

<b>Sexual Misconduct Procedure; Employee</b>	Procedure Number	6.3P
	Effective Date	November 28, 2017

**1.0 PURPOSE**

In accordance with Policy 6.3, the purpose of this procedure is to outline the process of review and potential action of discrimination, sexual harassment and sexual misconduct assertions.

**2.0 REVISION HISTORY**

Adopted on: 11/28/17

Revised on: 2/21/20, 8/11/20 by Temporary Executive Order through 12/11/20; 10/9/20; 2/26/24

**3.0 PERSONS AFFECTED**

This procedure applies to any employee, contractor or visitor of LCCC.

**4.0 DEFINITIONS**

A. *Advisor* – An advisor is a person acting as a process advisor, representing the best interest of the

who is cohabiting with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under the domestic violence law of the State of Wyoming, or by any other person against an adult or youth victim who is protected from that person’s acts under the

domestic violence or family violence of the State of Wyoming.

accused student knows or reasonably should have known of such incapacitation. Effective Consent is also  
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decisions and as such are not appealable. If a mutual decision cannot be reached by the conclusion of the informal resolution, the case will transfer to the formal resolution process. An informal resolution is not an option in the event of an allegation that an employee has sexually harassed or assaulted a student.

K. *Investigator* – A trained College official designated by the Title IX Coordinator to investigate cases of misconduct.

L. *Non-Consensual Sexual Contact* – Sexual Contact that occurs without Effective Consent.

M. *Non-Consensual Sexual Intercourse* – Sexual Intercourse that occurs wi.6 (n)2.11J.2 (rs)-1 (e)-3.3 ((n)2.11J.2 (rs)-1 (09





misconduct may be subject to disciplinary action in accordance with Policy 6.10 and Procedure 6.10P Employee Conduct and Discipline, or student discipline procedures as found within Policy 3.16 and Procedure 3.16P Student Discipline Adjudication Procedures.

- B. The Title IX Coordinator will ensure that several LCCC officials are trained in Title IX investigations and hearings and will be responsible for investigating or assigning the investigation to a trained investigator for each complaint under Title IX. For example, it is likely that complaints received involving employee misconduct will be investigated by HR. Trained officials may include an LCCC faculty, staff, or administrator; or an outside agency approved by the Title IX Coordinator.
- C. The Title IX Coordinator shall receive and investigate anonymous complaints and any complaint against a LCCC contractor, vendor, affiliate, student or employee.
- D. The Title IX Coordinator will promptly contact the complainant confidentially to discuss the availability of supportive measures, consider the complainant's needs with respect to supportive measures, inform the complainant of the availability of supportive measures with or without the filing of a formal complaint, and explain to the complainant the process for filing a formal complaint, as well as the right to have an advisor present.
- E. A formal complaint process is initiated when a complainant submits a verbal or written statement alleging sexual discrimination, sexual harassment or sexual misconduct prohibited by Title IX to the Title IX Coordinator. In the statement, the complainant may provide any relief sought. Prompt submission of the complaint is encouraged.
- F. The Title IX Coordinator shall conduct a preliminary assessment, and may dismiss the complaint without further process or review if the Title IX Coordinator determines that the complaint on its face is frivolous, not credible, clearly without merit, or outside the scope of these formal complaint procedures. If warranted, the Title IX Coordinator will communicate the dismissal to the appropriate parties.
- G. If the complaint is not dismissed, the Title IX Coordinator will investigate the matter or assign investigators and supervise the investigation, and send written notice to both the complainant and respondent of the allegations. Investigations shall ordinarily be completed within 30 business days following the date the complaint is received. The Title IX Coordinator may approve an extension of time for good cause.
- H. The investigator shall review pertinent records, conduct interviews as appropriate, and prepare a written report.
  - 1) The burden of gathering evidence and burden of proof must remain with LCCC, not the parties.
  - 2) LCCC will provide equal opportunity for both parties to present fact, expert witnesses and other pertinent information.
  - 3) The Respondent is presumed non-responsible until the final determination is made.
  - 4) Interviews, when appropriate, will be conducted with the complainant and the respondent; other individuals may also be interviewed as needed (e.g., witnesses, supervisors, students, department head). Written notice of interviews, meetings, or hearings will be sent in advance.
  - 5) Both parties have the same opportunity to select an advisor of the party's choice at their own expense. The role of the advisor is to assist the complainant or respondent with navigating and understanding the process. The advisor may attend with their designated complainant or respondent any meeting or conversation related to the investigation, they

may ask procedural or process questions and may conduct a cross-examination at the hearing. LCCC has the sole discretion to limit, restrict or modify an advisor's role.

6) Confidentiality, to the extent possible, shall be respected consistent with LCCC's obligation to investigate all reports of discrimination, sexual harassment or sexual misconduct and prevent recurrence of offending behavior.

7) LCCC will send the parties and their advisors', information directly related to the allegations

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A live hearing will take place with a Hearing Board consisting of at least three trained officials; one of whom will serve as the Hearing Board Chair. A virtual hearing will be considered the same as a live hearing. Either party may request a virtual hearing. Hearings will be recorded or transcribed and will be the sole property of LCCC.

- 1) Ordinarily, the hearing will take place 10 (ten) business days after the parties are sent the investigative report.
- 2) Pre-hearing meetings will occur between the Hearing Board Chair and/or Title IX Coordinator/Designee and each party, including their advisor, to ensure understanding and preparation of the hearing process.
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respondent or complainant within 5 (five) business days of the date of the decision for the following reasons:

- 1) Procedural irregularity that affected the outcome of the matter
- 2) Newly discovered information not available at the time of the investigation or Hearing that could affect the outcome of the matter
- 3) Title IX personnel had a demonstrated conflict of interest or bias that affected the outcome of the matter

The following should be addressed in the appeal letter:

- 1) Were the procedures, as stated in the sexual misconduct procedure followed? If not how did the process error affect the outcome of the case.
- 2) What new information has been discovered, why was it not available at the time of the investigation, and how would it potentially affect the outcome of the case?
- 3) The Title IX Coordinator will assign an appeal reviewer to review the appeal and determine whether it should go to the appeal board.
- 4) If the case is appealable, it will be referred to an Appeal Hearing Board to review.
- 5) The Executive Director of Human Resources or designee will notify both parties in writing when an appeal has been filed.
- 6) An Appeal Hearing Board consisting of three trained officials who were not a part of the initial process, one of whom will serve as the Appeal Hearing Board Chair, will conduct a document based and recording review of the case. The Appeal Hearing Board decision is final and not appealable.
- 7) The decision on the appeal will be issued in writing by the Executive Director of Human Resources or designee and provided to the complainant and the respondent simultaneously, ordinarily within 10 (ten) business days of receipt of the written appeal.

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3) Employees taking courses; Procedure 6.3P will be followed.

## **8.0 CONFIDENTIALITY**

All complaints of sexual misconduct and other forms of unlawful harassment (race, color, sex, religion, gender identity, national origin, age, disability, veteran status or sexual orientation) shall be considered confidential (particularly complaints of sexual harassment) and only those persons necessary for the investigation and resolution of the complaint will be given any information about the complaint. LCCC will respect the confidentiality of the complainant and the individual against whom the complaint is filed to the extent possible consistent with LCCC's legal obligations to protect the rights and security of its employees and students.

## **9.0 STANDARD OF REVIEW**

Allegations of misconduct prohibited by Title IX shall be reviewed by applying a preponderance of the evidence standard.

## **10.0 RETALIATION**

- A. LCCC affirms the rights of individuals to bring complaints of discrimination and/or misconduct without fear of reprisal. Each employee or student, who, in good faith, complains about illegal discrimination of any kind, is protected from retaliation and any act of retaliation will result in appropriate disciplinary action in accordance with Policy 6.10 and Procedure 6.10P Employee Conduct and Discipline, or student discipline procedures as found within the Student Discipline Adjudication Policy 3.16 and Proc

**B. Strongly Discouraged Relationships – Employee and Student**



