

SUBJECT: SEXUAL HARASSMENT COMPLAINT PROCEDURES (Confidential Investigation)

All employees may use the following procedures for Confidential Investigation of Sexual Harassment 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.

1.0 Policy Statement

Lewis-Clark State College is committed to maintaining a working and educational environment free from illegal discrimination. Sexual harassment is a form of illegal discrimination. It violates Title VII and Title IX of the Civil Rights Act of 1964 as amended. Sexual harassment subverts the mission of the College and threatens the careers, educational experience, and well-being of students, faculty, and staff. Sexual harassment will not be tolerated at Lewis-Clark State College. This policy applies 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.

Confidentiality: Due to the damage that could result to the career and/or reputation of any person accused of sexual harassment, all investigations surrounding such matters will be designed to protect the privacy of, and minimize suspicion toward, the accused as well as the complainant. Only those persons responsible for investigating and enforcing civil rights matters will have access to confidential information.

Any employee aware of the occurrence of sexual harassment is expected to report the matter to the Affirmative Action Director or department supervisor through the most confidential and direct means possible. Students may report sexual harassment to the Affirmative Action Director or the Vice-President of Student Development.

1.1 Definition of Sexual Harassment

According to the Equal Employment Opportunity Commission unwelcome sexual advances, requests for sexual favors, or any other verbal or physical conduct of a sexual nature constitute sexual harassment when:

- a) Submission to such conduct is made explicitly or implicitly a term or condition of an individual's employment or educational experience.
- b) Submission to or rejection of such conduct is used as a basis for an employment or educational decision affecting an individual; or

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- c) Such conduct has the purpose or effect of unreasonably interfering with an individual's work or educational performance or of creating an intimidating, hostile, or offensive environment for working or learning.

Additionally, the Equal Employment Opportunity Commission states that a person who is qualified for but denied an employment benefit because of another's submission to sexual harassment may be protected by Title VII of the 1964 Civil Rights Act.

Sexual harassment encompasses any sexual attention that is unwanted. When it occurs in the work place or in the classroom, sexual harassment can threaten a person's economic livelihood and academic status. Sexual harassment takes many different forms including physical, verbal and nonverbal.

Recommended Actions:

Any employee or student who believes he/she has been subjected to sexual 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 harassed, 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.

1.2 Procedures

Any employee who is aware of any instances of sexual harassment should report the alleged act immediately to his or her supervisor or the Affirmative Action Director. Managers and supervisors who receive a sexual harassment complaint are to contact the Affirmative Action Director. Complaints should be made within five (5) working days of the last occurrence which gave rise to the complaint, however, the institution may accept complaints filed after the five (5) day deadline. Any individual may also file a complaint of sexual harassment with the Human Rights Commission, (208) 334-2873.

1.3 Confidential Investigation

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1. Complaints involving sexual harassment shall be promptly investigated by the Affirmative Action Director and shall consist of the following steps:
 - a. The Affirmative Action Director shall obtain a statement from the complainant regarding the times, dates, places, and circumstances surrounding the allegations.
 - b. The Affirmative Action Director shall discuss the matter with the accused and the appropriate vice president.
 - c. The Affirmative Action Director shall obtain statements from witnesses, if any.
 - d. The Affirmative Action Director shall prepare a detailed factual chronology of the events based on these statements.
 - e. The Affirmative Action Director shall present the facts found in the investigation in a report to the President within 15 (fifteen) working days after receiving the complaint.
 - f. The President and Vice President of the department in which the alleged harasser is employed or the President and Vice President of Student Development if the alleged harasser is a student, will review the facts uncovered in the investigation to determine whether the behavior constitutes sexual harassment. All circumstances including the nature of the charges and the context in which they occurred will be considered.
 - g. 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.
 - h. 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.

1.4 Sanctions:

If it is determined that sexual 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, warnings, reprimands, suspension, expulsion, demotion, or

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

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 harassment itself.

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 harassment or any retaliation being suffered as a result of the complaint.

1.5 Follow-Up

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 harassment has been effectively stopped.