

SECTION: Student Policies

SUBJECT: Student Code of Conduct & Student Hearing Board

Background: Lewis-Clark State College's Student Code of Conduct was established to provide guidelines to students concerning behavior inside and outside of the classroom. The Student Code describes a system of due process for students who are accused of breaking college rules and outlines potential sanctions that may be imposed upon those who are found to have violated the provisions of the Student Code. The Student Code of Conduct reflects rules and guidelines as established by federal, state, and local governments as well as college faculty and administration.

Point of Contact: Vice President for Student Affairs

Other LCSC offices directly involved with implementation of this policy, or significantly affected by the policy: Campus Security, Faculty Senate, President, Student Counseling, Title IX Coordinator, Residence Life, LCSC Legal Counsel, Idaho State Board of Education

Date of approval by LCSC authority: February 8, 2017

Date of State Board Approval: N/A

Date of Most Recent Review: August 2013; January 2015; July 2015; June 2016; February 2017

Summary of Major Changes incorporated in this revision to the policy: The current revision compiles prior changes, provides a more cohesive codification format, and provides clarification regarding prohibited conduct and regarding investigation, hearing and appeal procedures.

I. Preamble.

The following policies are designed for the general well-being of all members of the College community. Violations of the Student Code of Conduct may result in remedial action against the student violator and in sanctions being imposed as hereinafter provided. The Student Code of Conduct is also in effect off-campus when students are in attendance at a function sponsored by the College, Associated Student Body or other college-affiliated groups, if the offense constitutes a violation of Title IX, or if students are otherwise participating in a college sponsored activity including sporting events and home stay. These could include dances, social events, club activities, athletic events, educational pursuits, internships, trips, or other College related experiences. The Student Code of Conduct also applies to students in non-credit educational programs and courses.

The Student Code of Conduct may also be applied to off-campus student behavior even when such behavior does not occur at or with a college-affiliated function, activity or group and does not constitute a violation of Title IX when the administration determines in its discretion that the

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off-campus conduct affects a substantial school/college interest. A substantial school/college interest is defined to include:

1. Any action that could constitute a criminal offense as defined by federal or state law. This includes, but is not limited to, allegations of single or repeat violations of any local, state or federal law in the municipality where the school/college is located;
2. Any situation where it appears that the student may present a danger or threat to the health or safety of him/herself or others;
3. Any situation that significantly disrupts the rights, property or achievements of self or others or significantly breaches the peace and/or causes social disorder.

*Adapted from Penn State University/ATIXA

Updates to the Student Code of Conduct are posted on the Vice President for Student Affairs website (<http://www.lcsc.edu/student-affairs/student-code-of-conduct/>).

II. Title IX Violations and Campus SaVE and Clery Act.

“Title IX of the Education Amendments of 1972 (Title IX), 20 U.S.C. §§ 1681 et seq., and its implementing regulations, 34 C.F.R. Part 106, prohibit discrimination on the basis of sex in education programs or activities operated by recipients of federal financial assistance. Sexual harassment of students, which includes acts of sexual violence, is a form of sex discrimination prohibited by Title IX.” (Source: U.S. Department of Education Office of Civil Rights, Dear Colleague Letter, April 4, 2011). Consistent with the Campus SaVE Act and Clery Act Lewis-Clark State College prohibits domestic violence, dating violence, sexual assault, and stalking. Educational and awareness programs are offered routinely to generate awareness of these issues. Training programs and publications inform people how to report incidents of sexual misconduct as well as how to implement safe and positive interventions on behalf of victims and potential victims.

Students are advised that acts of sexual discrimination, sexual harassment, and sexual violence represent violations of the LCSC Code of Conduct even when they occur off campus and even if such acts do not constitute Title IX violations.

Inquiries concerning Title IX may be directed to the Title IX Coordinator:

Title IX Coordinator
208-792-2269
titleix@lcsc.edu

Students who believe they are victims of sexual misconduct are encouraged to report same to any campus official immediately. Similarly, students who believe they have witnessed

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or otherwise know of a case of sexual misconduct should report it to a campus official.
Specifically, students may file such reports to:

Vice President for Student Affairs

208-792-2218
studentaffairs@lcsc.edu

Title IX Coordinator

208-792-2269
titleIX@lcsc.edu

Director of Human Resource Services
208-792-2269
hr@lcsc.edu

Director of Campus Security
208-792-2226
security@lcsc.edu

Head Athletic Trainer
208-792-2000

Coeur d'Alene Center
Coeur d'Alene, Idaho 83814
208-666-6707

Reports may be filed confidentially. Students filing complaints requesting anonymity will be apprised of the potential limitations of the student judicial process when such requests are granted and, the granting of those requests may not be guaranteed if the safety of the campus community is deemed at risk.

If school officials know or reasonably should know about possible sexual harassment or sexual violence, a report must be filed. A prompt investigation will occur even if an alleged victim or victim's advocate (parent, faculty member, etc.), requests that no action on the part of the institution be taken.

Complainants in such cases will be apprised of the estimated timeframe in which investigation procedures and student disciplinary proceedings will occur. Generally, from the time a report is received until a final decision has been rendered (e.g., sanctions have been imposed), the process may take up to 60 calendar days (this does not include appeals). Circumstances surrounding an individual case may require the process to take longer.

If a member of the campus community believes that the college has not complied with the provisions of Title IX, he/she may file a complaint by contacting the Office of Civil Rights at 1-800-421-3481 or <http://www2.ed.gov/about/offices/list/ocr/docs/howto.html>.

1. Domestic Violence.

Lewis-Clark State College prohibits domestic violence, dating violence, sexual assault, and stalking. Educational and awareness programs are offered routinely to generate awareness of these issues. Training programs and publications inform people how to report incidents of sexual

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misconduct as well as how to implement safe and positive interventions on behalf of victims and potential victims.

III. Prohibited Conduct.

The following list describes conduct which detracts from the effectiveness of the College community and which is therefore prohibited and subject to disciplinary sanctions:

1. Academic Dishonesty

Cheating or plagiarism in any form is unacceptable. The College functions to promote the cognitive and psychosocial development of all students. Therefore, all work submitted by a student must represent his/her own ideas, concepts and current understanding. Academic Dishonesty includes:

- A. **Cheating** - intentionally using or attempting to use unauthorized materials, information, or study aids in any academic exercise. The term “academic exercise” includes all forms of work submitted for credit hours.
- B. **Fabrication** - intentional and/or unauthorized falsification or invention of any information or the source of any information in an academic exercise.
- C. **Collusion facilitating academic dishonesty** – intentionally or knowingly helping or attempting to help another to commit an act of Academic Dishonesty.
- D. **Plagiarism** - the deliberate adoption or reproduction of ideas or words or statement of another person as one’s own without acknowledgment.

The sanctions imposed for a violation of this section of the Code are independent of, and in addition to, any adverse academic evaluation which results from the student’s conduct. The course instructor is responsible for academic evaluation of a student’s work and shall make that evaluation without regard to any disciplinary action which may or may not be taken against a student under the Student Code of Conduct.

2. Alcoholic Beverages

- A. Illegal possession or consumption of alcoholic beverages (beer, wine, liquor or other beverage which is controlled as an alcoholic beverage under Idaho law) is prohibited in college or college-owned, leased or operated facilities and on campus grounds.
- B. Alcoholic beverages may not be possessed or consumed under any circumstances in areas open to and most commonly used by the general public. Public areas include, but are not limited to, lounges, college union buildings, recreation rooms, conference rooms, athletic/student facilities and other public areas of college-owned buildings or grounds.

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Students aged 21 and over may possess alcohol in their residence hall rooms subject to residence hall policies.

C. Sale of alcoholic beverages is prohibited in College-owned, leased or operated facilities and on campus grounds.

D. Guests and visitors shall observe these regulations while on campus or other College property. Non-compliance may subject a person to sanctions imposed by the College as well as to the provisions of local and state law. .

E. For LCSC sponsored events which are open to the campus community and at which alcohol will be present, the sponsor will work with the Vice President for Student Affairs and the appropriate instructional dean to assure adherence to this policy. The following information will need to be provided to assure adherence:

- (i). Names and ages of individuals designated as bartenders or servers to check identification;
- (ii). Means to inform participants of applicable state and federal laws regarding alcohol consumption;
- (iii). Non-alcoholic beverages and food consumption; and
- (iv). Designated driver program

F. No social event shall include any form of drinking contest in its activities or promotion. The Idaho law states that it is illegal to sell, serve or furnish beer, wine or other alcoholic beverages or intoxicating liquor to a person under 21 years of age. It is illegal for any person under 21 years of age to purchase or attempt to purchase, procure, possess, or consume any alcoholic or intoxicating liquor. .

3. Non-Smoking Policy and Building Access

By Executive Order Number 92-2 of the Governor of Idaho, smoking tobacco or similar substances is not allowed inside any College-owned or operated building. To provide building access which is smoke-free, while still accommodating those who elect to smoke, the campus has established designated smoking areas on the outer parking lots of the campus. Smoking within the campus grounds, around or in buildings, or anyplace other than a designated smoking area is considered a violation of the Student Code of Conduct. A map of the designated smoking areas may be found at the following web site: <http://www.lcsc.edu/media/1559505/Campus-Map.pdf>.

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4. Drugs

Possession, manufacture, distribution, use or sale of marijuana, drug narcotics or other controlled substances classified as illegal under Idaho law, except those taken under a doctor's prescription is prohibited on College-owned or controlled property (as that term is herein and hereafter used, College-owned or controlled property includes student housing owned by or rented through the College), or at any College-sponsored or supervised function (See campus policy on Alcohol and Drug abuse, and rules on sanctions for alcohol and drug abuse; <http://www.lcsc.edu/student-counseling/substance-abuse-assistance/alcoholdrug-information/>).

5. Falsification of College Records

The willful falsification of official records or documents or the submission of records or documents to the College with knowledge of their falsity is prohibited. Falsification of records or documents includes but is not limited to the following: the forging or alteration of, or the knowing use of false or inaccurate registration documents, documents submitted in support of residency determinations, transcripts, fee receipts, identification cards, meal tickets, parking decals, financial aid forms, telephone billing cards, and ASLCSC forms or documents.

6. Threats of Harm or Actual Harm to a Person's Physical or Mental Health or Safety

Threats of harm or actual harm to a person's physical or mental health or safety are prohibited. Such conduct includes, but is not limited to:

A. Physical violence of any nature against any person,. Physical violence includes, but is not limited to, (i) fighting; (ii) assault; (iii) battery; (iv) the use of a knife, gun, or other weapon except in reasonable self-defense; (v) physical abuse; (vi) restraining or transporting someone against his/her will; or (vii) any action that threatens or endangers the physical health or safety of any person or causes reasonable apprehension of such harm.

B. Persistent or severe, verbal abuse, threats, intimidation, harassment, coercion, bullying, derogatory comments, vandalism, or other conduct that threatens or endangers the mental or physical health or safety of any person or causes reasonable apprehension of such harm. A single instance may be considered severe enough to merit sanctions.

C. Hazing, which includes, but is not limited to, any action or participation in any activity that (i) causes or intends to cause physical or mental discomfort or distress, (ii) may demean any person, regardless of location, intent or consent of participants, or (iii) destroys or removes public or private property, for the purpose of initiation, admission into, affiliation with, or as a condition for continued membership in, a group or organization. The express or implied consent of the victim will not be a defense.

D. Sexual misconduct, which is a broad term encompassing any non-consensual contact of a sexual nature. Consent is informed, freely given, and mutually understood. Consent requires an affirmative act or statement by each participant. If

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coercion, intimidation, threats and/or physical force are used, there is no consent. If a person is mentally or physically incapacitated or impaired so that the person cannot understand the fact, nature or extent of the sexual situation, there is no consent; this includes conditions due to alcohol or drug consumption or being asleep or unconscious. Whether one has taken advantage of a position of influence over another may be a factor in determining consent. Consent to any one form of sexual activity does not imply consent to any other form of sexual activity.

Sexual misconduct may vary in severity, and consists of a range of behavior or attempted behavior including, but not limited to, the following examples of prohibited conduct:

(i) Unwelcome sexual conduct. This includes, but is not limited to:

- (1) touching an unwilling or non-consensual person's intimate parts (such as genitalia, groin, breast, buttocks, mouth, or clothing covering the same);
- (2) touching an unwilling or non-consensual person with one's own intimate parts;
- (3) forcing an unwilling or non-consensual person to touch another's intimate parts;
- (4) indecent exposure, which includes, but is not limited to, exposing one's own intimate parts to an unwilling or non-consensual person; and
- (5) voyeurism, which includes, but is not limited to, any unauthorized use of electronic or other devices to make an audio, video, or photographic record of another person without his/her prior knowledge and without his/her prior consent when such a recording is likely to cause injury or distress to the other person, or involves the other person's intimate parts or sexual conduct.

(ii) Sexual violence, which refers to physical sexual acts perpetrated against another person's will or where another person is incapable of giving consent or is incapacitated. This includes, but is not limited to,

- (1) rape, which includes, but is not limited to, the unwilling or non-consensual penetration of another person's bodily opening with any object or body part that is committed either by force, threat, intimidation, or through exploitation of another person's mental or physical condition (such as intoxication, age, or disability) of which the assailant was aware or should have been aware;

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(2) sexual assault, which is the attempt to perform any of the acts described in the immediately preceding paragraph ;

(3) All acts of sexual violence are also forms of sexual harassment.

(iii) Sexual harassment, which is defined as unwelcome conduct of a sexual nature. It includes, but is not limited to, unwelcome sexual advances, requests for sexual favors, and other verbal, nonverbal, or physical conduct or communication of a sexual nature when:

(1) Submission to or rejection of such conduct or communication is a term or condition of educational benefits, employment, academic evaluations, or other opportunities;

(2) Submission to such conduct or communication has the purpose or effect of substantially interfering with a student's education;

(3) Such conduct is sufficiently severe or pervasive as to have the effect of creating an intimidating, hostile or offensive educational environment or negatively affecting a student's educational opportunities. A single instance may be considered severe enough to merit sanctions.

E. Gender-based and sexual orientation harassment, which is defined as any act of verbal, non-verbal, or physical aggression, intimidation, or hostility based on sex, sex-stereotyping, gender, or gender-stereotyping, even if those acts do not involve conduct of a sexual nature.

F. Stalking, which includes, but is not limited to, the persistent, severe, or pervasive harassment of another person in a manner that would cause a reasonable person to feel frightened, intimidated, threatened, harassed, or molested. This may include, but is not limited to, repeatedly contacting another person through any means (such as in person or by phone, electronic means, text messaging, etc.), following another person, or having others contact or follow another person on your behalf. A single instance may be considered severe enough to merit sanctions.

G. Domestic/Dating abuse, which may include the use of physical, sexual, verbal, emotional, or technological abuse, or similar behaviors intended to control a partner, by a person to harm, threaten, intimidate, or control another person in a relationship of a romantic or intimate nature, regardless of whether that relationship is continuing or has concluded or the number of interactions between the individuals involved.

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7. Discrimination and Retaliation.

Lewis -Clark State College prohibits:

- A. Discrimination, which includes conduct that violates the State Board of Education's or the College's nondiscrimination and antidiscrimination policies.
- B. Retaliation, which includes conduct that intimidates, interferes with, threatens, coerces, or otherwise discriminates against any individual because that individual opposes or reports a perceived wrongdoing, inequity, or violation of law or College policy, files a complaint alleging illegal or prohibited discrimination, participates in a grievance or appeals procedure, or participates in dispute resolution.

8. Lewd or Indecent Conduct

Lewd or indecent conduct, as prohibited by city and/or state laws and ordinances which occurred on College-owned or controlled property or while the violator is attending or participating in a College-sponsored event or activity, is prohibited.

9. Illegal Entry

Any unauthorized or forcible entry, whether actual or attempted, into any facility or building located on College-owned or controlled property is prohibited.

10. Campus Disorders and Disruptions

Members of the College community have the right to lawful freedom of movement on campus; the lawful use of property, facilities or parts of the College; and to lawfully ingress to and egress from the College's physical facilities. Violations of these rights of the College community with intent by: physically hindering entrance to, exit from, or normal use of any College facility or part thereof; remaining in any College building after being advised by an appropriate delegate of the President that the building is closed for business; interfering, through harassment, with the College's operation (this may include the use of noise making or amplifying devices); interfering with reasonable use of College driveways, parking lots or sidewalks; disruptively interfering with authorized events on property owned or controlled by the College or in College facilities; or intentionally interfering with College officials and instructors in the lawful conduct of their duties is prohibited.

11. Disruption of the Classroom

Disruption of the classroom is prohibited. Each faculty member controls the direction of education in the classroom setting. The educational atmosphere is the heart and purpose of higher education. Students have the obligation to respect the educational rights of others as they seek to maximize their learning. Faculty have the right to utilize whatever methods they deem appropriate to ensure

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the quality of the educational atmosphere. This includes, but is not limited to, requesting an investigation of disruptive classroom behavior under the Student Code of Conduct.

12. Disobeying or Deceiving College Officials

Students must obey the reasonable requests of College officials including but not limited to security officers, residence hall administrators and residence hall assistants in the performance of their duties.

Students may not provide College officials with false identification or false information while officials are in performance of their duties.

13. Theft

Theft or the conversion of College property or the theft or conversion of the property of another, which occurs on College-owned or controlled property is prohibited.

14. Destruction or Damage of Property

Vandalism (willful or malicious damage, destruction or defacement) of College-owned or controlled property or vandalism of property belonging to others which occurs on College-owned or controlled property or while the violator is attending or participating in a College-sponsored event or activity is prohibited. This also applies to students participating in the LCSC home stay program.

15. Fire Regulations and Equipment

Smoking in unauthorized areas, the setting or building of fires upon property owned or controlled by the College without proper authorization, removal or tampering with fire equipment or fire alarm systems on College-owned or controlled property, or failure to vacate College buildings promptly when fire alarms sound is prohibited.

16. Gambling

Gambling as prohibited by city and/or state laws and ordinances is prohibited on College-owned or controlled property.

17. Firearms and Dangerous Weapons

Possession of firearms on college-owned or college-controlled property, except as expressly authorized by Idaho Code, section 18-3309(2), State Board of Education Policy V.L., and LCSC Policy 4.123, is prohibited. The college will provide safe storage of firearms for students who live in housing managed by the college or other students upon request.

Possession of illegal weapons, explosives, chemical, or incendiary devices, except as expressly authorized by law or institutional policy, is prohibited on college-owned or college-controlled property.

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Students in violation of this provision of the student code will be subject to college-based disciplinary action and, depending upon the nature of the infraction, may be referred to local law enforcement.

18. Group Offenses

Living organizations, clubs and similarly organized groups are responsible for compliance with College regulations. Upon satisfactory proof that a group encourages, or did not take satisfactory steps to prevent violations of College regulations, that group may be subject to permanent or temporary suspension, loss of recognition or charter, social probation, or other action.

19. National City/State Laws

Violation of any United States Federal law, State of Idaho law or City of Lewiston ordinance which occurs on College-owned or controlled property or while the violator is participating or attending a College-sponsored event or activity is in violation of this Code. Additionally, off-campus or non-College related criminal activity is in violation of this Code when it affects a substantial school/ college interest as defined above in the Preamble.

20. Accessories

A person is in violation of this Code if he or she intentionally aids or abets another in the commission of any offense mentioned in this Code. Abuse of the Student Code, including but not limited to:

- A. Failure to obey the summons of the Vice President for Student Affairs, designee of the Vice President for Student Affairs or the Student Hearing Board;
- B. Falsification, distortion, or misrepresentation of information during a judicial investigation;
- C. Disruption or interference with the orderly conduct of a judicial proceeding;
- D. Institution of a judicial proceeding knowingly without cause;
- E. Attempting to discourage an individual's proper participation in, or use of, the judicial system;
- F. Attempting to influence the impartiality of a member of a judicial body prior to, and/or during the course of, the judicial proceeding;
- G. Harassment (verbal or physical) and/or intimidation of a member of a judicial body prior to, during, and/or after a judicial proceeding;
- H. Failure to comply with the sanction(s) imposed under the Student Code; or

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I. Influencing or attempting to influence another person to commit an abuse of the judicial system.

21. Dual Credit Students

Acts of Academic Dishonesty are subject to appropriate discipline through the student's high school, with the exception of those students taking Dual Credit courses on-campus or online. Title IX, which prohibits discrimination on the basis of sex in education programs or activities operated by recipients of federal financial assistance (including sexual harassment and sexual violence), applies to all LCSC students and Dual Credit students, wherever they are taking classes. In Title IX-related cases, college officials will coordinate investigative and adjudication processes with high school officials. Other provisions of the LCSC Student Code of Conduct apply to Dual Credit Students but disciplinary action may be coordinated with the student's high school.

III. Disciplinary Sanctions.

Disciplinary sanctions which may be imposed for a violation the Student Code of Conduct are listed here in order of their severity:

1. Warning;
2. Probation (with terms and length as determined by the person or Board levying the sanction);
3. Withheld suspension (failure to comply with the terms of withheld suspension may result in immediate suspension from College. 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);
4. Suspension (removal from the College for a specific length of time, e.g., semester or academic year) which may include readmission following the suspension period subject to an additional period of probation or withheld suspension;
5. Expulsion (indefinite removal from College) which may include being banned from campus property.

The person or Board levying or recommending the sanction may also impose or recommend any combination of the following and may also include them as terms of probation:

1. Community service (to be performed for a specific period of time under the direction of the Vice President for Student Affairs or his/her designee)
2. Fines not exceeding two hundred dollars (\$200)
3. Restitution of damages

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4. Special sanctions deemed appropriate and reasonable by the person or Board levying or recommending the sanctions (e.g., counseling, restrictions on behavior or requiring letters of apology to be written)
5. Administrative fees not exceeding fifty dollars (\$50)

When appropriate, a student may be given the option of working off the equivalent of the fines and restitution for the College at minimum wage. Until fines or restitution have been paid, the College may deny a student the privilege of re-registering, may hold transcripts and/or diplomas, and may refuse to release information based on the student's records.

In situations involving violations of City of Lewiston, State of Idaho, or Federal law, violence, or threats the police may be informed of the occurrence.

Sanctions affecting a student's residence in College-controlled housing may be imposed. These sanctions are loss of privileges within the living group and temporary or permanent removal from College-controlled housing. Students may be banned from further visitation.

Sanctions already imposed by civil or criminal process may be taken into account when any College sanction is imposed.

Extensive, organized, serious or repeated violations of this Code are taken into account when determining the appropriate sanction.

If a student is found responsible for a Title IX violation and if the student is suspended or expelled, that action shall be noted in the student's education records and communicated to a subsequent institution at which the student seeks to enroll, provided that the subsequent institution or student has requested the student's education record from the prior institution.

IV. Disciplinary Procedure.

The President of the College is responsible to the State Board of Education for the administration and enforcement of all regulations or policies adopted by them. The State Board of Education possesses all the power necessary or convenient to accomplish the objectives and perform the duties prescribed by law. The Vice President for Student Affairs is responsible to the President of the College for enforcement of the Student Code of Conduct and has been designated as the Senior Student Judicial Officer of the College. Primary responsibility for investigating alleged violations, proffering charges, imposing sanctions and educational remedies, representing the College in hearings and appeals under this Student Code of Conduct and enforcing sanctions and educational remedies is assigned to the Vice President for Student Affairs, or his/her designee(s).

1. Classroom Infractions

Individual faculty members or programs may impose their own policies regarding student classroom behavior and academic dishonesty. Such policies are to be readily available to students (e.g., course syllabus, program website or handbook).

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Sanctions imposed by a faculty member are limited to grades on individual assignments, course grades, and/ or temporary dismissal from a class (depending on the nature of the infraction). Students accused of academic dishonesty or of another classroom infraction may also be referred by the faculty member to the Vice President for Student Affairs for official disciplinary action.

Faculty members do not have the authority to dismiss a student from a course indefinitely or to dis-enroll a student from a program or major/ minor. Should an incident rise to the level of potential course or program disenrollment, the Division Chair, instructional dean, and the Vice President for Student Affairs will make a final determination.

2. General

Any notice, report, decision or request which is to be given or served under these proceedings will be deemed given or served when either personally delivered to the person or office entitled to the notice or when deposited in the United States Mail, certified mail, postage prepaid, addressed to the person or office at that person's last-known address as shown on the records of the College.

Written notification of the outcome of the results of student disciplinary proceedings will be issued to the accused student. Upon written request, the alleged victim or victims of a crime of violence, or a non-forcible sex offense will also be notified of the outcome of the student disciplinary proceedings. If the alleged victim is deceased as a result of such crime or offense, the next of kin of the victim will receive notification of the outcome.

In cases involving alleged sexual misconduct, the College's Statement of the Rights of the Alleged Victim of an Assault and Statement of the Rights of a Student Accused of Committing Assault shall prevail over any conflicting provision in these disciplinary procedures.

3. Summary Suspension

The Vice President for Student Affairs, with the concurrence of the President, shall have the right to summarily suspend a student who he/she believes has committed a violation of the Student Code of Conduct when, based upon such investigation and informal hearing as is reasonable under the circumstances, the Vice President for Student Affairs determines that the student's continued presence poses a continuing danger to persons or property, or an ongoing threat of disruption of the academic process or when the Vice President for Student Affairs determines that compliance with Title IX or other Federal or State law requires that the student not be allowed on campus.

4. Emergency Powers

Nothing in the Student Code of Conduct shall be in derogation of the power of the President of LCSC or his/her duly authorized subordinates to declare a state of emergency on College-owned or controlled property, and to suspend the procedural and substantive rights specified herein for the duration of the declared emergency. Any sanctions imposed on any student violating this Code or any emergency rules or the lawful order of any College official may be imposed by the President

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of the College or his/her duly authorized subordinates after such summary proceedings as are reasonable under the circumstances but such sanctions shall continue only for duration of the emergency. Any sanctions, other than those imposed for the duration of the emergency, must be brought under the Student Code of Conduct and, with respect to those proceedings, students are guaranteed all substantive and procedural rights specified herein.

5. Student Hearing Board

A. Function and Jurisdiction. The Student Hearing Board shall provide the original formal hearing in student discipline matters in all cases when a student is dissatisfied with the report and recommendation of the Vice President for Student Affairs and requests a hearing.

B. Structure and Organization. The Student Hearing Board contains the same faculty appointees as the Faculty Hearing Board. The Student Hearing Board shall be composed of seven (7) members (the majority of whom shall be tenured): three (3) members from the faculty elected by the Faculty Association; three (3) members from the faculty appointed by the President; and one (1) division chair appointed by the Faculty Senate. Three (3) alternate members will be designated: one (1) appointed by the President; and two (2) appointed by the Faculty Senate. The chair shall be elected each year from the members of the Student Hearing Board. In cases involving students, four (4) students shall be included, with voice and vote, in the Student Hearing Board membership except in cases of sexual misconduct. The students shall be appointed by the Student Body President. A quorum shall consist of a simple majority of the members of the Hearing Board so long as two (2) student members are present. The decision of the Student Hearing Board shall be made by a majority of those members who have attended the hearing.

C. Term of Office. Faculty members are to serve for two (2) College years, one-half (1/2) of those members with as nearly as one-half (1/2) of the faculty members being selected each year. Student members shall serve for one (1) year, but may be re-appointed for a second year.

D. Hearing Officer. Either the President or the Student Hearing Board may, but is not required to, appoint a Hearing Officer to preside at any hearing held by the Student Hearing Board. The Hearing Officer may or may not be an attorney at law but must be experienced in conducting hearings. He/she shall act in an impartial manner as the presiding officer at the Hearing. The Hearing Officer may participate in its deliberations and act as its legal advisor but shall not be entitled to vote.

6. College President

The President shall review and determine appeals from the decisions of the Student Hearing Board. The President has the authority to uphold, modify or overrule those decisions, or to return the matter to the Student Hearing Board for further consideration. A party may appeal the President's decision to the State Board of Education when, if and in such manner as the State Board of Education determines that such appeal shall be heard. See State Board of Education Policy at www.boardofed.idaho.gov/ section 18 Student Complaints/Grievances.

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7. Investigation and Determination by the Vice President for Student Affairs

The Vice President for Student Affairs shall receive all student judicial complaints and shall investigate all complaints against students alleged to have violated the Student Code of Conduct or shall delegate these responsibilities. The investigation should include, if possible, an interview with the student in which the student is informed of the alleged violation and given an ~~informal~~ opportunity to deny or explain it in the case of sexual misconduct, the person accused is not required to participate in the investigation process. Refusal to participate will not be considered an admission of guilt and will not be used against the individual. However, the investigation will continue and conclude with or without the accused's participation and a determination will be made based on the information collected during the course of the investigation. The Vice President for Student Affairs, after whatever investigation he/she deems necessary has been conducted, shall make a determination of whether, based on a preponderance of the evidence, i.e. more likely than not, the student violated the Student Code of Conduct. If the Vice President for Student Affairs determines that a student violated the Student Code of Conduct, he/she shall write a report identifying the alleged violation and set forth his/her determination of the sanction to be imposed.

8. Appeal

If the student disagrees with the Vice President's for Student Affairs conclusion that he/she violated the Student Code of Conduct or with the sanction imposed, the student may request a hearing before the Student Hearing Board by delivering a written request for a hearing to the Office of the Vice President for Student Affairs within seven (7) calendar days after the date on which he or she is served with a copy of the Vice President's for Student Affairs report. Victims 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's for Student Affairs determination and sanction shall become final and the student shall have no further right to an appeal or hearing.

9. Hearing before Student Hearing Board

If the student makes a timely written request for a hearing before the Student Hearing Board, the student shall be entitled to a hearing before the Student Hearing Board. The following provisions shall be applicable to hearings before the Student Hearing Board:

- A. The hearing shall be held within thirty (30) days, unless the Student Hearing Board Chair finds that a reasonable extension of time is necessary.
- B. At the hearing, the Vice President for Student Affairs shall present the basis upon which his/her decision was made along with any other evidence he/she deems necessary to support that decision.
- C. The student charged with the violation:

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- (i) shall be given the opportunity to testify and present evidence and witnesses on his or her behalf;
- (ii) shall have the opportunity to hear and question any adverse witnesses called by the Vice President for Student Affairs, except as otherwise provided in the College's Statement of the Rights of the Alleged Victim of an Assault and Statement of the Rights of a Student Accused of Committing Assault;
- (iii) shall have all testimony or evidence introduced in his or her presence unless he or she refuses to appear or fails to appear after having received proper notice, or except as otherwise provided in the College's Statement of the Rights of the Alleged Victim of an Assault and Statement of the Rights of a Student Accused of Committing Assault;
- (iv) Shall not be required to participate or testify against him/herself. His/her refusal to testify shall not be considered evidence against him/herself or be considered an admission of guilt. However, refusal to participate will not postpone or defeat the process. The hearing will continue and be evaluated based on the information presented to the hearing board.
- (v) shall not have the right to be represented by an attorney before the Hearing Board except:
 - 1) when the Vice President for Student Affairs will be represented at the hearing by an attorney he/she shall give written notice to the student of such representation and the student shall then have the right to be represented by an attorney at his/her own expense; and
 - 2) where the charges against the student are, or are likely to be, the subject of a separate criminal action against the student, the student may be accompanied to the hearing by an attorney and shall have the right to consult with the attorney throughout the hearing, but the attorney shall not be entitled to present evidence, question witnesses, make arguments or otherwise participate in the hearing. When not accompanied by or represented by an attorney, the student may be accompanied by a non-lawyer advisor of his/her choice.

D. The Student Hearing Board:

- (i) shall not be bound by the strict rules of evidence followed in courts of law;
- (ii) shall review the documentary, oral and other evidence presented at

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the hearing and shall affirm the determination of the Vice President for Student Affairs if it finds that the Vice President's determination is supported by substantial and competent evidence, and shall reverse or modify the Vice President's determination if it finds that it is not supported by substantial and competent evidence, the President shall have the authority to modify any sanction imposed by the Hearing Board if necessary to assure compliance with legal and policy guidelines..

(iii) shall state its reasons for its decision writing; and

(iv) shall issue its written decision within thirty (30) days.

E. A record of testimony presented at the hearing will be made using a recording device or stenographic court reporter. A copy of that record shall be made available to the student upon payment of the reasonable cost of that copy.

F. The hearing before the Student Hearing Board shall be open to the public if both parties make a written request for an open hearing and deliver it to the Vice President for Student Affairs before the day of the hearing. If parties to the complaint do not agree on an open hearing or both prefer a closed hearing, the hearing will not be open to the public. If neither party requests an open hearing before the day of the hearing, the hearing will not be open to the public.

G. A copy of the written decision of the Hearing Board shall be served on the accused student and the Vice President for Student Affairs. A notice accompanying the decision shall advise each party that if either party is dissatisfied with the decision of the Hearing Board, that party may request a review of that decision by the President by delivering a request for such a review to the office of the President within seven (7) calendar days after the date the party receives the Hearing Board's decision and the notice. That notice shall advise each party that the decision of the Hearing Board shall become final unless a timely written request for review is made by either party. The failure of a party to make a timely written request for review shall constitute a waiver of that party's right to any further review of the decision of the Hearing Board and that decision shall become final, provided, however, that the President shall have the authority to modify any sanction imposed by the Hearing Board if necessary to assure compliance with legal and policy guidelines.

10. Review by College President

Within seven (7) days after requesting a review, the party seeking review may submit to the President a written statement setting forth the reasons why that party believes the decision of the Hearing Board is incorrect. The other party shall have seven (7) days to respond in writing to that statement. The President shall then review those statements and the evidence presented to the Hearing Board. The President shall then affirm, reverse, or modify the decision of the Hearing

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Board or the sanction assessed, provided that the President shall not increase the sanctions beyond that which was recommended by the Vice President for Student Affairs in the first instance. The President may also remand the case to the Hearing Board for further hearing upon such issues as the President may designate. The President's decision shall be in writing and shall be served on the interested parties. If no written appeal is submitted within seven (7) days to the President the case is considered closed, and the decision by the Hearing Board shall become final.

A party may appeal the President's decision to the State Board of Education when, if and in such manner as the State Board of Education determines that such appeal shall be heard. See State Board of Education Policy III.P, Section 18 (www.boardofed.idaho.gov).