship, the type of relationship, and the frequency of

- interaction between the people involved in the relationship. It includes, but is not limited to,
- i. sexual or physical abuse or the threat of such abuse.
 - ii. dating violence does not include acts covered under the definition of domestic violence.
- e. Stalking: A course of conduct directed at a specific person under circumstances that would cause a reasonable person to feel alarm, annoyance, emotional distress, and/or fear. Course of conduct means two or more acts, including, but not limited to, acts in which a person directly, indirectly, or through third parties, by any actions, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about another person, or interferes with another person's property. Stalking includes "cyber-stalking," a particular form of stalking in which a person uses electronic media, such as the internet, social networks, blogs, cell phones, texts, or other similar devices or forms of contact. Examples of stalking include:
- i. following a person
 - ii. appearing at a person's home, class, or work uninvited.
 - iii. making frequent phone calls, emails, or text messages
 - iv. leaving written messages
 - v. unwanted contact via social media; or
 - vi. vandalizing a person's property.
- f. Robbery: The taking or attempting to take anything of value from the care, custody, or control of a person or persons by force or threat of force or violence and/or by putting the victim in fear.
- g. 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. (It is not necessary that injury result from an aggravated assault when a gun, knife, or other weapon is used which could and would result in serious personal injury if the crime were successfully completed.)
- h. Burglary: The unlawful entry of a structure to commit a felony or a theft. For reporting purposes this definition includes:
- i. unlawful entry with intent to commit a larceny or felony.
 - ii. breaking and entering with intent to commit a larceny.
 - iii. housebreaking
 - iv. safecracking
 - v. all attempts to commit any of the aforementioned.
- i. Motor Vehicle Theft: The theft or attempted theft of a motor vehicle. (Classify as motor vehicle theft all cases where automobiles are taken by persons not having lawful access even though the vehicles are later abandoned, including joyriding.)

- j. 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.
- k. Arrests for Weapon Law Violations: The violation of laws or ordinances dealing with weapon offenses, regulatory in nature, such as: manufacture, sale, or possession of deadly weapons; arraying deadly weapons, concealed or openly; furnishing deadly weapons to minors; aliens possessing deadly weapons; and all attempts to commit any of the aforementioned.
- l. Arrests for Drug Abuse Violations: Violations of State and local laws relating to the unlawful possession, sale, use, growing, manufacturing, and making of narcotic drugs. The relevant substances include opium or cocaine and their derivatives (morphine, heroin, codeine); marijuana; synthetic narcotics (Demerol, methadone); and dangerous nonnarcotic drugs (barbiturates, Benzedrine).
- m. Arrests for Liquor Law Violations: The violation of laws or ordinances prohibiting: the manufacture, sale, transporting, furnishing, possessing of intoxicating liquor; maintaining unlawful drinking places; bootlegging; operating a still; furnishing liquor to a minor or intemperate person; using a vehicle for illegal transportation of liquor; drinking on a train or public conveyance; and all attempts to commit any of the aforementioned. (Drunkenness & driving under the influence are not included in this definition.)
- n. Disciplinary Referrals for Weapon Law Violations
- o. Disciplinary Referrals for Drug Abuse Violations
- p. Disciplinary Referrals for Liquor Law Violations
- q. Hate Crimes: Crimes motivated by the victim's actual or perceived:
 - i. race
 - ii. gender
 - iii. gender identity
 - iv. religion
 - v. sexual orientation
 - vi. ethnicity
 - vii. national origin
 - viii. disability