

Approved on 7/31/2019

Administrative Council Meeting Minutes

Monday, July 15, 2019

President's Office **1:30 p.m.**

(Highlight in blue assignments that need to be completed)

VOTING MEMBERS PRESENT

Dr. Doug Darling- President

Lloyd Halvorson- Vice President for Academic/Student Affairs

Corry Kenner- Vice President for Administrative Affairs

NON-VOTING MEMBERS PRESENT

Dr. Jason Fewell-Faculty Senate Representative

Bobbi Lunday-Recorder

Guests

1) CALL TO ORDER/REVIEW MINUTES

a) Call to Order

i) The meeting was called to order at 1:33 p.m.

b) Review of July 1, 2019 Minutes

i) The minutes of the previous meeting were reviewed and approved.

2) OLD BUSINESS

a) NDAC Update: Ag Consortium Discussion (Academic/Student Affairs)

i) VP Halvorson discussed the teleconference with WSC and DCB. They will attend the PDC meetings in August and have pledged to do what they must to become recognized by NDSU. VP Halvorson added that he will be sitting on the search committee for the System Office to help them fill the position of Director of Academic Affairs. The position was vacated by Lisa Johnson after accepting the position of Vice Chancellor for Academic/Student Affairs.

b) 400.25 Tobacco Free Campus (Administrative Affairs) Tabled

3) NEW BUSINESS

a) Year-End Budget Status Report (Administrative Affairs)

i) VP Kenner reported the budget is looking pretty good and he will be ready for a discussion by the meeting scheduled on August 1, 2019.

b) CMaR Interviews (7/3/19) (President)

i) VP Kenner will work with Gleason Construction on negotiating fees and scheduling meetings.

c) Hofstad Ag Center-Fundraising Update (President)

i) President Darling, Executive Director Nord, and Director Sundeen met with ND Farmers Union to request a lead donation for the Ag Center project. They are awaiting a response to their presentation.

d) Title IX and Sexual Misconduct Policy 1500.09 (Academic/Student Affairs)

i) President Darling approved policy changes to become compliant according to auditors.

e) Faculty Contract Change (Academic/Student Affairs) (Attached)

i) The budget was rolled back making hiring Mr. Paradies' replacement more difficult, so Teresa Tande has agreed to go back on 100% contract for one more year.

f) DNP Employee Reclassification (Academic/Student Affairs)

i) VP Halvorson reported the Dakota Nursing Program -VPs and Directors voted to reclassify Cathy Jacobson as a program coordinator as she meets all criteria for the position.

g) Theater Options Update (Academic/Student Affairs)

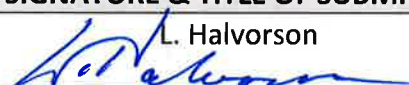

- i) VP Halvorson notified council that April Hubbard, the drama instructor from Valley City, is moving closer to DL and is interested in helping with a production for our drama students.
 - h) **Emergency Lock Boxes Installation Update** (Academic/Student Affairs)
 - i) Eight doors have emergency lock boxes for the DLPD installed now.
 - i) **GF Nursing Facility Requests: Painting and Keys** (Academic/Student Affairs)
 - i) Director Clementich has requested the landlord paint the offices and provide keys. Negotiations are in process.
 - j) **TrainND QSP Contract Renewal Signed** (Academic/Student Affairs)
 - i) TrainND received a renewal of the QSP contract.
 - k) **Clergy Act Training** (Academic/Student Affairs)
 - i) VP Halvorson would like to send Director Nelson to a training if the system office cannot bring trainers to ND. Council discussed and will decide when the system office plan is known.
 - l) **Golf Tournament Update** (Academic/Student Affairs)
 - i) VP Halvorson reported that the golf tournament was successful. Athletics collected \$12,088 at the tournament, profit was about \$8,600.
 - m) **Back to School breakfast and recognition**
 - i) VP Halvorson requested we move the back to school breakfast to Friday rather than Wednesday to accommodate DLPS back to school. In-service sessions will start at 9:00 am on Wednesday.
 - ii) The Service Award pewter supplier has gone out of business. New awards will need to be chosen.
 - n) **Strategic Planning**
 - i) The SBHE is still working on an outline for the strategic plan.
- 4) ADJOURNMENT**
- i) The meeting was adjourned at 3:05 p.m.
 - b) **Upcoming Scheduled Council Meetings**
 - i) The next meeting of the Administrative Council will be W-July 31@1:30p, M-August 12@1:30p, F-August 30@9:00a

NAME OF POLICY, PROCEDURE OR FORM	CHAPTER NUMBER	ARTICLE NUMBER
Title IX and Sexual Misconduct	1500	09

REQUESTED ACTION: CHANGE ADD REMOVE

Text of Requested Change: (Continue on other side or attach a separate document.)
See attached changes to: #4 Applicability: "and other third parties" #9(b) Student Resolution: "witnesses, other evidence..." #15 Training: "require, track, and consequences" added.

HAS THIS CHANGE BEEN REVIEWED FOR CONSISTENCY WITH NDUS POLICY?	Reviewer Initials
<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO	LH

NAME OF LRSC GROUP SUBMITTING CHANGE REQUEST	DATE
Title IX Coordinator and VP of Academic and Student Affairs	7-9-2019
SIGNATURE & TITLE OF SUBMITTER	DATE
 L. Halvorson 	7-9-20019

ADMINISTRATIVE COUNCIL ACTION:

- REQUEST APPROVED REQUEST Tabled FOR FURTHER REIEW Date: _____
 REQUEST NOT APPROVED REQUEST APPROVED WITH REVISIONS Date: _____

LRSC PRESIDENT'S SIGNATURE	DATE
	7/9/19

The official original copy of the Change Request will be filed in the President's Office and copies distributed to the:

- Faculty Senate President
- Staff Senate President

Final printed versions of the change will be distributed to the following for placement in paper manuals:

- Library Director
- Administrative Affairs
- Academic and Student Affairs
- CCF / Advancement

SECTION 1500.09

SEXUAL MISCONDUCT & TITLE IX COMPLIANCE

- 1) Lake Region State College (LRSC) strives to create a campus community free from interpersonal abuse. In working to achieve this intent, LRSC commits to:
 - a. Taking action to stop misconduct,
 - b. Taking action to remedy its effects by providing advocacy, support and appropriate referral services for recipients of the behavior,
 - c. Taking action to prevent recurrences,
 - d. Educating individuals and promoting discussions on interpersonal abuse and violence, and
 - e. Conducting impartial investigations of all reports of misconduct through fair, equitable and prompt procedures. Campus investigations will be conducted independently from any law enforcement investigations.

- 2) This policy is required by federal law and implementation is guided by the U.S. Department of Education, Office of Civil Rights.
 - a. In accordance with Title IX, LRSC does not discriminate on the basis of gender in educational programs, activities and/or employment.
 - b. Any form of retaliation is prohibited and is considered misconduct.
 - c. Misconduct is prohibited in all forms, regardless of intent to harm.
 - d. Also prohibited under Title IX is any rule violated on the basis of gender, gender identity and/or sexual orientation which is severe enough to cause discriminatory effect. This may include, but is not limited to bullying, cyber-bullying, relationship violence and stalking.

- 3) For the purpose of this policy, the following definitions apply:
 - a. Bullying is repeated and/or aggressive behavior likely to intimidate, hurt, control or diminish another person, physically or mentally. Cyber-bullying is bullying that takes place using technology.
 - b. Consent is words or actions showing a clear, knowing and voluntary agreement to engage in sexual activity.
 - i. Consent from sexual partners must be obtained. If confusion or ambiguity on the issue of consent arises anytime during sexual activity, consent must be clarified.
 - ii. Consent may not be inferred from:
 1. Silence, passivity or lack of active resistance.
 2. A current or previous dating or sexual relationship.
 - iii. Consent to one form of sexual activity does not imply consent to other forms of sexual activity.
 - iv. Consent can be withdrawn by clear communication at any time.
 - c. Coercion is compelling another to engage in conduct by threatening to expose a secret or publicize an asserted fact, whether true or false, that would affect another's reputation, academic or otherwise, or cause emotional distress. Coercion also means to exploit fear or anxiety through intimidation, domination or control with the intent to compel conduct or compliance.
 - d. Domestic/Dating Violence is physical harm, bodily injury, sexual activity compelled by physical force, assault, or the infliction of fear of imminent physical harm, bodily injury, sexual activity compelled by physical force, or assault, not committed in self-defense committed by any person who is or has been in a relationship of a romantic or intimate nature with another.
 - e. Gender-based harassment is verbal, nonverbal, graphic, or physical aggression, intimidation, or hostile conduct based on sex, sex-stereotyping, sexual orientation or gender identity, but not involving conduct of a sexual nature, when such conduct is sufficiently severe, persistent, or pervasive that it interferes with or limits a person's ability to participate in or benefit from the college's education or work programs or activities.

- f. Hostile environment is an environment in which misconduct occurs and is sufficiently severe, pervasive or persistent that it denies or limits a person's ability to participate in or benefit from any educational program, activity and/or employment.
- g. Incapacitation is a state where a person cannot make rational, reasonable decisions because they lack the capacity to give consent, due to the use of drugs or alcohol, unconsciousness, or because of an intellectual or other disability.
- h. Intimidation is threats or acts that cause reasonable fear.
- i. Misconduct is any conduct that qualifies as bullying, coercion, cyber-bullying, domestic/dating violence, sexual assault, sexual exploitation, sexual harassment, stalking, or other harassment as a result of a person's gender, sexual orientation or gender identity.
- j. Retaliation is any type of harassment or adverse action taken against a person because of their participation in a misconduct investigation.
- k. Responsible employees include all LRSC faculty, staff and volunteers.
- l. Sexual Activity includes both sexual acts and sexual contact.
 - i. Sexual Act is sexual contact involving penetration, however slight, between the penis and the vulva, the penis and the anus, the penis and the mouth, the mouth and the vulva, or any other portion of the human body and the penis, anus or vulva; or the use of an object which comes in contact with the victim's penis, vulva or anus.
 - ii. Sexual Contact means any touching, whether or not through the clothing or other covering, of sexual or other intimate parts of the person. Intimate parts would include the groin, buttocks, breasts or genitalia (penis/vulva).
- m. Sexual Assault is when a person knowingly engages in sexual activity with another or who causes another person to engage in sexual activity:
 - i. Without consent,
 - ii. Using force, threats, intimidation or coercion,
 - iii. When a person knows or has reasonable cause to believe that the victim is unaware that sexual activity is being committed upon him or her,
 - iv. When a person knows or has reasonable cause to believe that the victim suffers from a mental disease or defect which renders the victim incapable of understanding the nature of the person's conduct, or
 - v. When a person, or someone with knowledge of that person's intent, has substantially impaired the victim's power to appraise or control the victim's conduct by administering or employing, without the victim's knowledge, intoxicants, a controlled substance, or other means for the purpose of preventing resistance.
- n. Sexual Exploitation is the intent to arouse, appeal to, or gratify a person's lust, passions or sexual desires. This may include, but is not limited to:
 - i. Masturbating in a public place or in the presence of a minor,
 - ii. Exposing one's penis, vulva, or anus in a public place or to a minor in a public or private place,
 - iii. Engaging in voyeurism or surreptitiously intruding on another's right to sexual privacy,
 - iv. Knowingly exposing another to a sexual transmitted disease or HIV,
 - v. Prostituting another person or one's self,
 - vi. Recording, photographing, disseminating, publishing (electronically or otherwise) or relaying sexual images of another without written consent.
- o. Sexual harassment includes unwelcome behavior of a sexual nature that is made explicitly or implicitly a condition of an individual's education, employment, or participation in college-sponsored programs or activities. When the submission to or rejection of such behavior or conduct is a factor in decisions affecting that individual's education, employment, or participation in college-sponsored programs or activities sexual harassment has occurred. Sexual harassment has also occurred when the behavior creates an objectively hostile environment, or is sufficiently severe, persistent, or pervasive.
- p. Sexual image is any image that qualifies under the definition in the North Dakota Century Code 12.1-27.1-03.1 or any image that is sufficiently provocative to show sexual intent.

- q. Sexual misconduct is any conduct that qualifies as sexual assault, sexual exploitation, or sexual harassment.
- r. Stalking is engaging in intentional course of conduct directed at a specific person, which frightens, intimidates, or harasses that person, and that serves no legitimate purpose. The course of conduct may be directed toward that person or a member of that person's immediate family or household and must cause a reasonable person to experience fear, intimidation, or harassment.

In the absence of a definition included in this policy, that provided by the North Dakota Century Code will be used.

- 4) **APPLICABILITY:** Any incident of misconduct that may affect a student, employee, visitor, or volunteer's ability to participate in or benefit from a LRSC educational program, activity, and/or employment. This policy applies to all students, employees, visitors, and volunteers, and other third parties of LRSC at all on and off campus locations.
- 5) **SEEKING ASSISTANCE:** Confidential access to resources, reporting options, services, advocacy and medical treatment is available through on campus counseling, off-campus advocates and counselors, and medical providers. A list of these resources is available on the college website or from the Title IX Coordinator.
- 6) **AMNESTY FOR ALCOHOL, DRUG AND OTHER CODE OF CONDUCT VIOLATIONS:** Students who experience sexual misconduct, report an incident of sexual misconduct, or assist a victim of sexual misconduct, while under the influence of alcohol or other drugs will not be subject to the student conduct process or suffer discipline from any other college sanctioned activity, club, or team for the alcohol or drug offense, nor will the alcohol or drug offense become part of the student's conduct record. LRSC cannot absolve anyone of criminal responsibility. Counseling referrals may be made as deemed appropriate by the Title IX Coordinator or Director of Student Services.

REPORTING: Responsible employees must address sex and gender-based discrimination and harassment by reporting misconduct to the Title IX Coordinator or a vice-president. Others are encouraged to immediately report violations of this policy. Incidents may be reported regardless of how much time has passed. The report must be made to or forwarded to the Title IX Coordinator or a vice president. Third party and anonymous complaints will be accepted, however, LRSC's ability to investigate and resolve may be limited.

Lake Region State College Title IX Staff:

Sandi Lillehaugen, Title IX Coordinator - Office 121A; 701-662-1543; Sandra.Lillehaugen@lrsc.edu

Brandi Nelson, Title IX Deputy Coordinator - Office 44; 701-662-1509; Brandi.Nelson@lrsc.edu

If criminal activity is involved, students and employees may contact local law enforcement. If an individual chooses to file a report with the police for sexual misconduct, it is important not to destroy physical evidence. An evidence collection kit, preventative treatment for sexually transmitted diseases, treatment of injuries and other health services can be obtained from any medical provider.

- 7) **CONFIDENTIALITY:** Individuals may request confidentiality. The Title IX Coordinator will evaluate the request and determine the extent to which confidentiality may be maintained. LRSC must weigh the requests for confidentiality against its need to protect the safety and security of the entire campus.
- 8) **EMPLOYEE RESOLUTION:** Accused employees are subject to NDUS and SBHE policies and procedures regarding resolution, adjudication, appeals, discipline and/or dismissal.
- 9) **STUDENT RESOLUTION:** Misconduct complaints may be resolved formally or informally. LRSC will attempt to complete the investigation within 60 days. During this process, the complainant and the accused shall:
 - a. Receive written notice:
 - 1. Identifying the allegation(s) against the student.

2. Providing three days' notice to any requests for information or response from the accused. The notice requirement can be waived if the accused consents to a shorter notice period. The notice process may also be waived during an emergency suspension process.
3. Of information about the right to have a support person, advocate or attorney, at the student's expense and initiation, to fully participate in the process.
 - b. Have equal opportunity to present **witnesses and other** evidence and respond to allegations.
 - c. Be provided with timely and equal access to information.
 - d. Be informed of the outcome, the sanction (if any) and the right to appeal.

10) **INFORMAL RESOLUTION:** Except in cases that may result in a student's suspension or expulsion, complainants may choose to pursue an informal resolution. Informal resolution is entirely voluntary and must be agreed upon by the complainant and accused. The Title IX Coordinator will investigate or assign an investigator to oversee this process. The Director of Student Services shall decide the appropriate sanction to be imposed. No appeal is allowed.

11) STUDENT ADJUDICATION PROCESS

a. Investigation Process

1. The Title IX Coordinator shall be responsible to assign each formal complaint to an investigator(s).
2. The Title IX Coordinator may recommend interim measures to the Director of Student Services.
3. Interim measures will be communicated in person (when possible) and in writing to both the complainant and the accused. These may include, but are not limited to:
 - a. Assistance moving safely between campus buildings,
 - b. Issuing a no contact order to the complainant and/or accused,
 - c. Moving the complainant and/or accused to different campus housing,
 - d. Altering the class schedule of the complainant and/or accused,
 - e. Providing counseling services,
 - f. Providing academic support services, and/or
 - g. Placing student employees on leave or suspension pending the outcome of the investigation.

b. Decision-making Process

1. The Director of Student Services and Title IX Coordinator shall:
 - a. Review the investigative report, and consider only relevant evidence while excluding evidence that is neither relevant nor probative.
 - b. Determine whether policy was violated using a "preponderance of the evidence" standard.
 - c. Decide the appropriate sanctions to be imposed. These may include, but are not limited to:
 1. Written warning
 2. Limited access to campus
 3. Suspension or expulsion
 4. Counseling or training
 5. Restitution
 6. Performance improvement
 7. Loss of privileges or wages
 8. Class or job reassignment
 9. Termination

2. The Title IX Coordinator will communicate in person (when possible) and provide in writing the final decision to both the complainant and the accused.

- c. **Student Appeal Process:** Both the complainant and accused have the right to appeal. An appeal must be made in writing to the Title IX Coordinator within 60 days of notification of the final decision. The other

person will be notified if an appeal has been filed. The Title IX Coordinator will assign members to the appellate panel.

The original decision may be appealed only due to:

1. **Procedural Errors:** The appellant alleges that there was a deviation or change from the procedures outlined in the adjudication process which adversely impacted the outcome of the complaint. If the appellate panel determines that there was a procedural error which may have altered the outcome of the case, the appeal will be investigated.
2. **New Evidence:** The appellant alleges that new evidence became available which would have impacted the outcome of the complaint. The appellant must (i) present the new evidence, (ii) explain why it was unavailable prior to the original decision and (iii) prove that the new evidence may have altered the outcome. The other person will be given an opportunity to address the new evidence.
3. **Severity of the Disciplinary Action:** The accused believes that the disciplinary action issued was insufficient or excessive.

The appellate panel will make a recommendation to the Vice President of Administrative Affairs who will then make the final decision and impose sanctions, if any, within 21 calendar days.

The accused has an additional right to appeal, within one year of the original final decision, to the Vice President of Academic and Student Affairs. The Vice President of Academic and Student Affairs may grant a rehearing, order a new hearing, reduce or modify the suspension or expulsion, grant other appropriate relief or uphold the original decision. Upon conclusion of all appeal activities, a final decision will be made within 21 days. If the appeal results in a the reversal of the decision or a change to the sanction, the institution may reimburse the student for any tuition and fees paid to the institution for the period of suspension or expulsion which had not been previously refunded.

The Vice President of Academic and Student Affairs reserves the right to hear an appeal at any time should exculpatory information become available.

12) RECORDS RETENTION/REPORTING

1. **Document Retention:** After the decision has been issued, and after all appeals have been exhausted, all materials created by or reviewed by the investigators and/or the appellate panel will be retained by the Title IX Coordinator in accordance with the NDUS Records Retention Schedule.
2. **Internal Reporting:** If the final decision involves suspension, expulsion or termination, the resolution will become a permanent part of the accused student or employee record.
3. **No student involved can be required to sign a nondisclosure agreement or to otherwise agree to a prohibition from truthfully discussing the case.**

13) **FALSE REPORTS:** Knowingly making a false statement, presenting inaccurate information or withholding evidence constitutes misconduct under LRSC Policy 800.30 (Student Conduct) and Policy 1500.05 (Code of Conduct) and may result in disciplinary action.

14) **RETALIATION:** Any person who retaliates against an individual reporting misconduct, filing a misconduct complaint or participating in an investigation is subject to disciplinary action up to and including suspension, expulsion or termination.

15) **TRAINING:** LRSC will engage in and require prevention and awareness training for students and employees **who live, learn and/or work on the LRSC campus**. Annual training for LRSC's conduct and misconduct policies will be provided. Student training will focus on how to file a misconduct complaint, discussion on consent and incapacitation, resources available, complaint procedures, and bystander intervention. Employee training will

focus on how to appropriately respond to misconduct complaints, the procedures to file a complaint and the importance of confidentiality. More comprehensive training will be provided to Title IX coordinators, investigators and others involved in the adjudication process. **The Title IX Coordinator will be responsible to organize the training and track completion. Failure to attend constitutes minor misconduct under the LRSC Student Conduct policy (800.30) and/or a violation of the LRSC Code of Conduct policy (1500.05).**

- 16) The Title IX Coordinator is responsible for coordinating compliance with federal and state discrimination and sexual harassment laws. The Title IX Coordinator is also responsible to:
- a. Ensure an up-to-date Sexual Misconduct & Title IX Compliance Policy,
 - b. Provide educational programs regarding harassment, discrimination and misconduct,
 - c. Respond to, investigate and seek resolutions to Title IX complaints,
 - d. Ensure impartial, fair and prompt investigation into all complaints,
 - e. Provide training to students and employees,
 - f. Oversee all Title IX complaints and reporting of student and employee misconduct,
 - g. Identify and address all systems relating to misconduct, and
 - h. Collaborate with law enforcement when investigations overlap.

LRSC has reporting obligations under The Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (Clery Act). LRSC must disclose information about certain crimes that occur on campus, on public property within or immediately adjacent to the campus, and in or on other buildings or property that are owned or controlled by LRSC. The Clery Act also requires LRSC to issue timely warning notices about crimes that pose a serious or on-going threat to the campus community. The Director of Institutional Effectiveness is responsible for Clery Act reporting and compliance.