

# Protection of Minors Policy

Adopted by the Board of Trustees on June 5, 2015; Amended by the Board of Trustees on May 20, 2016

[Note, this version of the Policy reflects the most significant changes to the Policy approved by the Board of Trustees on May 20, 2016. However, additional modifications to effectuate these approved changes are needed and will be incorporated in forthcoming versions of the Policy.]

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## 1. PURPOSE

Lehigh University is committed to the safety and security of its campus community and visitors on our campus. This Policy establishes safeguards for Minors under the age of 18 who are students or who participate in programs, activities, events and other opportunities (all referred to in this Policy as a “Program”) taking place on the University campus, in University facilities, or sponsored by the University at off campus locations. It applies to all activities designed to serve Minors (defined in Section 3 below). In addition to the requirements that may apply under this Policy, Minors on campus are subject to the same policies and rules as any other visitor to the University.

## 2. SCOPE

2.1. Lehigh University maintains Programs on and off campus that involve and benefit Minors of various ages. This policy applies to all departments, units and areas of the University. By way of example, but not of limitation, this Policy applies to Programs operated internally or externally, on campus or off campus, and during the day or overnight, including, but not limited to, athletic camps, academic camps, service programs, recruiting programs, and similar activities. This Policy applies to all Third Party Programs (defined in Section 3 below). All Lehigh University community members, including faculty, staff, students, and Volunteers (defined in Section 3 below), are responsible for understanding and complying with this Policy. Appendices to this Policy set forth specific requirements and procedures and may be updated from time to time.

2.2. All Third Parties contracted or otherwise engaged by the University to perform services on the University's behalf, must adhere to the principles of this Policy. Failure to do so may lead to action as further set forth in Section 9, including but not limited to immediate termination of the University's contractual or other relationship with the Third Party.

## 3. DEFINITIONS

3.1. **Abuse of Minors.** Abuse of Minors is defined as provided in Pennsylvania state law (55 Pa. Code § 3490.4) and includes any of the following:

- Any recent act or failure to act by a perpetrator which causes non-accidental serious physical injury to a Minor;
- An act or failure to act by a perpetrator which causes non-accidental serious mental injury to or sexual abuse or exploitation of a Minor;
- A recent act, failure to act or series of acts or failures to act by a perpetrator which creates an imminent risk of serious physical injury to or sexual abuse or exploitation of a Minor; or
- Serious physical neglect by a perpetrator constituting prolonged or repeated lack of supervision or the failure to provide the essentials of life, including adequate medical care, which endangers a Minor's life or development or impairs the Minor's functioning. Neglect includes, but is not limited to, the failure to make reasonable efforts to prevent the infliction of abuse upon a Minor, prolonged or repeated lack of supervision, and failure to provide the essentials of life, including adequate medical or dental care.
- Sexual abuse or exploitation as defined in Pennsylvania state law (55 Pa. Code § 3490.4) which includes, but is not limited to, rape, sexual

assault, involuntary deviate sexual intercourse, aggravated indecent assault, and indecent exposure, as defined in the Pennsylvania Crimes Code.

3.2. **Adult.** Any person 18 years of age or older who provides instruction, care, supervision, guidance to, or has control over a Minor, or has routine interaction with Minors, or otherwise comes into contact with a Minor as part of a Program.

3.3. **Direct Contact with Minors.** Contact between an Adult and one or more Minors that:

- Involves the instruction, care, supervision, guidance, or control of a Minor or Routine Interaction with Minors;
- Involves an overnight stay (with the exception of Lehigh University students hosting high school students, such as prospective student-athletes and those participating in pre-enrollment visits); and<sup>1</sup>
- Occurs in Lehigh Facilities on five or more occasions in any three-month period.

In addition, the following persons are *a/ways* deemed to have Direct Contact with Minors: Program Directors; Lehigh Conference Services employees; and employees and Volunteers of Third Party Programs in Lehigh Facilities. Athletic camps run by Lehigh Athletics coaches, as well as their directors, employees, contractors and Volunteers, also are deemed always to have Direct Contact with Minors regardless of whether the above criteria are met.

Those faculty and staff whose contact with Minors is limited to contact with Matriculated Students or prospective students visiting the Lehigh University campus for non-overnight visits shall not be considered to have Direct Contact with Minors as a result of such contact.

3.4. **Incidental Contact with Minors.** Having less than Direct Contact with Minors as defined above. The following persons are deemed to have Incidental Contact with Minors even if the above criteria for Direct Contact are satisfied: students participating in service break trips and students participating in group community service activities held in locations other than Lehigh Facilities where there is little or no opportunity for one-on-one interaction with Minors.

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<sup>1</sup> The July 1, 2015 amendments to Act 153, which sets forth the Pennsylvania statutory definition of "direct contact" changed the word "or" to "and."

*If the Program Director is uncertain about whether a Program involves Direct or Incidental Contact with Minors, the Program Director should consult with the Office of the General Counsel or treat the Program as involving Direct Contact with Minors.*

3.5. **Lehigh Facilities.** Premises owned, leased, or otherwise controlled by Lehigh University including, for example, off-campus athletic facilities.

3.6. **Matriculated Student.** A student who is enrolled at the University and pursuing a program of student that results in a postsecondary credential, such as a certificate, diploma or degree.

3.7. **Minor.** Any person under 18 years of age.

3.8. **Program.** Any program, activity, event or other opportunity designed primarily to serve Minors that is:

- Sponsored by Lehigh University, regardless of whether it is held on or off campus;
- Sponsored by a Third Party in Lehigh Facilities; or
- Sponsored by a Third Party at an off campus location where Lehigh Adults engage through their University roles.

3.9. **Program Director.** The Adult with overall supervisory responsibilities for a Program involving Minors. The Program Director is the Adult who oversees the day-to-day Program operations which includes interacting with and supervising the Minors involved in the Program. Examples of Program Directors include, among others, a camp director, a staff member coordinating a tutoring Program, and the faculty advisor of a student group sponsoring a youth-serving activity.

3.10. **Routine Interaction.** Regular and repeated contact that is integral to a person's employment or volunteer responsibilities.

3.11. **Third Party.** Individuals who are members of an external organization or entity not affiliated with the University, including but not limited to contractors, vendors and other service providers whom the University has hired to complete a task or provide consulting services. This includes contracted services for Dining Services, Housekeeping, and University Bookstore operations.

3.12. **University-sponsored Programs.** Programs that Lehigh University operates or sponsors or in which University students, faculty or staff engage through their University roles.

3.13. **Volunteers.** Individuals who are not University faculty, staff or students but provide uncompensated assistance to the University or to University faculty, staff or students as part of University-sponsored Programs involving Minors, and are subject to some or all of the requirements of this Policy. Those engaging Volunteers should contact the Office of the General Counsel to discuss such engagement or involvement of Volunteers and how the requirements of this Policy may apply.

## 4. PROGRAM GUIDELINES AND REQUIREMENTS

### 4.1. Program Guidelines.

4.1.1. Before engaging in any Program, Program Directors must satisfy the requirements of Section 4.2 below.

4.1.2. Third Parties that operate Programs involving Minors in Lehigh Facilities must comply with this Policy as well as their own relevant policies. Third Parties contracted or otherwise engaged by the University to perform services on the University's behalf, must adhere to the principles of this Policy.

4.1.3. To the extent faculty, staff, or students participate through their University roles in a Program sponsored by a Third Party, they should familiarize themselves with and follow the policies regarding protection of Minors of the Third Party organization in addition to this Policy, provided however that the policy of a Third Party organization shall not be applied or interpreted to reduce any protective measures provided in this Policy.

### 4.2. Program Requirements.

4.2.1. **Program Registration.** All Programs involving Minors must be registered by the Program Director or his/her designee on an annual basis through the University's online registration system. Such registration should be completed at least sixty (60) days prior to the start of the Program or, if such advance registration is not possible in such a timeframe, as soon as information is available to submit through the online registration system (available at: <http://generalcounsel.lehigh.edu/minors-program-registration-form>).

4.2.2. **Use of University Housing or Dining Facilities.** Use of University housing or dining facilities for Third Party Programs involving Minors requires execution of a Conference Services License

Agreement or other University form as approved by the Office of the General Counsel.

**4.2.3. Use of Other University Facilities.** Use of Lehigh Facilities that do not include housing or dining services for Third Party Programs involving Minors requires execution of a Facilities Use Agreement, or other University form as approved by the Office of the General Counsel, between the University and the Third Party.

## **5. DUTY TO REPORT ABUSE OF MINORS**

### **5.1. Legally Required and University Required Duties to Report Suspected Abuse of Minors.**

**5.1.1. Who Must Report and How to Report.** Every member of the Lehigh University community – including all faculty, staff, students and Volunteers - has the duty and obligation to immediately report suspected instances of the abuse of Minors as outlined in this Section 5.

**5.1.2. What Must Be Reported.** When in connection with your University employment or work or your volunteer service or any other involvement with a University-sponsored Program or other Program, you reasonably suspect an act of abuse or neglect of a Minor, you must report it. You must report acts of abuse or neglect of a Minor that you have actual knowledge of, see, or have a reasonable cause to suspect based upon your own observations or knowledge, or based upon information shared with you by the Minor or any other information about an identifiable Minor.

**5.1.3. How to Report Abuse of a Minor.** If you see, have knowledge of or reasonably suspect that an act of abuse of a Minor has occurred, you must act immediately by making a report to law enforcement and state authorities as follows:

- Immediately contact the Lehigh University Police Department (LUPD) at 610-758-4200. Reports can be made 24 hours/day, 365 days/year.
- Immediately make an oral report to the Pennsylvania Department of Human Services via ChildLine 1-800-932-0313 or an electronic report using the Child Welfare Portal at [www.compass.state.pa.us/cwis/public/home](http://www.compass.state.pa.us/cwis/public/home). Reports can be made 24 hours/day, 365 days/year.

Solely informing a supervisor that you suspect abuse or neglect of a Minor is NOT sufficient under this Policy or the law. In deciding whether or not to make a report, you are not required to have proof that abuse or neglect has occurred. You should err on the side of making a report if you have any doubt or uncertainty about whether to make a report. You may also consult with the Office of the General Counsel for guidance regarding the applicability of this Policy.

#### **5.1.4. Pennsylvania State Law Regarding “Mandated Reporters”.**

NOTE: All University faculty and staff are “School Employees” under the Pennsylvania Child Protective Services Law (23 Pa.C.S. § 6303), and as such, are “Mandated Reporters” under Pennsylvania state law (excluding only staff who have no Direct Contact with Minors as that term is defined in Section 3.3 above).

If you are a University employee or Volunteer who is also a “Mandated Reporter” under Pennsylvania state law (23 Pa. C.S. § 6311) because you are a licensed professional, including but not limited to a licensed or certified medical professional or other licensed professional with additional reporting obligations beyond those in this Policy, you must also comply with any concurrent obligation to directly report injuries caused by suspected abuse or neglect of Minors to law enforcement and other applicable authorities as required by your professional obligations which under state law obligate you as a Mandated Reporter in your private personal life (i.e., outside your University employment).

**5.1.5. Addressing Reports of Abuse of a Minor.** Whenever the University receives a report of alleged Abuse of a Minor in a University-sponsored Program:

- The person receiving the report must follow the reporting structure stated in Section 5.1.3.
- The Lehigh University Police Department, in consultation with the Pennsylvania Department of Human Services, the Office of the District Attorney of Northampton County, the Office of the General Counsel, and appropriate senior University leadership, shall:
  - Take immediate steps to prevent further harm to the alleged victim or other Minors, including, where

appropriate, removing the alleged abuser from the Program or limiting his or her contact with Minors pending resolution of the matter.

- If the parents or legal guardian of the alleged victim have not been notified and are not the alleged abusers, notify the parents or legal guardian of the Minor involved.
- Investigate the report and resolve the matter in a way that safeguards Minors, protects the interest of victims and reporters, affords fundamental fairness to the accused, and meets applicable legal requirements.
- Facilitate the University's cooperation with any investigation conducted by the Pennsylvania Department of Human Services or other governmental or law enforcement agency.

**5.1.6. Knowledge of Abuse of a Minor Independent of Your University Role.** If you reasonably suspect an act of abuse of a Minor independent of your University role as an employee or Volunteer – such as, for example, through your connection with a local community organization – you are encouraged to report such instance of abuse as a private citizen to the Pennsylvania Department of Human Services via ChildLine or the Child Welfare Portal as described in Section 5.1.3. above. If you are a Mandated Reporter under Pennsylvania state law because of your profession, you must report any suspected act of abuse of a Minor even in your private personal life (i.e., independent of your University role) (See Section 5.1.4. above.)

## **6. DUTY TO COOPERATE WITH INVESTIGATIONS OF ABUSE OF MINORS**

All members of the Lehigh University Community shall cooperate with investigations of alleged abuse of Minors, including government initiated, law enforcement initiated, and/or internal University investigations. All members of the University community shall also cooperate with investigations or alleged violations of this Policy and any applicable campus procedures.

## **7. MANDATED TRAINING FOR PARTICIPATION IN UNIVERSITY PROGRAMS INVOLVING MINORS**

7.1. University students, faculty and staff who participate in University-sponsored Programs or activities involving Minors must complete appropriate training. At a minimum, training must include: basic warning signs of Abuse or neglect of Minors; guidelines for protecting Minors from emotional and



physical abuse and neglect; and requirements and procedures for reporting incidents or suspected abuse or neglect or improper conduct. Specific requirements and procedures for training appear in Appendix B.

7.2. The Adults who are required to take an online training course as set forth in Appendix B must print the certificate of completion associated with the course and provide it to the supervisor (in accordance with Appendix B) or Program Director (in accordance with Appendix B). Adults required to take youth protection training must sign a Youth Protection Training Certificate form (Appendix B) and provide it to the Program Director.

7.3. Training may be expanded depending upon the Program or activity and the person's role in the Program or activity.

7.4. Any Third Party that seeks to operate a Program or activity involving Minors on campus must provide documentation to the University indicating that all individuals who will be interacting with Minors (and anyone who supervises such individuals) have received training that meets or exceeds the minimum requirements of this Section, including requirements regarding the timing and frequency of training.

## **8. MANDATED CRIMINAL BACKGROUND CHECKS**

8.1. Criminal background checks are required for all Lehigh University faculty and staff.

8.1.1 Faculty and staff hired on or after January 1, 2015 must undergo the following criminal background checks at the time of hire:

- Pennsylvania State Police Access to Criminal History ("PATCH" or Act 34 Background Check)
- Pennsylvania Department of Human Services Child Abuse History Clearance (Act 151 Child Abuse Background Check)
- Federal Criminal History Record Information (Act 24 Federal / FBI Criminal History Background Check)

8.1.2. Faculty and staff hired prior to January 1, 2015 must undergo the criminal background checks identified in Section 8.1.1 or may choose to complete only the PATCH and Act 151 Child Abuse Background Check and do not need to complete the FBI fingerprint check IF ALL of the following three prerequisites are met:

- The faculty or staff member does not have Direct Contact with Minors; AND

- The faculty or staff member has been a Pennsylvania state resident for the entirety of the past 10-year period, or, if they have not been a Pennsylvania state resident for the entirety of the past 10-year period, they have completed a full background check certification (i.e., all three checks listed in Section 8.1.1, including the FBI fingerprint check) at any time since establishing Pennsylvania residency and can provide such certification to the University; AND
- The faculty or staff member swears or affirms in writing that they have not been convicted of any of the criminal offenses identified in Section 8.2.4 (which, pursuant to Pennsylvania Act 153 disqualify a person from activities having "direct contact with children") nor have they been convicted of any offense similar in nature to the Act 153 disqualifying crimes under laws of any other state or past laws of Pennsylvania.

Initial processing of background checks for faculty and staff hired prior to January 1, 2015 must be completed by May 17, 2017.

8.1.3. Before a Faculty and staff hired on or after January 1, 2015 has Direct Contact with Minors or is involved in a Program, all three of the criminal background checks must be in progress, and at least two of the checks must have been satisfactorily completed. The result of the remaining check must be provided upon receipt from the reporting agency.

8.1.4. Before a Faculty and staff hired prior to January 1, 2015 has Direct Contact with Minors or is involved in a Program, the two required criminal background checks must have been satisfactorily completed, and the faculty or staff member's certification of compliance with the requirements described in Section 8.1.2 must have been received by the University.

## **8.2 Review of Criminal Background Check Information of New Hires and Lehigh Employees.**

8.2.1. The Office of Human Resources shall review the criminal background check results of new staff hires and the Office of the Provost shall review the criminal background check results of new faculty hires. These offices shall maintain such results as confidential records. During the implementation of criminal background check

requirements of Pennsylvania Act 153 of 2014 and amendments to the Pennsylvania Child Protective Services Law (23 Pa.C.S. § 6303), the Office of the General Counsel shall review the criminal background check results of current Lehigh employees (faculty and staff) and shall maintain such results as confidential records.

8.2.2. In the event that a criminal background check of a new hire indicates an arrest or conviction that necessitates action (i.e., action affecting a hiring decision), then the Office of Human Resources (for staff hires) or the Office of the Provost (for faculty hires) shall refer such record and consult on a confidential basis with the General Counsel.

8.2.3. In the event that a criminal background check of a current Lehigh employee indicates an arrest or conviction that necessitates action (i.e., affecting a current employee's status such as requiring discipline, suspension, or other action including but not limited to termination), then the General Counsel shall consult on a confidential basis with the Provost (in the case of current faculty) or the Associate Vice President of Human Resources (in the case of current staff).

8.2.4. In some instances, Pennsylvania state law requires that a conviction of certain offenses prohibits the hiring of an applicant for employment in a position that has Direct Contact with Minors, and requires immediate dismissal of an employee from a position that has Direct Contact with Minors. The Pennsylvania Child Protective Services Law provides that hiring into such a position is prohibited, and immediate dismissal from such a position required, for convictions of the following offenses (or equivalent offenses under federal law or the law of another state):

- An offense under one or more of the following provisions of Title 18 of the Pennsylvania Consolidated Statutes:
  - Chapter 25 (relating to criminal homicide)
  - Section 2702 (relating to aggravated assault)
  - Section 2709.1 (relating to stalking)
  - Section 2901 (relating to kidnapping)
  - Section 2902 (relating to unlawful restraint)
  - Section 3121 (relating to rape)
  - Section 3122.1 (relating to statutory sexual assault)
  - Section 3123 (relating to involuntary deviate sexual intercourse)
  - Section 3124.1 (relating to sexual assault)
  - Section 3125 (relating to aggravated indecent assault)

- Section 3126 (relating to indecent assault)
  - Section 3127 (relating to indecent exposure)
  - Section 4302 (relating to incest)
  - Section 4303 (relating to concealing death of child)
  - Section 4304 (relating to endangering welfare of children)
  - Section 4305 (relating to dealing in infant children)
  - A felony offense under Section 5902(b) (relating to prostitution and related offenses)
  - Section 5909 (c) or (d) (relating to obscene and other sexual materials and performances)
  - Section 6301 (relating to corruption of minors)
  - Section 6312 (relating to sexual abuse of children)
  - The attempt, solicitation or conspiracy to commit any of the offenses set forth above.
- A felony offense under the Act of April 15, 1972 (P.L. 233, No. 64), known as "The Controlled Substance, Drug, Device and Cosmetic Act" (35 P.S. 780-101 *et seq.*) committed within the prior five (5) years.

8.2.5. Notwithstanding the designation of offenses for which state law prohibits hiring or requires dismissal, the University reserves the right to make hiring, employment, discipline, or termination decisions based upon arrests or convictions of other criminal offenses. Such decisions will be made by conducting an individualized assessment, using criteria relevant to other applicable legal requirements and the identification of potential risks to Minors, to make a determination of approval or disapproval of the hiring, or, in the case of a current employee, whether action is required, including but not limited to termination of employment in accordance with applicable University policies and procedures, including, with respect to faculty, the Rules & Procedures of the Faculty. Criteria to be utilized in making such determinations shall include, but not be limited to: the duties and responsibilities of the position for which a person has applied or which the employee occupies, whether the position has Direct Contact with Minors, the nature and grading (e.g., misdemeanor or felony) of any prior criminal arrest or conviction, repeat offenses or recidivism by the person, a person's age or status as a juvenile when an offense was committed, the completion of any sentence resulting from a conviction, and the passage of time since the arrest or offense. Except as required by law, a prior arrest or conviction of a crime shall not automatically disqualify a person from being hired, continuing University employment, or participating in a Program. Any decision not to hire an applicant or to take employment action with respect to a current employee because of a past arrest or conviction for a criminal

offense shall be made in a non-discriminatory manner in compliance with: (a) the University's Policy on Harassment and Non-Discrimination, (b) applicable legal requirements prohibiting discrimination, and (c) applicable legal requirements relating to notice of adverse employment action and offering an opportunity to correct erroneous information.

### **8.3. Records of Criminal Background Checks of Lehigh Employees.**

Except as required by law or permitted by University policy, criminal background checks of University employees that are conducted pursuant to this Policy will be used only for purposes consistent with this Policy and will otherwise be maintained as confidential. Records of criminal background checks will be maintained separately from a University employee's personnel file and their confidentiality maintained by storage in secure locked files or a password protected electronic database. Such records will be retained in accordance with the University's Records Management and Retention Policy and applicable legal requirements.

### **8.4. Mandatory Reporting by Lehigh Employees (Staff and Faculty) of Arrest or Conviction.**

Pennsylvania state law requires that a Lehigh employee (staff and faculty) must provide the University with written notice within seventy-two (72) hours if the employee has been arrested or convicted of any of the following offenses (which are those for which conviction prohibits hiring or requires dismissal as stated in Section 8.2.3. above), or equivalent offenses under federal law or the law of another state):

- An offense under one or more of the following provisions of Title 18 of the Pennsylvania Consolidated Statutes:
  - Chapter 25 (relating to criminal homicide)
  - Section 2702 (relating to aggravated assault)
  - Section 2709.1 (relating to stalking)
  - Section 2901 (relating to kidnapping)
  - Section 2902 (relating to unlawful restraint)
  - Section 3121 (relating to rape)
  - Section 3122.1 (relating to statutory sexual assault)
  - Section 3123 (relating to involuntary deviate sexual intercourse)
  - Section 3124.1 (relating to sexual assault)
  - Section 3125 (relating to aggravated indecent assault)
  - Section 3126 (relating to indecent assault)
  - Section 3127 (relating to indecent exposure)

- Section 4302 (relating to incest)
  - Section 4303 (relating to concealing death of child)
  - Section 4304 (relating to endangering welfare of children)
  - Section 4305 (relating to dealing in infant children)
  - A felony offense under Section 5902(b) (relating to prostitution and related offenses)
  - Section 5909 (c) or (d) (relating to obscene and other sexual materials and performances)
  - Section 6301 (relating to corruption of minors)
  - Section 6312 (relating to sexual abuse of children)
  - The attempt, solicitation or conspiracy to commit any of the offenses set forth above.
- A felony offense under the Act of April 15, 1972 (P.L. 233, No. 64), known as "The Controlled Substance, Drug, Device and Cosmetic Act" (35 P.S. 780-101 *et seq.*) committed within the past five (5) years.

Such notice shall be provided by the Lehigh employee to his/her immediate supervisor who shall notify the Associate Vice President of Human Resources (for staff) or the Provost (for faculty), both of whom shall notify the General Counsel.

#### **8.5. Non-Employee Adults with Direct Contact with Minors in Lehigh Sponsored Programs or Athletic Camps.**

The Program Director is responsible for obtaining criminal background checks for Program staff and Volunteers who will have Direct Contact with Minors and who are not employed by Lehigh University. The Program Director shall follow the Procedures for Obtaining Criminal Background Checks as provided in Appendix A to this Policy. The criminal background checks must be dated no more than one year prior to the individual's first contact with Minors in the Program. The cost for completing criminal background checks for non-employees will be the responsibility of the individual, unless the Program Director specifically authorizes payment to be made from their Program budget.

#### **8.6. Review of Criminal Background Check Information of Non-Employee Adults with Direct Contact with Minors in Lehigh Sponsored Programs or Athletic Camps.**

The Office of Human Resources, or the Program Director, as appropriate, in consultation as needed with the Office of the General Counsel, shall review the background check results of non-employee Adults with Direct Contact with Minors in Lehigh Sponsored Programs or athletic camps. In some

instances, Pennsylvania state law requires that a conviction of certain offenses prohibits the participation of a person in a program, activity, or service that involves Direct Contact with Minors. These offenses are stated in Section 8.2.4 of this Policy. Notwithstanding the designation of offenses in which state law prohibits such participation of a person, the University reserves the right to deny participation of a person in such a program, activity, or service based upon arrests or convictions of other criminal offenses by conducting an individualized assessment, using criteria relevant to other applicable legal requirements and the identification of potential risks to Minors, to make a determination of approval or disapproval of the participation of Program staff and Volunteers who will have Direct Contact with Minors and who are not employed by Lehigh University. Except as required by law, a prior arrest or conviction of a crime shall not automatically disqualify a person from participating in a Program.

#### **8.7. Records of Criminal Background Checks of Non-Employee Adults with Direct Contact with Minors in Lehigh Sponsored Programs or Athletic Camps.**

Except as required by law or permitted by University policy, criminal background checks of persons who are not employed by Lehigh University that are conducted pursuant to this Policy will be used only for purposes consistent with this Policy and will otherwise be maintained as confidential.

#### **8.8. Mandatory Reporting by Non-Employee Adults with Direct Contact with Minors in Lehigh Sponsored Programs or Athletic Camps.**

Pennsylvania state law requires that a person participating in a program, activity, or service that involves Direct Contact with Minors must provide the University with written notice within seventy-two (72) hours if the person has been arrested or convicted of certain offenses. These offenses are stated in Section 8.2.4 of this Policy. Such notice shall be provided by the non-employee Adult to the Program Director who shall notify the General Counsel.

#### **8.9. Non-Employee Adults in Third Party Programs.**

All non-employee Adults in Third Party Programs shall undergo criminal background checks and it is the responsibility of the Third Party to ensure that such criminal background checks are completed in a timely manner in accordance with the requirements of their contract with the University and this Policy. The criminal background checks must be dated no more than one year prior to the individual's first instance of Direct Contact with Minors

in the Program. The individual responsible for managing the Third Party contract (the "Contract Manager") shall review information confirming the Third Party's compliance with these requirements regarding criminal background checks for non-employees (including Volunteers) and shall notify the Office of Human Resources of any background check information provided by a Third Party, or obtained in any manner regarding non-employee Adults in Third Party Programs, that evidences an arrest, conviction, or other potential concern. The Office of Human Resources, in consultation with the Office of the General Counsel as needed, shall advise and direct the Contract Manager so that appropriate action is taken if there are criminal background checks of non-employee Adults in Third Party Programs evidencing an arrest, conviction, or other potential concern. The cost for completing criminal background checks for non-employees will be the responsibility of the individual, unless the Program Director specifically authorizes payment to be made from their Program budget.

## **9. ENFORCEMENT OF POLICY; SANCTIONS FOR VIOLATIONS**

Failure to comply with the provisions of this Policy may result in cancellation of a Program, and/or discipline in accordance with University policies (including the Rules & Procedures of the Faculty, in the case of faculty), up to and including termination of employment, dismissal from the University, issuance of no-trespass notices, and/or disqualification for participation in future Volunteer activities. Knowingly making a false report or complaint under this Policy, or knowingly providing false or intentionally misleading information during an investigation, may also result in disciplinary action up to and including termination of employment and/or dismissal from the University. The University may also take necessary interim actions before determining whether a violation has occurred.

## **10. NON-RETALIATION PROTECTIONS**

Retaliation will not be tolerated. Retaliatory acts against members of the University community who make good faith reports or complaints under this Policy, and/or who cooperate in the investigation and handling of such complaints, even if it is found that no violation of the Policy has occurred, will not be tolerated. In accordance with the University Whistleblower Policy, any member of the University community who believes that he or she is the subject of retaliation or reprisal should contact the appropriate office as designated in the Whistleblower Policy. The University will promptly investigate all complaints of alleged retaliation or reprisal.

## **11. OTHER PROVISIONS**



### **11.1 Appendices to this Policy and Further Guidance.**

In view of the diversity of Programs and activities involving Minors, adjustments and exceptions to the requirements and protocols in the Appendices to this Policy (i.e., staffing ratios, supervision, emergency and safety protocols, and orientation and training) may be made. Program Directors and/or faculty and staff hosting such Programs or activities should consult with the Office of the General Counsel and/or the Office of Risk Management for advice and guidance regarding adjustments and exceptions. Examples when adjustments or exceptions may be appropriate include when Minors are accompanied by their parents, guardians, or school teachers, or activities that are spontaneous, brief, and involve small numbers of Minors.

**11.1.1. Staffing Ratios.** Each Program must meet the minimum staffing ratio of Adults to Minors as set forth in Appendix C.

**11.1.2. Supervision.** In addition to ensuring the staffing ratios are maintained for the duration of the Program, each Program Director shall comply with supervision requirements set forth in Appendix C.

**11.1.3. Emergency and Safety Protocols for Programs in Lehigh Facilities.** Each Program Director shall comply with emergency and safety protocols set forth in Appendix C.

**11.1.4. Orientation and Training.** Each Program Director shall develop and implement orientation and training programs to provide timely and effective information to all Program personnel as to the prevention and reporting of the abuse of Minors. Orientation and training will be specific to type of Program and will include the requirements and rules as set forth in Appendices B and C.

**11.2. Allegations of Inappropriate Conduct.** If an allegation of inappropriate conduct has been made against an Adult participating in a Program, he or she shall discontinue any further participation in the Program until such allegation has been resolved to the University's satisfaction.

**11.3. Minors on Campus Not Participating in a Program or Activity.** As a research university, certain buildings, facilities, or areas on Lehigh's campus may not be safe or appropriate environments for Minors unless they are matriculated students or enrolled in a Program specifically designed for Minors and appropriately supervised by Adults with the proper training and credentials. In some locations, such as laboratories, allowing unauthorized or untrained personnel may also violate federal and state law. Individuals who bring Minors on campus assume all risks that could occur by reason of such Minor's presence on campus.

**11.4. Evidence of Compliance.** Contract Managers (as defined in Section 8.9) of non-University Programs using Lehigh Facilities must provide appropriate executed agreements to the Office of the General Counsel and Office of Risk Management at least thirty (30) days prior to the scheduled use of Lehigh Facilities. Program Directors of University-sponsored Programs, as well as athletic camps, must provide satisfactory evidence of compliance with all requirements of this Policy to the Office of the General Counsel and Office of Risk Management at least thirty (30) days prior to the start of the Program. Program Directors of University-sponsored Programs and non-University Programs shall maintain on file the following documentation: training certification forms for all Adults participating in Programs serving Minors, participant waiver forms signed by the parent or legal guardian of each Minor, criminal background check results for Adults with Direct Contact with Minors and criminal background information update certifications for Lehigh employees.

**APPENDICES**

<b>APPENDIX A</b>	Procedures for Obtaining Criminal Background Checks and Frequently Asked Questions
<b>APPENDIX B</b>	Training Requirements
<b>APPENDIX C</b>	Other Provisions

## APPENDIX A

### Procedures for Obtaining Criminal Background Checks and Frequently Asked Questions

This Appendix A describes the procedures for obtaining criminal background checks for University employees (staff and faculty), Volunteers, and Non-Employee Adults in Lehigh Sponsored Programs or in Third Party Programs as required by the University Protection of Minors Policy (the "Policy"). For information about who must undergo a criminal background check, how criminal background checks are reviewed and used by the University, who must report abuse of minors, and related topics, please consult the Policy. This Appendix A may be updated from time to time as necessary.

#### Getting Started: Background Questionnaire; Disclosure and Authorization Form

The University has engaged a third-party vendor, [Vendor], to assist the University and its applicants, employees, and volunteers in obtaining the necessary criminal background checks. After the University initiates the background check process on behalf of an applicant, employee, or volunteer, the individual will receive an email from [Vendor] or the University that will ask the applicant, employee or volunteer to complete a background questionnaire. The questionnaire should take approximately 15 minutes to complete. After completion of the background questionnaire, an associate from [Vendor] may contact the applicant, employee or volunteer for additional information during the verification process.

As part of the questionnaire process, the applicant, employee or volunteer will also be asked to electronically sign a Disclosure and Authorization form consenting to the required background checks and allowing [Vendor] to verify the information the applicant, employee or volunteer provides and share its results with the University.

#### Pennsylvania State Police Access to Criminal History ("PATCH" or Act 34 Background Check) and Pennsylvania Department of Human Services Child Abuse History Clearance (Act 151 Child Abuse Background Check)

After the applicant, employee or volunteer's background questionnaire is processed the Vendor will conduct and provide to the University (1) the Act 151 Child Abuse Background Check; and (2) the Act 34 Background Check.

#### Federal Criminal History Record Information (Act 24 Federal / FBI Criminal History Background Check)

After the applicant, employee or volunteer completes the background questionnaire, the individual will receive an email from [Vendor] or the University providing the applicant, employee or volunteer with instructions on how to get fingerprinted, as required for the FBI Criminal History Background Check, and a list of local sites at which the individual may have their fingerprints taken. Individuals should receive results of the FBI Criminal History Background Check by mail within 10-15 business days of their fingerprinting. Upon receipt of the results, the applicant, employee or volunteer must return the results to the University within five (5) business days.

### **Frequently Asked Questions:**

**Q: How do I obtain a criminal background check?**

A: The University uses an outside vendor, \_\_\_\_\_, to obtain criminal background checks. To initiate the process for obtaining a criminal background check, go to: <http://www.lehigh.edu> ...

**Q: If someone has obtained a criminal background check outside the University process (for example, if he/she is a Boy Scout or Girl Scout leader, youth sports coach, or participates in a community activity for which a background check is required) can that background check be used for Lehigh's purposes?**

A: In many instances, a criminal background check obtained outside the University process can be used for Lehigh's purposes, or at least partially for Lehigh's purposes depending upon the type of background check(s) obtained, when they were obtained, etc. Please consult the Protection of Minors Policy and/or ask the Office of Human Resources for additional information.

**Q: When do I need to start the process to obtain a criminal background check?**

A: On average, it takes \_\_\_ weeks to complete a criminal background check, from first initiation of the process to obtaining the results...

**Q: What information or documentation do I need to provide to begin the process of obtaining a criminal background check?**

A: You will need to provide your full name as it appears on your birth certificate, your social security number, your home address.... In addition, if you are a new employee or volunteer, you may be asked to provide additional information (e.g., your education history) for verification.

## APPENDIX B

### Training Requirements

1. Universal Training. All current University employees (staff and faculty) are required to complete the United Educators (UE) online training course entitled "*Sexual Misconduct: How Teachers and Other Educators Can Protect Our Children*." Online training must be completed by September 1<sup>st</sup> and biannually (i.e., every two years) thereafter.
2. New Employees and Faculty. All new employees (staff and faculty) are required to complete the United Educators (UE) online training course entitled "*Sexual Misconduct: How Teachers and Other Educators Can Protect Our Children*." Online training must be completed prior to beginning University employment.
3. Adults with Direct Contact with Minors. All Adults with Direct Contact with Minors are required to complete the United Educators (UE) online training course entitled "*Sexual Misconduct: How Teachers and Other Educators Can Protect Our Children*" within twenty (20) days prior to commencement of a Program and biannually (i.e., every two years) thereafter for as long as their involvement in any Program continues.
4. Adults with Incidental Contact with Minors. All Adults with Incidental Contact with Minors are required to complete youth protection training within twenty (20) days prior to commencement of a Program and annually thereafter for as long as their involvement in any Program continues. Youth protection training includes: basic warning signs of Abuse or neglect of Minors; guidelines for protecting Minors from emotional and physical abuse and neglect; requirements and procedures for reporting incidents of suspected abuse, neglect, or improper conduct; and Dos and Don'ts when working with Minors.
5. Contractors. Contractor personnel are required to complete training as required by their specific contract terms with the University.
6. Accessing Online Training Course. The United Educators (UE) online training course entitled "*Sexual Misconduct: How Teachers and Other Educators Can Protect Our Children*" can be found at: <https://hr.lehigh.edu/workplace-learning> for current University employees and faculty and at: <https://hr.lehigh.edu/especially-new-employees-0> for new employees and faculty.

## **Guidelines for Working with Minors**

All University community members – faculty, staff, students and Volunteers - associated with Programs or activities involving Minors should familiarize themselves with the following “Dos” and “Don’ts” in order to maintain a safe and positive experience for Program participants, ensure the confidence of the parents and legal guardians of Minors, and avoid mistaken allegations. University community members should exercise good judgment in determining whether a particular guideline pertains to Minors who are matriculated Lehigh students. For questions, please consult the Office of General Counsel for guidance.

### **DO:**

- Maintain the highest standard of personal behavior at all times when interacting with Minors.
- Interact and treat all Minors with respect, dignity and integrity.
- Be aware of how others may perceive or misinterpret your actions and intentions.
- Maintain a professional environment with clear expectations and boundaries, preventing and discouraging inappropriate behavior by Minors.
- Consult and seek guidance and advice from Program Director regarding situations involving disruptive Minors. Ask for assistance from Program Directors when unsure of situations.
- Have a roster of Program participants to include emergency information, first aid kit and water.
- Listen to and interact with Minors and provide appropriate praise and positive reinforcement.
- Be vigilant in protecting the well-being and safety of Minors.
- Review the Signs of Abuse and Neglect of Minors included in this Appendix.
- Watch for signs of Minor abuse and neglect and follow appropriate reporting procedures if abuse or neglect is suspected.



**DON'T:**

- Be alone with a Minor unless the circumstances are appropriate (e.g., the Minor is a matriculated Lehigh student and/or a private meeting is appropriate due to confidentiality concerns such as when advising a student on academic concerns). If one-on-one interaction is necessary, the interaction should take place in an area visible to others.
- Have any direct electronic and/or social media contact with a Minor unless the circumstances are appropriate. Examples of appropriate circumstances may include: (a) the Minor is a matriculated Lehigh student; (b) the contact is for educational purposes, part of a course, for the purpose of academic or course advising, or related to a Program; or (c) other personnel and/or parents/guardians are included in the communication.
- Arrange to have contact with a Minor (excluding matriculated Lehigh students) outside of the Program or activity.
- Enter a facility in use by a Minor such as a bathroom, locker room, residence hall room or similar area without another Adult present unless that Minor is in need of assistance (e.g., a Minor under 5 years of age or with special needs).
- Sleep or rest in the same accommodations with a Minor unless the Adult is a parent or legal guardian of the Minor.
- Engage in abusive conduct of any kind toward or in the presence of a Minor.
- Hit, physically assault, or inappropriately touch a Minor: use language, make suggestions, or offer advice which is inappropriate, offensive or abusive; behave in a manner that is sexually provocative; act in ways intended to shame, humiliate, belittle or degrade a Minor; or otherwise perpetrate any form of emotional abuse.
- Provide alcohol or illegal substances to a Minor. Program personnel shall not provide prescription or over-the-counter medications to any Minor unless specifically prescribed by a physician, with the Minor's name, dosage, name of medication, current date, and authorization in writing by Minor's parent or legal guardian.
- Distribute, give or make available sexual or pornographic materials in any form to a Minor.

- Take photos or videos of a Minor without written authorization by Minor's parent or legal guardian.
- Give gifts to Minors independent of gifts provided by the Program.

## Signs of Abuse and Neglect of Minors

**PHYSICAL ABUSE** is non-accidental injury of a Minor by parent or caretaker.

<p><b>Physical signs may include:</b></p> <ol style="list-style-type: none"> <li>1. Bruises, welts or swelling</li> <li>2. Sprains or broken bones</li> <li>3. Burns</li> <li>4. Lacerations or abrasions</li> <li>5. Bite marks</li> <li>6. Unexplained or repeated injuries</li> </ol>	<p><b>Behavioral signs may include:</b></p> <ol style="list-style-type: none"> <li>1. Attempts to hide injuries</li> <li>2. Difficulty sitting or walking</li> <li>3. Wariness of physical contact with adults</li> <li>4. Reluctance to go home</li> <li>5. Depression or self-mutilation</li> <li>6. Fear of parent(s) or caregiver(s)</li> </ol>
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**SEXUAL ABUSE** is exploitation of a Minor for the sexual gratification of an adult or older Minor.

<p><b>Physical signs may include:</b></p> <ol style="list-style-type: none"> <li>1. Difficulty walking or sitting</li> <li>2. Torn, stained or bloody clothing</li> <li>3. Genital pain or itching</li> <li>4. Sexually transmitted diseases</li> <li>5. Pregnancy</li> </ol>	<p><b>Behavioral signs may include:</b></p> <ol style="list-style-type: none"> <li>1. Precocious sexual knowledge or behavior</li> <li>2. Extreme – hostile and aggressive or fearful or withdrawn</li> <li>3. Self-mutilation</li> <li>4. Substance abuse</li> <li>5. Running away</li> </ol>
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**NEGLECT** occurs when parents or caretakers do not provide proper supervision, control subsistence, education as required by law, or other care necessary for healthy development. By itself, lack of financial means to provide for a Minor is not neglect.

<p><b>Physical signs may include:</b></p> <ol style="list-style-type: none"> <li>1. Poor Hygiene</li> <li>2. Inappropriate or ill-fitting clothing</li> <li>3. Being left alone or with people unable to provide proper supervision</li> <li>4. Obvious lack of necessary medical treatment</li> </ol>	<p><b>Behavioral signs may include:</b></p> <ol style="list-style-type: none"> <li>1. Chronic hunger or sleepiness</li> <li>2. Delayed language development</li> <li>3. Clinging behavior or development of indiscriminate attachments</li> <li>4. Frequent complaints of feeling unwell</li> <li>5. Frequent tardiness or absence from school</li> </ol>
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### **Protection of Minors Training Certification**

I hereby certify that I have read and understand the foregoing *Training Requirements, Guidelines for Working with Minors, and Signs of Abuse and Neglect of Minors*. I have had an opportunity to raise any questions I have about this information with the Program Director, and have done so if necessary.

I agree to comply with all of the guidelines in the *Training Requirements, Guidelines for Working with Minors, and Signs of Abuse and Neglect of Minors* and also with the University's Policy with respect to Legally Required and University Required Duties to Report Suspected Abuse of Minors (Section 5 of the University Protection of Minors Policy).

I certify that I have never been convicted of a crime related to the Abuse of Minors or entered a guilty plea or other plea associated with a crime related to the Abuse of Minors.

I further certify that no one has ever alleged that I have abused a Minor.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Printed Name

Program in which you are participating:

\_\_\_\_\_

## APPENDIX C

### Other Provisions

#### 1. Staffing Ratios.

- Each Program must meet the following minimum ratios of Adults to Minors:

Ages	Adult-to-Minor Ratio for Overnight Programs	Adult-to-Minor Ratio for Day Programs
6 to 8	1:6	1:8
9 to 14	1:8	1:10
15 to 17	1:10	1:12

- For purposes of the staffing ratios, the Adults must be at least 18 years of age and have completed required youth protection training before interacting with Minors. See Appendix A.
- If, however, a Minor's parent or guardian supervises the Minor at all times during the Program, the required minimum staffing ratios do not apply to that Minor. The parent or guardian shall not supervise other children without qualifying as a Volunteer for the Program.

#### 2. Supervision.

Each Program Director shall:

- Provide effective supervision for Adults involved with a Program.
- Prohibit participation by any child under the age of six, unless the child is accompanied at all times by his or her parent or guardian.
- Prohibit one-on-one contact between an Adult and a Minor, unless the Adult is the Minor's parent or guardian.
- Restrict Minors to designated general-use facilities such as athletic fields, public spaces, and academic buildings. Place off-limits to Minors facilities including storage rooms, equipment rooms, athletic training rooms, staff/faculty offices, closets, attics, unfinished basement space, and other areas not needed for Program activities.
- Prohibit Minors from utilizing equipment that poses special hazards including but not limited to:
  - Power tools
  - Scaffolds, ladders, and similar equipment involving heights
  - Cooking equipment involving heat such as rotisseries, deep fryers, and grills
  - Food slicers
  - Kilns
  - Laboratory and research equipment, such as heating equipment, glassware, lasers, and chemicals.

- Lawnmowers
- Golf carts, gators, or other motorized vehicles
- Hoisting apparatus
- Compactors
- Assign a supervisory Adult to be on-site and available to Minors at all times. For overnight programs, the supervisory Adult must reside in the housing unit.

### 3. **Emergency and Safety Protocols for Programs in Lehigh Facilities**

Each Program Director shall:

- Establish a procedure for notifying the Minor's parent/legal guardian in case of an emergency, including medical or behavioral problems, natural disasters, or other significant disruptions. The Program Director shall provide written information on the notification procedure to Adults involved in the Program, parents/legal guardians of Minors and, if age appropriate, the Minor.
- For overnight Programs, provide a roster of all Minors participating in the Program to the Lehigh University Policy Department. The roster shall include each Minor's name, gender, age, and home address; local room assignment (if any); phone number(s) of parent or legal guardian; and emergency contact information.
- Provide information to the parent or legal guardian detailing the manner in which the Minor can be contacted during the Program.
- For overnight Programs, provide the Lehigh University Police Department with a roster of Program staff and contact information, including information on the Program Director. *High school students, such as prospective student-athletes and others participating in pre-enrollment visitations, are exempt from this requirement.*
- Follow guidance from the Minor's personal physician for epinephrine (epi) pens and other health matters. Program staff may distribute medications to Minors only under the following conditions:
  - The Minor's parent or legal guardian must provide the medicine in its original pharmacy container labeled with the Minor's name, medicine name, dosage, and timing of consumption. Over-the-counter medications must be provided in the manufacturer's container and labeled with the Minor's name, dosage, and timing of consumption.
  - The parent or legal guardian must provide written authorization before Program staff may distribute any medication to a Minor.
  - Program staff shall keep the medicine in a secure location and, at the appropriate time for distribution, meet with the Minor in the presence of another Adult.

- The Program staff member shall allow the Minor to self-administer the appropriate dose as shown on the container.
- For medicine that the Minor cannot self-administer, the parent or guardian must make arrangements with a Third Party health care professional unaffiliated with the University in advance of the Minor's arrival. In no event will a University health care professional be responsible for such administration.
- Minors may carry personal "epi" pens and inhalers during activities for self-administration.
- Follow appropriate safety measures approved by the Office of Environmental Health & Safety for laboratory and research work including, but not limited to, training on lab safety.

#### 4. **Orientation and Training; Rules for Programs**

Orientation and training for all Program personnel shall include the following rules:

- The possession of alcohol, and other drugs, fireworks, guns and other weapons is prohibited.
- Smoking and use of tobacco products are prohibited.
- Minors may only leave University property during the Program with permission and upon stated conditions.
- Theft, violence of any kind, sexual harassment or abuse is prohibited and will not be tolerated.
- Hazing of any kind, bullying, initiation rituals, verbal or physical abuse and cyber bullying are prohibited and will not be tolerated. This includes discriminatory slurs or behavior.
- If applicable, the Program will adopt and implement rules and regulations for proper supervision of Minors in University housing. The following must be included:
  - A curfew that is age appropriate for Minors (earlier than 12:00 AM).
  - In-room visitation to be restricted to participants of the same gender.
  - Guest of participants (other than a parent or legal guardian and other Program participants) may visit only in the building lobby and/or floor lounges and only during approved hours specified by the Program.
  - Program personnel and participants must comply with all security measures and procedures specified by the Program Directors, Office of Residence Life, and the Lehigh University Police Department.