

SECTION: PERSONNEL

SUBJECT: DISCRIMINATION - SEXUAL MISCONDUCT COMPLAINT PROCEDURES

Background The purpose of this policy is to show that LCSC is committed to ensuring that all employees, students and applicants are treated with dignity and respect and the College environment is free from discrimination and harassment.

Point of Contact: Human Resource Services

Other LCSC offices directly involved with implementation of this policy, or significantly affected by the policy: Student Affairs

Date of approval by LCSC authority: December 1, 2017

Date of State Board Approval: N/A

Date of Most Recent Review: 12/2017

Summary of Major Changes incorporated in this revision to the policy: Added statement in the Confidential Investigation section that Affirmative Action Officer may take measures during the investigation to ensure discrimination does not persist; Added information about appeal process in Sanctions section per OCR compliance; Added anonymous Lighthouse reporting link

All employees may use the following procedures for Confidential Investigation of Discrimination instead of using the grievance procedure process. **IN ALL CASES, THE COMPLAINT, THE INVESTIGATION AND THE SOLUTION WILL BE KEPT CONFIDENTIAL TO THE MAXIMUM EXTENT POSSIBLE.**

1. Policy Statement:

- A. Lewis-Clark State College is committed to maintaining a working and learning environment which supports equal rights for all individuals. The College strives to maintain an environment that is free from unlawful discrimination and harassment and in which every member of the campus community is treated with dignity and respect. The College supports, encourages and rewards career and educational advancement on the basis of ability and performance. Accordingly, the College prohibits to the extent permitted by applicable law, discrimination and/or harassment against an individual on the basis of that person's race, color, religion, age, gender, national origin, physical or mental disability, veteran status, genetic information, sexual orientation, gender identity or any other protected class applicable under federal state, local law or LCSC Policy. This policy applies

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equally to administrators, supervisors, faculty and staff members and students. Violations of this policy constitute grave misconduct and may lead to disciplinary action to include suspension, termination or expulsion.

2. Confidentiality:

- A. Due to the damage that could result to the career and/or reputation of any person accused of discrimination, all investigations surrounding such matters will be designed to protect the privacy of, and minimize suspicion toward, the accused as well as the complainant.
- B. Only those persons responsible for investigating and enforcing civil rights matters will have access to confidential information. Any employee aware of the occurrence of discrimination is expected to report the matter promptly to the Affirmative Action Director or department supervisor through the most confidential and direct means possible.
- C. Students may report discrimination to the Affirmative Action Director or the Vice President for Student Affairs.

3. Recommended Actions:

- A. Any employee or student who believes he/she has been subjected to discrimination or harassment in any form is encouraged to take the following action:
 - 1) Communicate clearly to the offender that the behavior is not welcome and should cease immediately if such a confrontation is not unreasonably uncomfortable.
 - 2) If an individual is being discriminated against, he/she should not assume that “the institution” is aware of the problem. Discuss it with the Affirmative Action Director or a department supervisor so the problem can be resolved.
 - 3) All incidents can be reported anonymously through Lighthouse or by clicking on this link: <https://www.lighthouse-services.com/lcsc/IncidentLandingPage-LewisClark.asp>

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4. Procedures:

- A. Any employee who observes or is otherwise aware of any instances of discrimination, harassment or other inappropriate conduct that violates this policy must report the alleged act immediately to his or her supervisor or the Affirmative Action Director.
- B. Managers and supervisors who receive a discrimination or harassment complaint are to contact the Affirmative Action Director immediately.
- C. Complaints should be made within five (5) working days of the occurrence which gave rise to the complaint. However, complaints extending beyond those guidelines may be considered, depending on the severity of the allegations and circumstances.
- D. As a student or employee, if you filed a complaint with a College official and you believe the College's response was inadequate, or you believe you've been illegally discriminated against by the College, you may file a complaint with the Office of Human Rights at <http://humanrights.idaho.gov> or 208-334-2873 or 888-249-7025.

5. Definition of Illegal Discrimination. State and Federal law prohibits discrimination on the basis of:

- A. Race
- B. Color
- C. Gender
- D. Age
- E. Religion
- F. National Origin
- G. Veteran status
- H. Genetic Information

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I. Sexual Orientation

J. Gender Identity

K. Disability*

(1) *According to the Americans with Disabilities Act and Idaho State law, a disability is defined as a person who:

(a) Has a physical or mental impairment that substantially limits one or more major life activities;

(b) Has a record of such an impairment; or

(c) Is regarded as having such an impairment.

<http://humanrights.idaho.gov/discrimination/disability.html>

6. Confidential Investigation:

A. Complaints involving discrimination or harassment shall be promptly investigated by the Affirmative Action Director and shall consist of the following steps:

(1) The Affirmative Action Director has the discretion to engage an outside investigator to conduct the investigation, depending on the circumstances giving rise to the investigation.

(2) During an investigation, the Affirmative Action Director will take appropriate measures for both employees and students to ensure that any alleged discrimination or harassment does not persist. These measures may include administrative leave, no contact orders, work assignments, or housing, dining or academic modifications.

(2) The Affirmative Action Director shall obtain a statement from the complainant regarding the times, dates, places, and circumstances surrounding the allegations.

(3) The Affirmative Action Director shall discuss the matter with the accused and the appropriate Vice President and/or Dean.

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- (4) The Affirmative Action Director shall obtain statements from witnesses, if any.
- (5) The Affirmative Action Director shall prepare a detailed factual chronology of the events based on these statements.
- (6) The Affirmative Action Director shall present the facts found in the investigation in a report to the President.
- (7) The College will use its best efforts to complete the investigation within sixty (60) days of the report of discrimination or harassment. Depending on the circumstances and nature of the complaint, extensions of time may be necessary to complete a thorough investigation.
- (8) The President, Vice President and Dean of the department in which the accused is employed or the President and Vice President for Student Affairs if the accused is a student, will review the facts uncovered in the investigation to determine whether the behavior constitutes discrimination or harassment. All circumstances including the nature of the charges and the context in which they occurred will be considered.
- (9) The standard of evidence used to determine if a policy violation has occurred is the Preponderance of the Evidence (more likely than not) standard.
- (10) The President shall issue his/her decision and recommendations in writing to the parties concerned within fifteen (15) working days from the date the investigation was completed.
- (11) All documentation regarding the investigation shall be kept in a confidential file in the Affirmative Action Office. Only those persons responsible for investigating and reporting civil rights matters shall have access to confidential information.

7. Sanctions:

- A. Based on preponderance of the evidence, if it is determined that discrimination or harassment has occurred, the offending party will be subject to disciplinary action commensurate with the scope and severity of the occurrence(s). This action may include, but is not limited to, warning, reprimands, suspension, expulsion,

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demotion, or dismissal. If it is determined that a complaint has been filed in bad faith, the complainant will be subject to these sanctions as well.

- B. All parties will be informed of the College's sanction/disciplinary appeal process and their rights to exercise a request for an appeal. Should any change in sanctions occur as a result of an appeal, all parties will receive timely notification. The parties will also be notified when the results of the process become final.
- C. Retaliation against the complainant and/or those who assist in the investigation, regardless of the outcome, is prohibited and is as severe a violation as the discrimination itself. Complaints of retaliation should be reported to the same authority responsible for conducting the primary investigation.
- D. Every effort will be made to provide prompt relief for the complainant and he/she will be informed that corrective action has been taken. The complainant will also be informed to report immediately any continuing discrimination/harassment or any retaliation being suffered as a result of the complaint.

8. Follow-Up:

- A. The Affirmative Action Director will maintain a log and file of complaints received. Within six (6) weeks from the date of a decision, the Affirmative Action Director will conduct a follow-up inquiry to determine whether the discrimination has been effectively stopped.

9. Related Policies

- A. [Policy 3.110](#): Sexual Misconduct – Title IX