

## SECTION 5: Student Policies

SUBJECT: Student Code of Conduct & Student Hearing Board

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**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 LC State offices directly involved with implementation of this policy, or significantly affected by the policy:** Public Safety, Faculty Senate, President, Student Counseling, Title IX Coordinator, Residence Life, LC State Legal Counsel, Idaho State Board of Education

**Date of approval by LC State authority:** August 2021

**Date of State Board Approval:**

**Date of Most Recent Review:** July 2021

**Summary of Major Changes incorporated in this revision to the policy:** These revisions reflect changes in the Title IX laws and regulations including changes in terminology and definitions.

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### 1. Preamble

- A. 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, members of the Associated Student Body or other college-affiliated groups, if the offense constitutes a violation of Title IX, such that, the offense effectively deprives someone of access to Lewis-Clark State College's educational programs and activities, 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.
- B. The term "student" includes all persons matriculating at Lewis-Clark State College, both full-time and part-time, pursuing undergraduate, non-degree, or non-credit studies who are:
  - i. currently enrolled;
  - ii. accepted for admission or readmission;
  - iii. enrolled in a prior semester or summer session and who are eligible to continue enrollment in the semester or summer session that immediately follows;
  - iv. not officially enrolled for a particular term but who have a continuing relationship with the college;
  - v. suspended from enrollment for prohibited conduct that occurred while the individual was a student at the college; or

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- vi. currently using college-owned or college-managed facilities or property in connection with LC State sponsored academic activities.
- C. 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 at its discretion that the off-campus conduct affects a substantial school/college interest. A substantial school/college interest is defined to include:
  - i. Any action that constitutes a criminal offense as defined by law. This includes, but is not limited to, single or repeat violations of any local, state, or federal law;
  - ii. Any situation in which it is determined that the Respondent poses an immediate threat to the physical health or safety of any student or other individual;
  - iii. Any situation that significantly impinges upon the rights, property, or achievements of oneself or others or significantly breaches the peace and/or causes social disorder; and/or
  - iv. Any situation that is detrimental to the educational interests or mission of Lewis-Clark State College.
- D. Updates to the Student Code of Conduct are posted on the Vice President for Student Affairs website [www.lcsc.edu/student-affairs/student-code-of-conduct/](http://www.lcsc.edu/student-affairs/student-code-of-conduct/).

## **2. Title IX Violations and Other Civil Rights Violations**

- A. Lewis-Clark State College is committed to providing a workplace and educational environment, as well as other benefits, programs, and activities, that are free from discrimination, harassment, and retaliation. To ensure compliance with federal and state civil rights laws and regulations, and to affirm its commitment to promoting the goals of fairness and equity in all aspects of the educational program or activity, the college has developed internal policies and procedures that provide a prompt, fair, and impartial process for those involved in an allegation of discrimination or harassment on the basis of protected class status, and for allegations of retaliation. The college values and upholds the equal dignity of all members of its community and strives to balance the rights of the parties in the grievance process during what is often a difficult time for all those involved.
- B. Any person may report discrimination, sexual harassment, and/or retaliation to the Title IX Coordinator (whether or not the person reporting is the person alleged to be the victim of conduct that could constitute a violation of policy). Reports may be made in person, by mail, by telephone, by electronic mail, or by any other means that results in the Title IX Coordinator receiving the person's verbal or written report. Such a report may be made at any time (including during non-business hours) by using the telephone number, electronic mail address, or by mail to the office address listed for the Title IX Coordinator:  
Title IX Coordinator  
Department of Public Safety  
500 8<sup>th</sup> Avenue  
Meriwether Lewis Hall, room 110  
Lewiston, ID, 83501  
208-792-2689; [Titleix@lcsc.edu](mailto:Titleix@lcsc.edu)
- C. Lewis-Clark State College Policy 3.110 Discrimination, Sexual Harassment and Retaliation Prohibited, and related procedures, provide information and guidance on how the college will respond to complaints that may be a violation of that policy. The policy and related procedures

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can be read in their entirety at <https://www.lcsc.edu/media/5180/interim-policy-3110-discrimination-sexual-harassment-and-retaliation-prohibited.pdf> and <https://www.lcsc.edu/media/6509/policy-3110-resolution-procedures-final-2.pdf>.

- D. Lewis-Clark State College routinely provides educational and awareness programs to students in order to generate awareness of discrimination and sexual harassment. These programs inform our campus community on how to report incidents of discrimination and sexual harassment, as well as how to implement safe and positive interventions on behalf of students.
- E. Students are thereby advised that acts of discrimination, sexual harassment, and retaliation are prohibited and may represent violations of the college's Student Code of Conduct. In some instances, off campus conduct may also constitute a violation of the Student Code of Conduct if the effects of off-campus conduct effectively deprive an individual of access to Lewis-Clark State College educational programs and activities. Jurisdiction may also extend to off-campus/online conduct when the Title IX Coordinator determines that the conduct affects a substantial institutional interest.
- F. Students who believe they are victims of discrimination or sexual harassment are encouraged to report same immediately to any campus official. All college staff and faculty are designated as a Mandated Reporter, which means they are obligated by policy to share knowledge, notice, and/or reports of harassment, discrimination, and/or retaliation with the Title IX Coordinator and/or their supervisor. Similarly, students who believe they have witnessed or otherwise know of a case of discrimination or sexual harassment should report it to a campus official.
- G. Reports may be filed confidentially. Students filing complaints requesting anonymity will be apprised of the potential limitations of the investigative and 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.
- H. Upon receipt of notice or a complaint of an alleged violation of the policy, prohibited discrimination, sexual harassment, and retaliation, the Title IX Coordinator, or his or her designees, will conduct an initial assessment of the information and will reach out to the Complainant and offer supportive measures and an opportunity to file a formal complaint. Title IX Coordinator will work with the Complainant to determine whether the individual prefers a supportive and remedial response, an informal response option, or a formal investigation and grievance process. In some cases, school officials may need to proceed with an investigation regardless of the student's desires, based on certain criteria as outlined in Lewis-Clark State College Policy 3.110 – Discrimination, Sexual Harassment, and Retaliation Prohibited. If a determination is made to proceed with an investigation against the wishes of the student, the student will be informed of such, and the college will take every reasonable precaution to keep the student safe and provide supportive measures.
- I. If a member of the campus community believes that the college has not complied with the provisions of Title IX, he or she may file a complaint by contacting the Office of Civil Rights at 1-800-421-3481 or <https://www2.ed.gov/about/offices/list/ocr/docs/howto.html?src=rt>

### **3. 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:

#### **A. 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

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student must represent one's own ideas, concepts and current understanding. Academic Dishonesty includes:

- i. 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.
- ii. Fabrication - intentional and/or unauthorized falsification or invention of any information or the source of any information in an academic exercise.
- iii. Collusion facilitating academic dishonesty – intentionally or knowingly helping or attempting to help another to commit an act of Academic Dishonesty.
- iv. 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.

#### **B. Alcoholic Beverages**

- i. 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. 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-owned, leased or operated facilities and on campus grounds.
- ii. Alcoholic beverages may not be possessed, manufactured 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. Students aged 21 and over may possess alcohol in their residence hall rooms subject to residence hall policies.
- iii. Sale of alcoholic beverages is prohibited in college-owned, leased or operated facilities and on campus grounds.
- iv. 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.
- v. For college- 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:
  - a) Names and ages of individuals designated as bartenders or servers to check identification;
  - b) Means to inform participants of applicable state and federal laws regarding alcohol consumption;
  - c) Non-alcoholic beverages and food consumption; and
  - d) Designated driver program.
- vi. No social event shall include any form of drinking contest in its activities or promotion.

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#### C. **Smoking and Vaping Policy**

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 or vaping 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 website: <https://www.lcsc.edu/visit/campus-map-directions>.

#### D. **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; <https://www.lcsc.edu/student-counseling/substance-abuse-information-assistance>).

#### E. **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, and ASLCSC forms or documents.

#### F. **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:

- i. Physical violence of any nature against any person. Physical violence includes, but is not limited to, (1) fighting; (2) assault; (3) battery; (4) the use of a knife, gun, or other weapon except in reasonable self-defense; (5) physical abuse; (6) restraining or transporting someone against his or her will; or (7) any action that threatens or endangers the physical health or safety of any person or causes reasonable apprehension of such harm.
- ii. 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.
- iii. Hazing, which includes, but is not limited to, any action or participation in any activity that (1) causes or intends to cause physical or mental discomfort or distress; (2) may demean any person, regardless of location, intent or consent of participants; or (3) 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. Apathy or acquiescence in the presence of hazing are not neutral acts; they are also violations of this rule.
- iv. Discrimination, Sexual Harassment, Retaliation and Other Civil Rights Offenses: Acts of discrimination, sexual harassment, retaliation and other civil rights offenses are

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prohibited per policy 3.110 Discrimination, Sexual Harassment and Retaliation Prohibited.

- a) Conduct that may violate Policy 3.110 is defined within that policy and will be addressed using the related Resolution Process document. Prohibited conduct includes, but is not limited to:
    - 1) Discrimination on the basis of a protected class;
    - 2) Sexual Harassment, including sexual assault, dating violence, domestic violence, and stalking;
    - 3) Sexual Exploitation; and
    - 4) Other civil rights offenses when the act is motivated by actual or perceived membership in a protected class, and the result is a discriminatory limitation or denial of employment or educational access, benefits, or opportunities.
  - b) It is prohibited for the college or any member of the college community to take materially adverse action by intimidating, threatening, coercing, harassing, or discriminating against any individual for the purpose of interfering with any right or privilege secured by law or policy, or because the individual has made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under this policy and procedure.
  - c) Charges against an individual for code of conduct violations that do not involve sex discrimination or sexual harassment, but arise out of the same facts or circumstances as a report or complaint of sex discrimination/sexual harassment, for the purpose of interfering with any right or privilege secured by Title IX, constitutes retaliation.
  - d) The exercise of rights protected under the First Amendment does not constitute retaliation.
  - e) Charging an individual with a code of conduct violation for making a materially false statement in bad faith in the course of a grievance proceeding under this policy and procedure does not constitute retaliation, provided that a determination regarding responsibility, alone, is not sufficient to conclude that any party has made a materially false statement in bad faith.
  - f) Lewis-Clark State College reserves the right to impose any level of sanction, ranging from a reprimand up to and including suspension or expulsion/termination, for any offense under this policy.
- v. Consent
- a) Consent is:
    - 1) knowing, and
    - 2) voluntary, and
    - 3) clear permission
    - 4) by word or action
    - 5) to engage in sexual activity.
  - b) Since individuals may experience the same interaction in different ways, it is the responsibility of each party to determine that the other has consented before engaging in the activity.

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- c) If consent is not clearly provided prior to engaging in the activity, consent may be ratified by word or action at some point during the interaction or thereafter, but clear communication from the outset is strongly encouraged.
  - d) For consent to be valid, there must be a clear expression in words or actions that the other individual consented to that specific sexual conduct. Reasonable reciprocation can be implied. For example, if someone kisses you, you can kiss them back (if you want to) without the need to explicitly obtain their consent to being kissed back.
  - e) Consent can also be withdrawn once given, as long as the withdrawal is reasonably and clearly communicated. If consent is withdrawn, that sexual activity should cease within a reasonable time.
  - f) Consent to some sexual contact (such as kissing or fondling) cannot be presumed to be consent for other sexual activity (such as intercourse). A current or previous intimate relationship is not sufficient to constitute consent.
  - g) Proof of consent or non-consent is not a burden placed on either party involved in an incident. Instead, the burden remains on the college to determine whether its policy has been violated. The existence of consent is based on the totality of the circumstances evaluated from the perspective of a reasonable person in the same or similar circumstances, including the context in which the alleged incident occurred and any similar, previous patterns that may be evidenced.
- vi. Incapacitation:
- a) A person cannot consent if they are unable to understand what is happening or is disoriented, helpless, asleep, or unconscious, for any reason, including by alcohol or other drugs. As stated above, a Respondent violates this policy if they engage in sexual activity with someone who is incapable of giving consent.
  - b) It is a defense to a sexual assault policy violation that the Respondent neither knew nor should have known the Complainant to be physically or mentally incapacitated. "Should have known" is an objective, reasonable person standard which assumes that a reasonable person is both sober and exercising sound judgment.
  - c) Incapacitation occurs when someone cannot make rational, reasonable decisions because they lack the capacity to give knowing/informed consent (e.g., to understand the "who, what, when, where, why, or how" of their sexual interaction).
  - d) Incapacitation is determined through consideration of all relevant indicators of an individual's state and is not synonymous with intoxication, impairment, blackout, and/or being drunk.
  - e) This policy also covers a person whose incapacity results from a temporary or permanent physical or mental health condition, involuntary physical restraint, and/or the consumption of incapacitating drugs.

#### **G. 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.

#### **H. 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.

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**I. 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.

**J. 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 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. See "Classroom Infractions" section.

**K. 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. Providing false information constitutes a violation of the Student Code of Conduct.

**L. 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.

**M. 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 college's home stay program. Preventable accidental damage may also be considered a violation of the Student Code of Conduct on a case by case basis.

**N. 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.

**O. Gambling**

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

**P. 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 Lewis-

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Clark State College Policy 4.123, is prohibited. The college will provide safe storage of firearms and weapons 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. Students in violation of this provision of the Student Code of Conduct will be subject to college-based disciplinary action and, depending upon the nature of the infraction, may be referred to local law enforcement.

#### **Q. 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.

#### **R. 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.

#### **S. 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, includes but is not limited to:

- i. Falsification, distortion, or misrepresentation of information during a judicial investigation;
- ii. Disruption or interference with the orderly conduct of a judicial proceeding;
- iii. Institution of a judicial proceeding knowingly without cause;
- iv. Attempting to discourage an individual's proper participation in, or use of, the judicial system;
- v. Attempting to influence the impartiality of a member of a judicial body prior to, and/or during the course of, the judicial proceeding;
- vi. Harassment (verbal or physical) and/or intimidation of a member of a judicial body prior to, during, and/or after a judicial proceeding;
- vii. Failure to comply with the sanction(s) imposed under the Student Code;
- viii. Influencing or attempting to influence another person to commit an abuse of the judicial system; or
- ix. Retaliating against any participant in a judicial proceeding to influence, intimidate, or harass the participant.

#### **T. 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 misconduct), applies to all LC State 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 Student Code of Conduct apply to Dual Credit students but disciplinary action may be coordinated with the student's high school.

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**4. Disciplinary Sanctions.**

- A. Disciplinary sanctions which may be imposed for a violation the Student Code of Conduct are listed here in order of their severity:
- i. Warning;
  - ii. Probation (with terms and length as determined by the person levying the sanction);
  - iii. 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);
  - iv. 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. Students who are suspended will have this sanction noted on their official college transcript;
  - v. Expulsion (indefinite removal from college) which may include being banned from campus property. Students who are expelled will have this sanction noted on their official college transcript.
  - vi. \*Suspension or expulsion can occur even after a student withdraws if the withdrawal occurred while Student Code of Conduct charges were pending.
- B. 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:
- i. Community service (to be performed for a specific period of time under the direction of the Vice President for Student Affairs or his or her designee);
  - ii. Fines not exceeding two hundred dollars (\$200);
  - iii. Restitution of damages;
  - iv. 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);
  - v. Administrative fees not exceeding fifty dollars (\$50).
- C. 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, state, and/or federal law, violence, or threats, the police may be informed of the occurrence.
- D. 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.

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### 5. **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 the board. 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 or her designee. Title IX cases will be investigated and referred to a trained Title IX hearing panel.

#### A. **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). 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.

#### B. **Emergency Powers**

Nothing in the Student Code of Conduct shall be in derogation of the power of the President of LC State or his or 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 of the college or his or 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.

#### C. **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 may delegate investigative and/or adjudicative responsibilities. The investigation should include, if possible, an interview with the student whereby the student is informed of the alleged violation and given an opportunity to deny or explain it. The Vice President for Student Affairs, after whatever investigation he or 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 or she shall write a report

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identifying the alleged violation and set forth his or her determination of the sanction imposed. Allegations of discrimination and sexual harassment, and retaliation will be investigated by the college's Title IX Coordinator or his or her designee. Respondents alleged to have engaged in a form of sex/gender-based violence will be given notice prior to the initial interview in the investigative process.

#### **D. 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, when delivered to the person's campus mailbox, 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 responding student and to the reporting party. 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 Parties shall prevail over any conflicting provision in these disciplinary procedures.

#### **E. Supportive Measures**

The Vice President for Student Affairs, with the concurrence of the President, shall have the right to summarily suspend a student who he or 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 federal or state law requires that the student not be allowed on campus. In Title IX or other discrimination investigations, the Title IX Coordinator is authorized to assess the need for and impose supportive measures. Additional supportive measures may include, but are not limited to, assigning new living arrangements, modifying class schedules, restricting access to specific campus facilities, and/or emergency removal from campus.

#### **F. Appeal**

If the student disagrees with the Vice President for Student Affairs' or designee's conclusion that he or 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) business days after the date on which he/she is served with a copy of the Vice President for Student Affairs (or designee's) decision. Upon receipt of the written request, the Vice President for Student Affairs will notify the President's office within one (1) business day. 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. An appeal regarding a Title IX Notice of Outcome will be conducted in accordance with policy 3.110.

### **6. Student Disciplinary Hearing Board**

- A. **Function and Jurisdiction.** The Student Disciplinary Hearing Board shall provide a hearing in student discipline matters when a student has filed a timely appeal with the President as set forth in section F. Appeal.

## SECTION 5: Student Policies

### SUBJECT: Student Code of Conduct & Student Hearing Board

- B. **Structure and Organization.** The Student Disciplinary Hearing Board (this is not the Title IX hearing panel) contains the same faculty appointees as the Faculty Hearing Board. Details about the composition of the Faculty Hearing Board are presented in LC State Policy 2.115. The chair shall be elected each year from the voting members of the Student Disciplinary Hearing Board. In cases involving students, four (4) students shall be included, with voice and vote, in the Student Disciplinary Hearing Board membership. 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, except in sexual misconduct cases. The decision of the Student Disciplinary Hearing Board shall be made by a majority vote of the quorum who attended the hearing.
- C. Term of Office for Faculty members can be found in LC State Policy 2.115 at <https://www.lcsc.edu/policies>.
- D. **Hearing Officer.** Either the President or the Student Disciplinary Hearing Board may, but is not required to, appoint a Hearing Officer to preside at any hearing held by the Student Disciplinary Hearing Board. The Hearing Officer may or may not be an attorney at law but must be experienced in conducting hearings. He or 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.
- E. For Title IX-related cases, a distinct hearing panel and appeal panel will be convened as necessary. See Discrimination, Sexual Harassment, and Retaliation Prohibited policy 3.110 at <https://www.lcsc.edu/policies>.
- F. **College President.** Upon receipt of an appeal, the President shall convene the Student Disciplinary Hearing Board. Following the hearing, the President shall review recommendations from the Student Disciplinary Hearing Board and determine whether to affirm, modify or reverse the Vice President for Student Affairs' determination.

#### **7. Hearings Before Student Disciplinary Hearing Board**

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

- A. The hearing shall be held within thirty (30) calendar days of the receipt of the written request, unless the Student Disciplinary Hearing Board Chair finds that a reasonable extension of time is necessary and agreed upon by both parties.
- B. At the hearing, the Vice President for Student Affairs (Adjudicating Officer) shall present the basis upon which his or her decision was made along with any other evidence he or she deems necessary to support that decision. The student:
  - 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.
  - iii. shall not be forced to testify against him/herself, and his or her refusal to testify shall not be considered as evidence against him or her; and
  - iv. shall not have the right to be represented by an attorney except:
    - a) when the Vice President for Student Affairs will be represented by an attorney, he or 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 or her own expense; and

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- b) 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 meeting, but the attorney shall not be entitled to present evidence, question witnesses, make arguments or otherwise participate in the meeting. When not accompanied by or represented by an attorney, the student may be accompanied by a non-lawyer advisor of his or her choice.
- C. The hearing before the Student Disciplinary 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 at least two (2) business days 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, the hearing will not be open to the public.
- D. The Student Disciplinary Hearing Board will use a recording device to record the hearing. A copy of that record shall be made available to the student upon payment of the reasonable cost of that copy.
- E. Following the hearing, the Student Disciplinary Hearing Board shall review the documentary, oral and other evidence presented at the hearing. The Student Disciplinary Hearing Board will then issue a recommendation to the President that the Vice President's determination be affirmed, modified, or reversed. The Student Disciplinary Hearing Board's recommendation shall be in writing and shall be forwarded to the President, along with the evidence presented at the hearing, within seven (7) calendar days of the conclusion of the hearing.
- F. The President shall issue a written decision within thirty (30) calendar days of the completion of the hearing. If an extension is required for proper review of the materials presented, written notifications of the extension will be provided to the primary parties. Upon review of the Student Disciplinary Hearing Board's recommendation, the President shall issue a final decision. A copy of the written decision of the President shall be served on the responding party and the Vice President for Student Affairs, and in sexual misconduct cases, to the reporting party.
- G. A copy of the President's determination will be included in the original respondent's student file.
- H. For cases involving Title IX allegations, refer to Policy 3.110 Discrimination, Sexual Harassment, and Retaliation Prohibited for information and guidance on how the college will respond.

#### **8. State Board of Education**

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 19 at <https://boardofed.idaho.gov/board-policies-rules/board-policies/higher-education-affairs-section-iii/iii-p-students/>.