

SECTION: Personnel

SUBJECT: Discrimination, Sexual Harassment, and Sexual Misconduct Prohibited

Point of Contact: Title IX Coordinator; HRS

Other LCSC offices directly involved with implementation of this policy, or significantly affected by the policy: Student Affairs; President's Office; Security

Date of approval by LCSC authority: October 3, 2018

Date of State Board Approval: N/A

Date of Most Recent Review: September, 2018

Summary of Major Changes incorporated in this revision to the policy: Total revision of this policy. Policy 3.109 has been removed from LCSC Policy and Procedures and this policy is inclusive of the information previously contained in 3.109.

Introduction:

In accordance with Titles VI and VII of the Civil Rights Act of 1964; Title IX of the Education Amendments Act of 1972, the Age Discrimination in Employment Act of 1976; the Equal Pay Act of 1963; Sections 503 and 504 of the Rehabilitation Act of 1973; the American with Disabilities Act of 1990 as amended by the Americans with Disabilities Act Amendments of 2008; Title II of the Genetic Information Nondiscrimination Act of 2008; the Vietnam Era Veterans' Readjustment Assistance Act; Executive Order 11246; Executive Order 13672; the Idaho Human Rights Act and the Idaho State Board of Education Governing Policies and Procedures, unlawful discrimination, harassment (including sexual harassment and sexual misconduct) and retaliation against any employee, student, visitor, guest, contractor, subcontractor, vendor or volunteer is prohibited. This policy explains LCSC's position, defines discrimination and harassment, and communicates what is expected of LCSC community members.

Policy Statement:

Lewis-Clark State College is committed to maintaining a working and learning environment that is free of unlawful discrimination, sexual harassment, and sexual misconduct and to providing an environment that emphasizes the dignity and worth of every member of its community. Such an environment is necessary to maintain a healthy learning, working, and living atmosphere because discrimination, sexual harassment, and sexual misconduct undermine human dignity, mutual respect, and the positive connection among all people at our College. The College strives to create an environment that supports, encourages, and rewards career and educational advancement on the basis of ability and performance.

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LCSC will not tolerate any form of discrimination, harassment or retaliation and will take appropriate action against a College employee or student who violates any part of this policy.

Scope:

This policy and corresponding Procedural Guidelines for Responding to Allegations of Discrimination, Sexual Harassment, and Sexual Misconduct (see appendix A), applies to all College programs and activities as well as all College employees, students, contractors, vendors, and visitors to campus, including minors. Additionally, this policy applies to anyone participating in any event and/or activity sponsored by the College. This policy applies whether conduct occurs on campus or off campus, if the continuing effects of the conduct have the potential to unreasonably interfere with or limit an individual's work, academic performance, living environment, personal security, or participation in any LCSC activity. Any College employee and/or College unit must coordinate with the Title IX Coordinator and/or the Director of Human Resource Services on matters that implicate this policy.

Employee Responsibilities:

1. Managers/Supervisors/Administrators Reporting Responsibilities
Members of the College community who (a) supervise other employees, students, or volunteers or who interface and direct contractors or vendors; (b) teach or advise students; or (c) have management authority related to a College sponsored program/event/activity must:
 - A. Engage in appropriate measures to prevent violations of this policy; and
 - B. Promptly notify the Title IX Coordinator and/or the Human Resource Services Director after being informed of or having a reasonable basis to suspect there has been discrimination against, harassment of, or retaliation against a member of the College community.
2. Individual Employee Responsibilities
 - A. All members of the College community are responsible for creating a campus environment free from unlawful discrimination and harassment and for following this policy. The College expects all members of the College community to refrain from engaging in conduct that constitutes unlawful discrimination or harassment.
 - B. Employees who observe or are otherwise aware of discrimination, harassment, or other inappropriate conduct that may implicate this policy must report such conduct to their supervisor, Human Resource Services, or the Title IX Coordinator.

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- C. Members of the College community are expected to cooperate with the College in any investigation of alleged discrimination and/or harassment under this policy to the extent permissible by applicable law.
3. Exceptions to Employee Reporting Responsibilities
- A. Employees who are statutorily barred from reporting (i.e., health care providers and mental health care providers acting in their capacities as health care providers).
 - B. Employees, work scholars, professional trainees, and other similar individuals who are not statutorily barred from reporting but who provide services to students in LCSC Student Health Services or LCSC Student Counseling, and who as a result of work within that office, learn of an incident that may implicate this policy.
 - C. Employees participating in a preventative education program for students regarding sex and gender based violence or related program, during which a student discloses having experienced sexual harassment or sexual misconduct.

Employees that have been subjected to discrimination, sexual harassment, sexual misconduct, or retaliation are not required to self-report the alleged incident they were involved in.

4. Other Reporting

- A. Per Idaho Code 16-1605, any person who has reason to believe that a child under the age of eighteen (18) years has been abused, abandoned or neglected or who observes the child being subjected to conditions or circumstances which would reasonably result in abuse, abandonment or neglect shall report or cause to be reported within twenty-four (24) hours such conditions or circumstances to the proper law enforcement agency.

Investigating Responsibilities:

The Title IX Coordinator, or their designee, is responsible for conducting investigations into allegations that implicate this policy.

Definitions:

1. **Protected Class:** Protected class is a term used in anti-discrimination laws to describe characteristics or factors which cannot be targeted for discrimination and harassment.

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For purposes of this policy, the following characteristics are considered **Protected Classes** and, to the extent permitted by applicable law, individuals cannot be discriminated against on the basis of:

- A. Race;
 - B. Color;
 - C. Religion;
 - D. Creed;
 - E. Sex/Gender;
 - F. Age;
 - G. National Origin;
 - H. Disability, including physical, mental, sensory disabilities and/or disability requiring the use of a trained service animal;
 - I. Marital Status;
 - J. Veteran Status;
 - K. Genetic Information;
 - L. Sexual Orientation; and
 - M. Gender Identity/Expression.
2. **Discrimination:** Discrimination occurs when an individual, or group of individuals, are treated adversely on the basis of one or more of the protected classes listed above, whether the membership within a protected class is actual or perceived (i.e. denial of benefits; denial of equal access to facilities available to others; less advantageous working conditions; engaging in a practice or policy that disproportionately impacts members of a protected class).
3. **Discriminatory harassment:** A form of discrimination, discriminatory harassment is improper conduct toward an individual, or group of individuals, on the basis of one or more of the protected classes listed above. The conduct must be sufficiently severe, persistent, or pervasive that it has the purpose or effect of:

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- A. Creating an intimidating, hostile, or offensive environment; or
- B. Unreasonably interfering with work, academic performance, living environment, personal security, or participation in any LCSC activity.
 - (1) Discriminatory harassment may be verbal, written, visual or physical in nature. Conduct includes, but is not limited to:
 - (a) Verbal abuse, such as name calling, insulting, teasing, mocking, degrading or ridiculing another person or group; or
 - (b) Conduct that is physically offensive, harmful, threatening or humiliating, such as leering, staring, or blocking movement; or
 - (c) Unwelcome or inappropriate physical contact, such as kissing, hugging, pinching, patting, or grabbing another person, physical assault or stalking; or
 - (d) Unwelcome or inappropriate propositions, comments, questions, or demands.

Merely offensive conduct and/or harassment, such as bullying, not on the basis of an individual/s membership in a protected class, may not result in a violation of this policy. However, the conduct may be addressed through education and/or other resolution methods.

- 4. **Bullying:** Bullying is repeated and persistent negative acts directed toward one or more individuals in which there is a perceived power imbalance and which creates a hostile environment. For bullying to be established, it typically needs to occur over a significant period of time. Bullying can occur through personal contact, through texting, email, social media, or any other electronic communications. Examples of bullying behaviors include:
 - A. Aggressive communication such as insulting or offensive remarks, shouting, yelling, angry outbursts, and invasion of personal space;
 - B. Acts aimed at humiliating and ridiculing such as harsh practical jokes, spreading rumors and gossip, teasing, and taunting;

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- C. Manipulation of work, such as purposefully withholding information, leaving employees or students out of important correspondence, arbitrarily changing tasks and deadlines, exclusion or isolation;
- D. Mobbing, which is when a group of persons repeatedly engage in bullying behavior that is directed in a systemic manner toward one individual or group.

Bullying does not include situations where colleagues or students point out professional differences or difficulties they have with other members of the campus community, provided it is done in an appropriate manner. Occasional differences of opinion, conflicts, and problems within work/study relationships sometimes occur and are a part of life; every conflict does not constitute bullying. Additionally, it is not considered bullying in situations where a supervisor institutes proceedings for unsatisfactory performance, misconduct, dismissal, or to deal with complaints within the framework of College policy and procedures.

- 5. **Sexual harassment:** Sexual harassment is a form of discrimination and encompasses unwelcome verbal, physical, written, or online conduct of a sexual nature. Additionally, sexual harassment encompasses gender-based harassment which is harassment of a non-sexual nature that occurs because of an individual's sex and/or gender. Gender-based harassment includes harassment based on an individual's non-conformity to sex and/or gender stereotypes.
 - A. Sexual harassment creates a *hostile environment* when it is sufficiently severe, persistent, or pervasive and has the purpose or effect of unreasonably interfering with, denying, or limiting employment opportunities or the ability to participate in or benefit from any College education, social, and/or residential program.
 - B. *Quid pro quo* (this for that) sexual harassment occurs when employment or academic decision resulting in a significant change in status are based on an employee or student's submission to, or rejection, of unwelcome verbal or physical sexual conduct. Examples include, but are not limited to:
 - (1) Requiring sexual favors in exchange for hiring, a promotion, a raise or a grade.
 - (2) Disciplining, demoting or firing an employee because the individual ends a consensual relationship.
 - (3) Refusing to write recommendations for an employee because the individual refuses sexual advances.

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- (4) Changing work or academic assignments because an employee or a student refuses invitations for a date or other private, social meeting.
6. **Sexual Misconduct:** Sexual misconduct is an egregious form of sexual harassment and includes, but is not limited to, the following conduct:
 - A. Non-consensual sexual contact (or attempts to commit the same) is any intentional sexual touching, however slight, including with any object, by one person upon another person (regardless of gender), that is without consent and/or is by force. Sexual contact may include intentional contact of a sexual nature with any body part of another person. Examples of non-consensual sexual contact include, but are not limited to, intentional contact of the breasts, buttock, groin, or genitals, or touching another with any of these body parts, or making another touch you or themselves with or on any of these body parts.
 - B. Non-consensual sexual intercourse (or attempts to commit the same) is any sexual intercourse, however slight, including with any object, by one person upon another person (regardless of gender), that is without consent and/or is by force. This includes vaginal penetration by a penis, object, tongue, or finger; anal penetration by a penis, object, tongue, or finger; and oral copulation (mouth to genital or genital to mouth contact), no matter how slight the penetration or contact.
 - C. Sexual Exploitation occurs when a person takes non-consensual sexual advantage of another person for their own advantage and/or benefit or for the advantage and/or benefit of anyone other than the one being exploited, and the conduct does not otherwise constitute one of the other sexual misconduct offenses. Examples of sexual exploitation include, but are not limited to:
 - (1) Invasion of sexual privacy;
 - (2) Prostitution;
 - (3) Photographing or recording (video and/or audio) sexual activity with permission or consent;
 - (4) Engaging in voyeurism;
 - (5) Knowingly transmitting a sexually transmitted infection/disease/HIV;
 - (6) Exposing one's genitals in non-consensual circumstances or causing another to expose their genitals;

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(7) Sexually based stalking and/or bullying.

- D. Stalking is defined as conduct directed at a specific person that purposefully or knowingly causes a reasonable person to fear for their safety or the safety of others, or to suffer substantial emotional distress. Examples include, but are not limited to, following, harassing, threatening, or intimidating another. The conduct may include the use of telephone, mail, electronic communication, and/or social media.
 - E. Intimate Partner Violence/Dating Violence means violence by a person who has been in a romantic or intimate relationship with the victim. Whether there was such a relationship will be gauged by the length, type, and frequency of interaction.
7. **Consent:** Consent to any sexual activity must be clear, knowing and voluntary. Clear, knowing, and voluntary consent to sexual activity requires that, at the time of the act, and throughout sexual contact, all parties actively express words or conduct that a reasonable person would conclude demonstrates clear permission regarding willingness to engage in sexual activity and the conditions of such activity. Consent is active; silence or passivity is not consent. Even if words or conduct alone seem to imply consent, sexual activity is nonconsensual when:
- A. Force or coercion is threatened or used to procure compliance with sexual activity;
 - (1) Force is the use of physical violence, physical force, threat, or intimidation to overcome resistance or gain consent to sexual activity.
 - (2) Coercion is unreasonable pressure for sexual activity. When an individual makes it clear through words or actions that the individual does not want to engage in sexual contact, wants to stop, or does not want to go past a certain point of sexual interaction, continued pressure beyond that point may be coercive. Blackmail or extortion may also be a form of coercion when used to overcome resistance and/or gain consent to sexual activity.
 - B. The person is asleep, unconscious, or physically unable to communicate his or her unwillingness to engage in sexual activity; or
 - C. A reasonable person would or should know that the other person lacks the mental capacity at the time of the sexual activity to be able to understand the nature or consequences of the act, whether that incapacity is produced by illness, defect, the

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influence of alcohol or another substance, or some other cause. When alcohol or drugs are involved, a person is considered incapacitated or unable to give valid consent if the individual cannot fully understand the details of the sexual interaction (i.e., who, what, when, where, why, and how), and/or the individual lacks the capacity to reasonably understand the situation and to make rational, reasonable decisions.

- D. The use of alcohol or drugs will never function as a defense to a gender-based or sexual misconduct violation.
8. Acts of sexual misconduct may also be considered a crime by Idaho State Code. The following are crimes as defined by Idaho State law:
- A. Rape (Title 18, Chapter 61)
 - B. Sex Crimes (Title 18, Chapter 66)
 - (1) Forcible sexual penetration by use of a foreign object
 - (2) Crime of video voyeurism
 - C. Assault and Battery (Title 18, Chapter 9)
 - (1) Battery
 - (2) Battery with intent to commit a serious felony
 - D. Stalking (Title 18, Chapter 79, Sections 5 & 6)

College conduct proceedings may be instituted against a student charged with conduct that could potentially violate both criminal law and the Student Code of Conduct without regard to the pendency of civil or criminal litigation in court or criminal arrest and prosecution.

Conduct proceedings under the Student Code of Conduct may occur prior to, simultaneously with, or following civil or criminal proceedings.

Determinations made, or sanctions imposed, under the Student Code of Conduct shall not be subject to change because criminal charges arising out of the same facts giving rise to violation of College rules were dismissed, reduced, or resolved in favor of, or against, the criminal law defendant.

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9. **Retaliation:** This policy prohibits retaliation. Retaliation includes action or threat of action that could negatively affect another’s employment, education, reputation, or other interest. Retaliation includes any act that would dissuade a reasonable person from making or supporting a complaint, or participating in an investigation under this policy. Retaliation is a separate and distinct violation of this policy.
10. **Interference:** This policy prohibits interference with making a complaint and/or an investigation. Interference includes actions that dissuade or attempt to dissuade a reporting party and/or witnesses from reporting or participating in an investigation, or actions that delay or disrupt, or attempt to delay or disrupt, an investigation. Interference is a separate and distinct violation of this policy.

Reporting and Investigation Process for all LCSC Employees and Students

1. Reporting Process – Where to Report

- A. **Filing a Complaint:** Any person who has experienced conduct that implicates this policy, or any third party who witnesses or becomes aware of conduct that implicates this policy, should contact the Title IX Coordinator, or their designee.

LCSC Lewiston Campus Ashley Edwards - Title IX Coordinator Administration Building; 201A 208-792-2689 titleix@lcsc.edu anedwards@lcsc.edu	LCSC Coeur d’Alene Center Dr. Heidee McMillin Harbor Center; 140 208-292-2680 titleix@lcsc.edu
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- B. The Title IX Coordinator will initiate an investigation for all complaints of discrimination, sexual harassment, and/or sexual misconduct, in a manner it deems appropriate, based on the information available.
- C. In some instances, an informal resolution process may be utilized as an alternative to a formal investigation. The Title IX Coordinator will determine if an informal resolution is appropriate, based on the willingness of the parties and the nature of the allegations. Informal resolution, such as mediation, is not an option in sexual misconduct allegations.
- D. Any person who believes they are a victim of sexual harassment, sexual misconduct, intimate partner violence, or stalking are encouraged to report such incidents to the College. Victims may:

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- (1) Pursue a complaint through the College investigatory and disciplinary process.
 - (2) Pursue a criminal complaint by contacting College security or local law enforcement.
 - (3) Pursue both a criminal complaint and an administrative complaint consecutively and concurrently.
- E. Once notified of an allegation of discrimination, sexual harassment, or sexual misconduct, the College will notify the potential victim of their right to file a complaint with campus security or local law enforcement. If the victim wishes to report the conduct to local law enforcement, the College should assist the individual in doing so. The College will also notify the victim that they are not required to file a report with local law enforcement. The College will report allegations of criminal acts related to this policy to law enforcement or other authorities consistent with federal, state, and local law.

Campus Security MLH 110 208-792-2226	Lewiston Police Department 1224 F Street Lewiston, ID 83501 208-746-0171	Nez Perce County Sheriff 1150 Wall Street Lewiston, ID 83501 208-799-3131
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- F. **Filing an Anonymous Report:** Anonymous reports can assist the College in its efforts to comply with federal laws with respect to reporting crimes and in identifying patterns that could be concerning. Anonymous reporting may limit the College's ability to investigate or take disciplinary action against the accused. Anonymous reports may be filed by following the link below:

<https://www.lighthouse-services.com/lcsc>

Lighthouse is an independent provider that assists LCSC in identifying misconduct. Lighthouse will not disclose the identity of the person filing the report without express permission.

2. **Investigating a Complaint:** The College is required by federal law to investigate all reports of sexual violence and sexual misconduct brought to the attention of the College. LCSC, as an employer, expects all employees to participate and cooperate with investigations. The College is obligated to investigate complaints that implicate this policy in a prompt, thorough, and impartial manner. The College will strive to complete investigations within sixty (60) days from the date the complaint is received by the

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College. All parties will be notified, in writing, of any anticipated delays in an investigation.

G. Confidentiality: LCSC takes confidentiality seriously. Investigative information is shared with others on a need-to-know basis only, including with investigators, witnesses, the accused individual, and relevant College administrators, or as required or permitted by law. In some cases, the investigation file may be subject to requests for public records; identifying or other information will be redacted when legally permissible.

- (1) If a reporting party wishes to remain anonymous, the College will take all reasonable steps to investigate the allegation without disclosing the name of the reporting party to the extent allowed by state and federal law. If the reporting party wishes to remain anonymous, the College shall inform the individual that the ability for the College to investigate and respond to the allegations will be limited and that retaliation is prohibited. However, the College cannot guarantee confidentiality, as its legal obligations may require disclosure of the reporting party's name. The reporting party will be notified if a request for confidentiality cannot be met.
- (2) Requesting confidentiality
 - (a) A reporting party may request that the College
 - (i) Keep their personal identifying information confidential, and/or
 - (ii) Refrain from investigating or taking any disciplinary action against a responding party.
 - (b) Requests for confidentiality should be submitted, in writing, to the Title IX Coordinator. The Title IX Coordinator will evaluate the request and determine whether honoring the request would interfere with LCSC's legal obligation to provide a safe and non-discriminatory environment for all members of the campus community. The Title IX Coordinator will consider the following factors in determining whether the confidentiality request can be honored:
 - (i) The risk and likelihood of the responding party committing more violence or misconduct in the future. In doing so, the Title IX Coordinator will check to see if:

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- (ii) The responding party has any other complaints in their educational records;
- (iii) The responding party has a history of arrests or disciplinary records at another school or College;
- (iv) The responding party threatened the reporting party with further violence or violence against others; or
 - (i) Multiple perpetrators committed the sexual violence or misconduct.
- (v) The use or attempted use of a weapon while committing an act of sexual misconduct;
- (vi) The ability of the reporting party to advocate for their interests. Violence and/or sexual misconduct against vulnerable persons (i.e., minors, elderly, disabled) is particularly concerning and the College has an obligation to protect due to their vulnerabilities;
- (vii) The existence of a pattern of predation or perpetration based on the location or involvement of a particular group. Reports that indicate one or more of the preceding factors exist, will likely lead the College to investigate and act notwithstanding the request for confidentiality. These circumstances are rare, and even though the College may not be able to honor a request for confidentiality, the College will take every available precaution to keep the reporting party safe.

H. **Interim Measures:** LCSC will take appropriate interim steps during an investigation to support and protect the reporting party, as needed. Such steps may be taken regardless of whether the reporting party wishes to pursue a formal complaint. Interim measures include, but are not limited to:

- (1) Altering academic, housing, and/or employment arrangements of the parties;
- (2) Advocating for survivors with faculty to accommodate missed classes, assignments, and/or exams;

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- (3) Assisting with withdrawals (processing paperwork, guiding students through the process, discussing implications for financial aid eligibility, seeking refunds of tuition and fees, etc.); and/or
- (4) No contact letters

When taking such steps, LCSC seeks to minimize unnecessary or unreasonable burdens on either party; however, every reasonable effort is made to allow the reporting party to continue in their academic, housing, and/or employment arrangements. Violations of such protective measures may lead to disciplinary action.

I. **Investigation Process:** Once a complaint has been received by the College, the reporting party and the responding party are given an opportunity to provide information and evidence to the investigator, including names of witnesses. The parties are given the opportunity to provide oral and written statements as well as documentary evidence (i.e.; text messages, pictures, social media posts, etc.) Except in extraordinary circumstances, both parties are given written notice of the outcome of the investigation, an opportunity to respond, and an opportunity to appeal.

- (1) **Standard of Proof:** LCSC uses a “preponderance of the evidence” legal standard to evaluate allegations of violations of this policy, which means “more likely than not” that the conduct or incident in the complaint occurred.
- (2) **Investigation Findings**
 - (a) The findings of the investigation will be communicated to the reporting party, the responding party, and the appropriate College officials.
 - (b) If, based on the investigation, the Title IX Coordinator determines that a violation of policy has occurred, the College will take action commensurate with the conduct to ensure any discrimination, sexual harassment, or sexual misconduct does not persist. Corrective action may include a range of disciplinary measures, up to and including, expulsion for students and termination for employees.

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3. **Adjudication** At the conclusion of the investigation, the matter will be turned over to the appropriate College authorities for consideration and adjudication.
 - A. For students: At the completion of an investigation involving a student as the responding party, the final investigative report will be provided to the reporting party, the responding party and the Vice President of Student Affairs. If corrective action involves disciplinary sanctions, the appropriate disciplinary procedures will be followed pursuant to LCSC Policy 5.105 Student Code of Conduct – Student Hearing Board and the Student Handbook and Resource Guide.
 - B. **Amnesty for Drug or Alcohol Possession and Consumption Violations:** The College strongly encourages students to report instances of discrimination, sexual harassment and sexual misconduct. Therefore, students who report information about discrimination, sexual harassment, and sexual misconduct involving students will not be disciplined by the College for any violation of the College's drug or alcohol possession or consumption policies in which they might have engaged in connection with the reported incident.
 - C. For Employees: At the completion of an investigation involving an employee as the responding party, the final investigative report will be provided to the reporting party, the responding party, and relevant LCSC Administrators. Any disciplinary action will be taken in accordance with [LCSC Policy 3.117 – Dismissal of Faculty and Other Exempt Employees for Cause](#), [LCSC Policy 3.119 – Probation, Promotion, Demotion, Reclassification or Transfer of Classified Employees](#), and [LCSC Policy 3.120 – Separation of Classified Employees](#).

For complete information regarding investigative and adjudication procedures for students and employees, consult Appendix A, the Procedural Guidelines for Responding to Allegations of Discrimination, Sexual Harassment, and Sexual Misconduct and any relevant college policies noted above.

D. Appeals

- (1) **Students:** If the student disagrees with the Vice President for Student Affairs' or designee's conclusion that he/she violated the Student Code of Conduct or with the sanction imposed, the student may file an appeal with the College President by delivering a written request to the Office of the **Vice President for Student Affairs within seven (7) calendar days after the date on which he/she is served with a copy of the Vice President for Student Affairs (or designee's) decision.** Reporting parties in cases of

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sexual misconduct may also request an appeal under the same circumstances and conditions. If the student does not deliver a timely written request for a hearing, the Vice President for Student Affairs' determination and sanction shall become final and the student shall have no further right to an appeal.

See Policy 5.105 – Student Code of Conduct & Student Hearing Board Procedures for additional information on this process.

(2) **Employees:** Employees may appeal a recommended disciplinary action by following the policies and procedures as outlined in the following policies:

(a) LCSC Policies:

(i) [LCSC Policy 3.117 – Dismissal of Faculty and Other Exempt Employees for Cause](#);

(ii) [LCSC Policy 3.119 – Probation, Promotion, Demotion, Reclassification or Transfer of Classified Employees](#); or

(iii) [LCSC Policy 3.120 – Separation of Classified Employees](#).

(b) Idaho State Board of Education

(i) [Section II – Human Resources Policies and Procedures](#)

(c) Idaho Legislature

(i) [67.5316 – Appeal Procedure](#)

For complete information regarding appeals, consult Appendix A, Procedural Guidelines for Responding to Allegations of Discrimination, Sexual Harassment, and Sexual Misconduct.

4. Clery Act Reporting Requirements

A. Victims of sexual misconduct should be aware that the College must issue crime alerts for incidents reported that represent a serious or continuing threat to student or employees. LCSC will withhold a reporting party's name and other identifying

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information while providing enough information for community members to make safety decisions in light of the potential danger.

- B. In instances where certain criteria are met, incidents of sexual misconduct, intimate partner violence/dating violence, and stalking are reported to the Director of Campus Security to include in the Annual Security Report. All personal identifying information is withheld from this report.

5. **Resources:**

- A. **Confidential Resources:** In most instances, service providers from the following resources can speak with individuals confidentially about their concerns.

Confidential Campus Resources

LCSC Student Health Services* Sam Glenn Complex; 205 208-792-2251	LCSC Student Counseling Center Reid Centennial Hall; 111 208-792-2211
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Confidential Community Resources

YWCA 208-746-9655	Idaho Public Health* 208-799-3100	St. Joseph Regional Medical Center* 208-743-2511
Tri-State Memorial Hospital* 509-758-4665	Quality Behavior Health (WA Residents only) 509-758-4655	

* Medical care is also available at these locations.

- B. **Non-confidential Resources:** The following campus offices/individuals only share information on a need-to know basis but cannot guarantee confidentiality.

Title IX Coordinator Administration Bldg; 201A 208-792-2689 titleix@lcsc.edu	Student Affairs Reid Centennial Hall; 112 208-792-2218 studentaffairs@lcsc.edu	Campus Security MLH; 110 208-792-2226
Human Resource Services Administration Bldg; 102 208-792-2269 hr@lcsc.edu	Residence Life Talkington Hall Basement 208-792-2053 reslife@lcsc.edu	Any faculty and/or staff member, including your advisor or supervisor.

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6. **External Complaints**

Individuals have the right to file complaints alleging discrimination, harassment, or retaliation with state or federal agencies within the agencies' prescribed time periods. State and federal agencies have their own processes for responding to and processing such complaints. Filing a complaint with a state or federal agency listed below may be done in lieu of or in addition to the College complaint process.

U.S. Office of Civil Rights Department of Education 915 Second Avenue Room 3310 Seattle, WA 98174-1099 206-607-1600 800-421-3481 OCR@ed.gov OCR.Seattle@ed.gov	U.S. Equal Employment Opportunity Commission (EEOC) Federal Office Building 909 First Avenue; Suite 400 Seattle, WA 98104-1061 800-669-4000 www.eeoc.gov
Idaho Department of Labor 1158 Idaho Street Lewiston, ID 83501-1960 208-799-5000 lewistonmail@labor.idaho.gov	Idaho Human Rights Commission 317 W. Main St. – Second floor Boise, ID 83735-0660 208-334-2873 inquiry@ihrc.idaho.gov

7. **Free Speech and Academic Freedom**

- A. Lewis-Clark State College has a long tradition of, and a deep commitment to, academic freedom. The welfare and strength of the College and of society at large depend upon the ability to engage in free expression in the search for meaning. To this end, LCSC recognizes and protects full freedom of inquiry, teaching, research, discussion, study, publication, and for artists, the creation and exhibition of works of art, without hindrance, restriction, equivocation, or reprisal. This right extends to other facets of campus life to include the right of a faculty member or student to speak on general educational questions or about the Administration and operation of their own institution.
- B. Constitutionally protected speech and traditional notions of academic freedom are valued in higher education. These ideals help to create the stimulating and challenging learning environment that should characterize higher education. In the spirit of a true College environment, individuals are encouraged to invite, rather than inhibit, discourse on ideas. In addressing all complaints and reports under this policy, the College will take all permissible actions to ensure the safety of students and employees while complying with free speech requirements for students and employees.

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**Appendix A:
Procedural Guidelines for Responding to Allegations of Discrimination, Sexual
Harassment, and Sexual Misconduct that Implicate
LCSC Policy 3.110 –
the policy prohibiting discrimination, sexual harassment, and sexual misconduct**

1. Purpose:

- A. The Office of the Title IX Coordinator is LCSC's primary intake office for investigations and response to allegations that implicate LCSC Policy 3.110, LCSC's policy prohibiting discrimination, sexual harassment, and sexual misconduct. These procedural guidelines are flexible and may be adjusted on a case-by-case basis to promote a prompt, impartial, thorough, and effective process.
- B. Office of the Title IX Coordinator
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2. Scope:

- A. The Office of the Title IX Coordinator has the sole jurisdiction to investigate matters concerning LCSC Policy 3.110, unless specifically delegated or assigned to another office or individual by the President. The Title IX Coordinator will regularly collaborate with the Director of Human Resource Services and/or the Vice President for Student Affairs throughout an investigation.
- B. If a complaint extends beyond the scope of the Office of the Title IX Coordinator, Human Resource Services, or Student Affairs, the complaint may be referred to another LCSC office and/or the Title IX Coordinator will collaborate with that office to complete the investigation. If the complaint does not involve LCSC community members or have sufficient nexus to LCSC's operation, activities, and mission, LCSC may refer the matter to an outside entity or agency, as appropriate and consistent with applicable privacy laws. LCSC community members may include, but are not limited to, employees, students, visitor, guest, contractor, subcontractors, vendors, and volunteers.

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3. Complaints:

- A. For purposes of this process, a complaint is an allegation of conduct that implicates LCSC Policy 3.110.
- B. Complaints, or third party reports, may be made in person, by phone, by email, in writing, or by using LCSC's online confidential complaint form at <https://www.lighthouse-services.com/lcsc>.
- C. All LCSC employees are responsible for knowing their employee reporting requirements regarding complaints or information related to LCSC Policy 3.110. See *Employee Responsibilities* in LCSC Policy 3.110.
- D. Generally, LCSC will assess the complaint and review response options with the reporting party.
- E. LCSC promotes the prompt and effective resolution of complaints and will work with the appropriate LCSC unit to respond to and resolve a complaint at the unit level, when appropriate. LCSC may facilitate an informal resolution process in lieu of, or simultaneously with, a formal investigation.
- F. The Title IX Coordinator may collaborate with supervisors, academic units, Human Resource Services, Student Affairs, Residence Life and/or other appropriate offices or individuals to facilitate the implementation of interim measures to ensure safety and mitigate the effects of the alleged conduct. Any interim measures will be carefully crafted to ensure, to the extent possible, that the needs and concerns of all parties are met.
- G. Policy 3.110 is not intended to impede educational discussions or academic freedom, including topics which may be offensive, uncomfortable, or controversial to some.
- H. Malicious or frivolous reporting is prohibited and may constitute a violation of LCSC Policy 3.110. A complaint will not be considered malicious or frivolous solely because it cannot be corroborated.

4. Complaint Processing:

- A. **Intake:** Generally, upon receipt of a complaint, the Title IX Coordinator will attempt to schedule an initial intake meeting with the reporting party. During this meeting, the Title IX Coordinator will generally do the following:

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- (1) Obtain identifying information, including contact information, from the reporting party. However, the reporting party may request to remain anonymous during an initial intake interview. *See **Confidentiality in LCSC Policy 3.110** for additional information on requesting confidentiality in reporting.*
- (2) Explain the role of the Title IX Coordinator as a neutral fact-finder and/or facilitator for a resolution process, which may include an investigation. When the Title IX Coordinator conducts an investigation, they will seek to determine the facts surrounding the allegation and whether those facts constitute a violation of LCSC Policy 3.110.
- (3) Explain alternative options, including confidential resources available on campus and within the community that may provide counseling and support to the reporting party.
- (4) Explain processes the Title IX Coordinator may use for responding to the allegation, which may include an informal resolution or a formal investigation.
- (5) Explain that the Title IX Coordinator and LCSC takes the reporting party's privacy seriously, but limitations exist on confidentiality. Those limitations include:
 - (a) Notice: When conducting a formal investigation, the Title IX Coordinator will provide the responding party with notice of the allegations and an opportunity to respond. This notice generally includes the identity of the reporting party and/or witnesses.
 - (b) Public Records: Because LCSC is a state agency, the files held within the Title IX Office may be subject to public records requests. The LCSC Vice President for Finance and Administration will review all documents submitted under a public records request and will redact information where legally permissible, such as student identifying information. *See [LCSC Policy 1.115 Public Records Custodian](#) for additional information on records maintained by LCSC.*
 - (c) Mandatory Reporting to Law Enforcement: The Title IX Coordinator is required to report suspected child abuse, elder abuse, or abuse of persons with diminished capacity to law enforcement agencies. If the reporting party is under the age of 18, the Title IX Coordinator may be required to report information to law enforcement.

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- (d) Clery Act Reporting: The Title IX Coordinator is required to report statistical information related to certain types of crimes occurring on campus for inclusion in the LCSC Annual Security Report. Personal identifying information, such as names, are not included in this report.
 - (6) The Title IX Coordinator will provide information regarding LCSC Policy 3.110, which includes information about the provision prohibiting retaliation and/or interference with an investigation, and explain that retaliation and/or interference is prohibited and may be considered a separate and distinct violation of LCSC policy. Conduct that could be considered retaliatory and/or interfere with an investigation should be reported immediately to the Title IX Coordinator. The conduct will be addressed promptly, effectively, and equitably.
 - (7) The Title IX Coordinator will provide information about campus and community resources and services that are available to the all involved parties. Additionally, the Title IX Coordinator will discuss whether interim safety measures are applicable. Resources and interim measures may be available whether or not a reporting party wishes to participate in a formal investigation. *See **Interim Measures** in Policy 3.110 for additional information.*
 - (8) Once the reporting party indicates they understand the process and confidentiality measures, the Title IX Coordinator will ask whether the reporting party would like to provide information for investigation purposes.
 - (9) The Title IX Coordinator will request information from the reporting party, which may include identifying other possible sources of information, such as the names and contact information of witnesses and/or individuals from whom the Title IX Coordinator may obtain additional information.
 - (10) The Title IX Coordinator will request and consider the reporting party's input when determining the most appropriate path of resolution.
- B. Safety Assessment:** After the initial intake, and as necessary throughout an investigation, the Title IX Coordinator will assess whether action much be taken to protect the safety or security of any person involved, or of the College community. Consistent with this assessment, the Title IX Coordinator may share limited information with relevant offices or individuals at LCSC or in the community, which may include but is not limited to, law enforcement, HRS, the Office of the Provost, the Vice President of Student Affairs, crisis centers, and/or counseling centers, as appropriate to address the safety concern.

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C. Conflict Review:

- (1) A conflict of interest is defined as a personal interest, financial, familial, professional, or otherwise, that might impair or reasonably appear to an objective, outside observer to impair an investigator's independent, unbiased judgement in reviewing the matter.
- (2) If a conflict of interest is identified, the allegation may be referred to HRS or another appropriate office, to supervise the investigation or to conduct an independent investigation as appropriate.

D. Determination to Proceed: In limited circumstances, the Title IX Coordinator may determine that it is necessary to proceed with an investigation even where the reporting party does not wish to participate, particularly where there is an ongoing safety threat to the campus or local community. In cases where the Title IX Coordinator proceeds with an investigation without participation by the reporting party, the Title IX Coordinator will notify the reporting party in advance of issuing notice, and will take great care to address the reporting party's concerns, if any.

E. Anonymous Complaints

- (1) If a reporting party wishes to remain anonymous, the college will take all reasonable steps to investigate the allegation without disclosing the name of the reporting party to the extent allowed by state and federal law. If the reporting party wishes to remain anonymous, the college shall inform the individual that the ability for the college to investigate and respond to the allegations will be limited and that retaliation is prohibited. However, the college cannot guarantee confidentiality, as its legal obligations may require disclosure of the reporting party's name.
- (2) Requesting confidentiality
 - (a) A reporting party may request that the College:
 - (i) Keep their personal identifying information confidential, and/or;
 - (ii) Refrain from investigating or taking any disciplinary action against a responding party.

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Requests for confidentiality should be submitted, in writing, to the Title IX Coordinator. The Title IX Coordinator will evaluate the request and determine whether honoring the request would interfere with LCSC's legal obligation to provide a safe and non-discriminatory environment for all members of the campus community. The Title IX Coordinator will consider the following factors in determining whether the confidentiality request can be honored:

- (b) The risk and likelihood of the responding party committing more violence or misconduct in the future. In doing so, the Title IX Coordinator will check to see if:
 - (i) The responding party has any other complaints in their educational records;
 - (ii) The responding party has a history or arrests or disciplinary records at another school or college;
 - (iii) The responding party threatened the Complainant with further violence or violence against others; or
 - (iv) Multiple perpetrators committed the sexual violence or misconduct;
 - (v) The use or attempted use of a weapon while committing an act of sexual misconduct.
- (c) The ability of the reporting party to advocate for their interests. Violence and/or sexual misconduct against vulnerable persons (i.e., minors, elderly, disabled) is particularly concerning and the college has an obligation to protect due to their vulnerabilities.
- (d) The existence of a pattern of predation or perpetration based on the location or involvement of a particular group.

Reports that indicate one or more of the preceding factors exist, will likely lead the college to investigate and act notwithstanding the request for confidentiality. These circumstances are rare, and even though the college may not be able to honor a request for confidentiality, the college will take every available precaution to keep the reporting party safe.

- 5. Notice of Investigation:** Where the Title IX Coordinator proceeds with a formal investigation, the Title IX Coordinator will provide notice and information to the

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following persons, unless there is a compelling basis for confidentiality. The Title IX Coordinator may share information with others, as appropriate, to ensure a prompt and equitable response to concerns.

- J. Responding Party: Upon commencing an investigation, the Title IX Coordinator will provide the responding party with notice and an opportunity to respond to the allegations that they violated College policy under the purview of the Title IX Coordinator.
- K. Relevant supervisor(s) (where the responding party is an employee or volunteer): Supervisor(s) will be notified of the complaint and asked to inform the responding party and others involved, if any, that they are expected to cooperate with the investigation and conduct themselves in a professional manner during the process, to be truthful, and that they must refrain from retaliating against anyone involved in the process or interfering with the investigation. Supervisors may take steps, after consultation with the Title IX Coordinator, HRS, and any other appropriate College Administrator, to ensure a safe and inclusive working environment throughout the process, to protect the safety of all persons involved in an investigation, and to respond to concerns that implicate other College policies.
- L. Human Resource Services (HRS), the Vice President of Student Affairs, or relevant individuals at other LCSC campus/work locations, may be notified of the complaint and may participate in the investigation.
- M. Program Administrators: Where the reporting party and/or the responding party participate in programs or activities administered or sponsored by LCSC, the appropriate program administrator may be given limited notice in order to consult with the Title IX Coordinator and implement interim measures during the process as appropriate.

6. Informal Resolution Process

- A. The Office of the Title IX Coordinator seeks to identify and resolve discriminating or potentially discriminating conduct at the earliest possible opportunity and in the most effective manner. At any time after receipt of a complaint, and when appropriate, the Title IX Coordinator may assess whether an informal resolution is appropriate. Note that mediation is never appropriate for complaints of sexual violence. The Title IX Coordinator may participate in the resolution process, and/or may ask others to guide that process, as appropriate. Generally, informal resolution may be appropriate in the following situations.
 - (1) The alleged conduct is not sufficiently severe, persistent, or pervasive to constitute a violation of LCSC Policy 3.110.

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- (2) The reporting party prefers an informal resolution process; or
 - (3) There is a limited nexus between the alleged conduct and LCSC Policy 3.110.
- B. The reporting party may request, at any time during an informal resolution process, to end the informal process and begin a formal investigation.

7. Investigation Process for Students and Employees:

- A. **Determination of Evidence:** If an investigation is warranted, the Title IX Coordinator will determine what evidence will be needed to determine whether the allegation(s) is supported, including relevant documents, witnesses to interview, and/or other evidence.
- B. **Advisor/Support Person:** Both the reporting party and the responding party may bring an advisor or a support person to accompany them to meetings with the Title IX Coordinator throughout the process. However, the reporting party and the responding party are responsible for presenting their own information throughout the process.
- C. **Investigation Timeline:** The Title IX Coordinator seeks to balance the need to promptly complete investigations after receipt of a complaint with the need to conduct a thorough investigation. Generally, an investigation will be completed within 60 days. The length of an individual investigation varies depending on, but not limited to, the number of witnesses to be interviewed, the extent of documentation to be reviewed, the type of alleged conduct, and length of time over which the alleged conduct has occurred. As needed, the Title IX Coordinator will provide written notice to the parties when the timeline for an investigation changes.
- D. **Investigation Steps:** Generally, the Title IX Coordinator will take the following steps during an investigation:
- (1) Interview the reporting party, the responding party, and witnesses whom the Title IX Coordinator determines may have relevant information. Interviews will be conducted in person when practicable. Audio and/or video recording of interviews will generally not be allowed. In matters involving more than one potential reporting party, the Title IX Coordinator will generally seek to conduct initial intake interviews with each reporting party, separately.

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- (2) Request written statements when they may be helpful to the investigation. Complaints are not required to be submitted in writing; however, the reporting party, the responding party, and any witnesses may submit written statements if they choose to.
- (3) Obtain all reasonably available relevant documentation, which may include, but is not limited to, LCSC records, email and text messages, social media messages and postings, correspondence, computer files, and notes.
- (4) When appropriate, conduct follow-up interviews with the reporting party and the responding party to gather additional information or to clarify statements. When appropriate, provide the reporting party, the responding party, and supervisor's updates regarding the status of the investigation.

E. Completion of the Investigation:

- (1) Standard of Evidence: The Office of the Title IX Coordinator applies the preponderance of the evidence standard when evaluating allegations of LCSC Policy 3.110 (i.e. "more likely than not").
 - (a) Closing Document
 - (i) Generally, if the Title IX Coordinator terminates the review process prior to the issuance of an investigation report, the Title IX Coordinator will notify the parties with a closing letter or email.
 - (ii) At the completion of an investigation, a final investigative report will generally include a list of the documents reviewed, a list of the witnesses interviewed and/or contacted, a summary of the investigation, findings of fact, and a conclusion as to whether or not LCSC Policy 3.110 was violated.
 - (iii) The reporting party and the responding party will receive a copy of the investigation report, unless a compelling reason exists to withhold the document, in whole or in part, from any of the parties. Student names, and other protected information, will be redacted where appropriate.

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- (iv) As appropriate, the Title IX Coordinator may share the investigation report, or information obtained through the process, with relevant supervisors, administrators, and/or other appropriate members of the LCSC community.

8. Formal Resolution and Appeals Process for Students:

A. At the completion of an investigation involving a student as the responding party, the final investigative report will be provided to the Vice President of Student Affairs (VPSA). The VPSA, or their designee, will review the final report and make a determination of whether the Student Code of Conduct was violated by the student. If the VPSA determines that a student violated the Student Code of Conduct, the VPSA will notify the reporting party and the responding party, in writing, identifying the alleged violation and set forth their determination of the sanction imposed. *See the Student Handbook and Resource Guide for additional information on student conduct process.*

- (a) Depending on the severity of the violation, the following sanctions may be imposed:
 - (i) Warning;
 - (ii) Probation (with terms and length as determined by the person or Board levying the sanction);
 - (iii) Withheld suspension (failure to comply with the terms of withheld suspension may result in immediate suspension from LCSC. Withheld suspension may also be a “delayed” suspension whereby a student is permitted to remain enrolled for the duration of the current term but will not be permitted to enroll in subsequent terms unless certain conditions are met);
 - (iv) Suspension (removal from LCSC for a specific length of time, e.g., a semester or academic year) which may include readmission following the suspension period subject to an additional period of probation or withheld suspension;
 - (v) Expulsion (indefinite removal from LCSC) which may include being banned from campus property.

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- B. Appeals: If the student disagrees with the Vice President for Student Affairs' or designee's conclusion that he/she violated the Student Code of Conduct or with the sanction imposed, the student may file an appeal with the College President by delivering a written request to the Office of the Vice President for Student Affairs within seven (7) calendar days after the date on which he/she is served with a copy of the Vice President for Student Affairs (or designee's) decision. Reporting parties in cases of sexual misconduct may also request an appeal under the same circumstances and conditions. If the student does not deliver a timely written request for a hearing, the Vice President for Student Affairs' determination and sanction shall become final and the student shall have no further right to an appeal. *See Policy 5.105 – Student Code of Conduct & Student Hearing Board Procedures for additional information on this process.*

9. Formal Resolution and Appeals Process for Employees:

- A. At the completion of an investigation involving an employee as the responding party, the final investigative report will be provided to the reporting party, the responding party, and relevant LCSC Administrators. Any disciplinary action will be taken in accordance with [LCSC Policy 3.117 – Dismissal of Faculty and Other Exempt Employees for Cause](#), [LCSC Policy 3.119 – Probation, Promotion, Demotion, Reclassification or Transfer of Classified Employees](#), and [LCSC Policy 3.120 – Separation of Classified Employees](#).
- (1) Depending on the severity of the violation, the following disciplinary action may be proposed:
- (a) Warning;
 - (b) Reprimand;
 - (c) Suspension (including leave without pay);
 - (d) Demotion; and/or
 - (e) Dismissal
- B. Relevant state statutes:
- (1) Idaho State Board of Education Governing Policies and Procedures, Section II. Human Resources Policies and Procedures, <https://boardofed.idaho.gov/board-policies-rules/board-policies/human-resources-policies-section-ii/>

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- (a) [Subsection E, Policies Regarding Classified Employees](#)
 - (b) [Subsection L, Discipline – Adequate Cause – All Employees](#)
 - (c) [Subsection M, Grievance and Appeal Procedures – All Employees](#)
- (2) [Idaho Legislature 67-5316 Appeal Procedure](#) – Classified Employees and rules of the [Division of Human Resources](#)

10. Finality of Process: This process is the only process the college will use for investigation of complaints of discrimination, sexual harassment, and sexual misconduct pursuant to LCSC Policy 3.110. The findings and associated employment or student disciplinary actions based on this process, including all associated appeals and statutory rights outlined in college policies and this document, are final and will not be further addressed through the student conduct process, departmental administration, or human resource processes. Information obtained in college proceedings may be shared with local law enforcement, external governing bodies, and/or any judicial body with a properly issued subpoena.

11. Other Available Process: Any student or employee aggrieved by a report issued by the Office of the Title IX Coordinator may be entitled to file a complaint outside of LCSC with the U.S. Equal Employment Opportunity Commission, the U.S. Department of Education Office of Civil Rights, the Idaho Department of Labor, the Idaho Human Rights Commission, or any other state or federal agency having jurisdiction.

U.S. Office of Civil Rights Department of Education 915 Second Avenue Room 3310 Seattle, WA 98174-1099 206-607-1600 800-421-3481 OCR@ed.gov OCR.Seattle@ed.gov	U.S. Equal Employment Opportunity Commission (EEOC) Federal Office Building 909 First Avenue; Suite 400 Seattle, WA 98104-1061 800-669-4000 www.eeoc.gov
Idaho Department of Labor 1158 Idaho Street Lewiston, ID 83501-1960 208-799-5000 lewistonmail@labor.idaho.gov	Idaho Human Rights Commission 317 W. Main St. – Second floor Boise, ID 83735-0660 208-334-2873 inquiry@ihrc.idaho.gov