

Title IX Non-Discrimination Statement and Policy

Sex discrimination is prohibited by law in all educational programs and activities. Title IX of the 1972 Education Amendments applies to all students, employees, and visitors at Lyon and prohibits unequal treatment based on sex as well as sexual harassment and sexual violence.

Title IX (Education) versus Title VII (Employment)

The substantive law (definitions and rights) prohibiting sex discrimination is consistent whether dealing with students, employees, or visitors. However, the employment laws do not require the extensive notice that is presented here. Therefore, this notice has been geared towards students' needs. Employees who take classes would be covered by Title IX when they believe alleged discrimination interfered with their educational rights. Conversely, if discrimination is alleged to affect student workers in the context of their employment, then Title VII and Lyon's personnel policies apply. Students, employees, and visitors should feel free to contact the Title IX Coordinator for assistance in pursuing their complaints.

- **Sex or Gender discrimination** occurs when a person has been treated unequally based on her/his sex. Specifically, Title IX prohibits the exclusion of persons from participation in, or denial of, the benefits of any College program or activity because of their sex. Examples include:
 - being refused participation in a Nichols Travel trip because of your gender, or
 - being denied admission to a College event because of your gender

There is a specific application of Title IX to athletics ensuring that women and men have equitable access to opportunities in intercollegiate sports.

- **Sexual harassment** is a subset of sex discrimination and is therefore prohibited. Sexual harassment involves any unwelcome conduct of a sexual nature. The unwelcome conduct may involve direct action (advances, promises, etc.) by a person in authority, or sex-related behavior which creates a hostile environment, whether by one in power or by others. Sexual harassment may occur regardless of the gender or the sexual orientation of the parties. Examples include:
 - Suggestive or insulting sounds or obscene gestures
 - Off-color jokes
 - A professor asking for sex in return for good grades
 - Any physical, verbal, graphic or written conduct of a sexual nature

See also the following sexual harassment policy:

Lyon College Professional Behavior Including Policy Prohibiting Harassment and Sexual Harassment (*Lyon College Policy Handbook and Student Handbook*)

- **Sexual violence/assault** is a subset of sexual harassment and is thus also prohibited as a kind of sex discrimination. Sexual violence involves any physical sexual act which is perpetrated against a person's will or done without valid consent (such as when the person is intoxicated). Examples include:
 - Unwanted touching of a sexual nature
 - Sexual assault
 - Rape
 - Stalking, and
 - Other non-consensual sex acts

Arkansas Sexual Assault Statutes (<http://www.acasa.us/pdfs/Sexual-assault-laws.pdf>)

- **Sexual assault in the First Degree:** Sexual intercourse or deviate sexual activity with a victim age 18 or under who is not a spouse of the actor and the actor is employed at any of the places listed below in the statute with the victim in custody of the state, is a professional as listed in the statute, is a temporary caretaker, or is in a position of trust or authority over the victim. This is a Class A felony, punishable by 6-30 years in prison.
 - **Sexual assault in the Second Degree:** Sexual contact by force of a victim who is incapable of consent because she/he is physically helpless, mentally defective, or mentally incapacitated, and where the victim is under the age of 14 and not the spouse of the actor who is age 18 or older. If the victim is under the age of 18 and the actor is employed at any of the places listed below in section 1 with the victim in custody of the state, is a professional listed below in section 2, is the minor's guardian, temporary caretaker, and the actor is a teacher in a public school K-12 and engages in sexual contact with a student. This is a Class B felony, punishable by 5-20 years in prison. However, if the actor is age 18 or less and the victim is age 14 or less and not the spouse of the actor, the charge is reduced to a Class D felony, punishable by 0-6 years in prison.
 - **Sexual Assault in the Third Degree:** Sexual intercourse or deviate sexual activity with a victim who is not a spouse and the actor is employed at any of the places listed in the statute with the victim in custody of the state, is a professional as listed in the statute, or the actor is under the age of 18 and the victim is under the age of 14 and not the spouse. This is a Class C felony with 3-10 years in prison.
 - **Sexual Assault in the Fourth Degree:** Sexual intercourse, deviate sexual activity, or sexual contact with a victim under the age of 16 and not a spouse and an actor age 20 or older. For sexual contact (a Class A misdemeanor), the punishment is up to one year in jail. For sexual intercourse or deviate sexual activity (a Class D felony), the punishment is up to six years in jail.
- **Domestic violence/abuse** means physical harm, bodily injury, assault, or the infliction of fear of imminent physical harm, bodily injury, or assault between family or household members; or any sexual conduct between family or household members, whether minors or adults, that constitutes a crime under the laws of this state. The Arkansas Domestic Violence Statutes may be found at http://www.womenslaw.org/laws_state_type.php?id=481&state_code=AR

- **Stalking** is when someone purposefully engages in a course of conduct that harasses another person and makes terroristic threats while intending to make that person fear death or serious physical injury for him/herself or a member of his/her family. The Arkansas Laws on stalking may be found at <http://criminallaw.uslegal.com/stalking/arkansas-stalking-laws/>
- **Dating violence** is defined as physical harm, bodily injury, assault, or the infliction of fear of imminent physical harm, bodily injury, or assault between two individuals who are in a romantic or intimate social relationship. A romantic or intimate social relationship between two individuals is determined by examining the following factors:
 - the length of the relationship
 - the type of the relationship
 - the frequency of interaction between the two individuals involved in the relationship
 “Dating” does not include a causal relationship or ordinary fraternization between two individuals in a business or social context.
- **Consent** is not explicitly defined in Arkansas statute; however, the following definitions are provided at <http://www.acasa.us/pdfs/Sexual-assault-laws.pdf> :
 - Mentally defective: A person suffers from a mental disease or defect which renders the person incapable of understanding the nature and consequences of sexual acts or unaware the sexual act is occurring. A determination that a person is mentally defective shall not be based solely on intelligence quotient.
 - Mentally incapacitated: A person is temporarily incapable of appreciating or controlling the person’s conduct as a result of the influence of a controlled or intoxicating substance either administered to the person without his/her consent or which renders the person unaware the sexual act is occurring.
 - Physically helpless: A person is unconscious or is physically unable to communicate lack of consent; or is rendered unaware the sexual act is occurring.
- **Victim Protection Orders** may be issued to protect victims from further harassment and abuse. A protective order will protect a victim by allowing him or her to call the police to arrest the abuser if he or she violates the provisions of the protection order.

If you believe you have been discriminated against, the Campus SaVE Act insures you have the following rights.

You have the right to be emotionally and physically safe.

- After an assault or other act of violence, the following steps are recommended (but not required by the College):
 - **File a report.**
On-campus: call Campus Safety at 870-307-7233.
Off-campus: call the Independence County Sheriff’s Office 870-793-8838.

- **Seek medical attention.**
White River Medical Center provides medical care including rape examinations. The hospital is located at 1710 Harrison Street.
- **Seek support.**
The Lyon College Counseling Center and Health and Wellness Center are available to assist you. Interactions with these offices will remain confidential unless the alleged victim voluntarily signs a release form.
- Experiencing any kind of discrimination or sexual harassment can create stress, anxiety, or even seemingly unrelated reactions (like over-eating or not sleeping). Therefore, it's important that you take care of yourself—including getting enough rest, counseling, and other support. See additional resources below.
- The College may take interim and/or permanent steps to remove you from dangerous or discriminatory situations. For example:
 - You or another student may be reassigned to another campus residence.
 - You or another student may have your class schedule modified, or receive other appropriate academic accommodation
 - The alleged perpetrator may be prohibited from having any contact with you pending the results of the College's investigation.

You have the right to privacy.

- In all instances and to the extent possible, the College will make every effort to protect the privacy of all parties involved, including the person bringing the complaint, witnesses, and the accused person. In an investigation, parties may be identified but only to the extent necessary to resolve the complaint.
- Under federal law, campus officials (with the exception of persons in their capacity as licensed counselors, lawyers, physicians/nurses, chaplains, or certified mediators) who receive a report of sexual violence, whether from the student involved or a third party, must share that information with the appropriate College authorities for investigation and follow-up.
- The College cannot guarantee confidentiality but will try to respect the wishes of the complaining party. You may request that your name and identifiable information not be released to the alleged perpetrator, but such a request could limit the College's ability to effectively respond to your complaint.
- You may request confidentiality or that the complaint not be pursued. In certain circumstances, such as where there have been other complaints concerning the same person, the College may be bound to proceed regardless of your expressed preference. Even in cases where you choose not to cooperate in disciplinary action, the College is required to take such steps as it can to prevent recurrences.
- To report anonymously and confidentially, you may call the Campus Conduct Hotline at 866-943-5787.

You have the right to a prompt, fair, and impartial resolution of your claim by the College.

- Once the College has notice of possible discrimination, including sexual harassment or sexual violence, the College has a legal responsibility to promptly respond in ways that protect the victim, end the discriminatory conduct (if any), and prevent it from recurring.
 - When the alleged perpetrator is a student or employee the investigation will be handled by the Title IX Coordinator or designee.
- The appropriate standard for deciding claims of discrimination is by the preponderance of the evidence—that is, simply whether it is more likely or not that the conduct took place as alleged.
- You do not have to choose between a criminal process and a College discrimination process for your complaint. In some instances, the same conduct may constitute both sexual harassment under Title IX and criminal activity. In addition to using the College’s procedures, you have a right to file a criminal complaint with law enforcement. The College may have an independent obligation to investigate the alleged conduct as sex discrimination and, if potential criminal conduct is involved, may also decide to inform law enforcement.
- The criminal court process and the internal College process address different aspects of the same conduct and can take place at the same time using different standards of proof. The College will not wait for the conclusion of a criminal investigation or court proceeding to begin our discrimination investigation.
- Every case is unique. The Lyon College Title IX Coordinator can help you determine how best to proceed with an investigation of your complaint.
- Policies and procedures available if you believe that you have experienced discrimination: Student: Student Handbook; Employee: Lyon College Policy Handbook

You have the right to be free of retaliation when you pursue a discrimination claim.

- Regardless of whether your original claim is upheld, retaliation is a separate violation under law and policy. If you are singled out or experience negative consequences because you told College officials about suspected discrimination or sexual violence or because you assisted in the investigation process, the College will take action to prevent you from being punished as a result of your cooperation. Contact the Lyon College Title IX Coordinator for assistance if you believe punishment has occurred.
- Policies and procedures available if you believe that you have experienced retaliation:
 - Lyon College Sexual Harassment Policy
 - Lyon College Sexual Misconduct Policy
- At times, students may be hesitant to report the occurrence of sexual violence to College officials because they are concerned that they themselves, or witnesses to the misconduct, may be charged with other policy violations such as alcohol or controlled substance violations. These behaviors are not condoned by the College, but the importance of investigating alleged sexual misconduct or sexual violence outweighs the College’s interest in addressing other alleged violations.

Who do I contact for help?

The Title IX Coordinator has been designated to coordinate Lyon College's compliance with laws governing sex discrimination in education. If you have any questions about sex discrimination, sexual harassment, or sexual violence, you may contact:

Clarinda Foote
Title IX Coordinator/Investigator
Nichols Administration Building
2300 Highland Road
Batesville, AR 72503
870-307-7327
clarinda.foote@lyon.edu

If you want to file a complaint regarding sex discrimination, sexual harassment, or sexual violence, or you have questions or concerns about Title IX compliance you may contact the Title IX Coordinator. If she is not the best person to assist you, she will refer you to other resources.

For anonymous/confidential reports, call the Campus Conduct Hotline at 866-943-5787

Office for Civil Rights

If you do not wish to contact the College Title IX Coordinator or other designated College resources (see below) with your questions or concerns regarding sex discrimination at the University, you may contact the Assistant Secretary for Civil Rights in the Office for Civil Rights (OCR) with the U.S. Department of Education.

United States Department of Education
Office of Civil Rights, Dallas Office
1999 Bryan Street, Suite 1620
Dallas, TX 72501
214-661-9600

Additional Resources

In addition to the Title IX Coordinator, above, there are other resources at the College who may be of assistance depending on your circumstances. If you have any question about which of these resources may be best to consult, Lyon's Title IX Coordinator can help you decide how to proceed.

The list below is not exhaustive. There are many concerned individuals at Lyon, including faculty, student life staff, residence hall personnel, and others, whom you may prefer to contact. However, please note: these individuals are usually required to act on your concerns or to pass the complaints on to persons, like those listed, with the responsibility for investigating and

addressing discrimination allegations. Discussions with such trusted individuals about incidents of discrimination will not be considered confidential. Only medical personnel, lawyers, licensed counselors, chaplains, and certified mediators are entitled to maintain your confidentiality without a corresponding duty to report to designated College officials.

Pat Mulick
Vice President for Student Life and Dean of Students/
Title IX Investigator
Edwards Commons
870-307-7247

Phil Cavalier
Provost/Title IX Administrator
Nichols Administration Building
870-307-7202

Kim Hinds-Brush
Director of Campus Life/Title IX Investigator
Edwards Commons
870-307-7375

Allegations of criminal behavior and personal safety issues

- Lyon College Campus Safety 870-307-7233
- Batesville Police Department
Emergency: 9-1-1
Non-emergency: 870-569-8111

Health and well-being issues

**Note: medical personnel, mental health counselors, and chaplains can provide you with confidential advice.*

Diane Ellis
College Counselor and Director of Counseling Services
Edwards Commons
870-307-7284

Luann Baker
College Nurse and Director of Health Services
Edwards Commons
870-307-7425

Ray McCalla
College Chaplain
Edwards Commons
870-307-7474

Community assistance for sexual violence

- Family Violence Prevention and Batesville Rape Crisis Center
Batesville, AR
870-698-0006
- [LEAD Institute](#) (for persons who are deaf or hard of hearing)
573-445-5005
- [Rape/Abuse/Incest National Network \(RAINN\)](#)
202-544-1034
- National Sexual Assault Hotline
1-800-656-HOPE (4673)
- [National Teen Dating Abuse Hotline](#)
866-331-9474
866-331-8453 (TTY)
- [National Domestic Abuse Hotline](#)
800-799-SAFE (7233)
800-787-3224 (TTY)

For assistance or to file a complaint:

Clarinda Foote
Title IX Coordinator/Investigator
Nichols Administration Building
870-307-7327
clarinda.foote@lyon.edu

About this notice (*disclaimer*)

Lyon College provides this information for general educational purposes only. The legal information provided is not offered or intended to be construed as legal advice applicable to any particular set of facts. Because the law—statutes and case law—is subject to frequent modification, Lyon College cannot guarantee the absolute accuracy of the legal information provided.