

Approved on 10/24/2017

## Administrative Council Meeting Minutes

Tuesday, October 9, 2017

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

Randy Olson -Faculty Senate Representative

Bobbi Lunday-Recorder

### Guests

Joann Kitchens – Controller

### 1) CALL TO ORDER/REVIEW MINUTES

#### a) Call to Order

i) The meeting was called to order at 1:36 p.m.

#### b) Review of September 25, 2017 Minutes

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

### 2) OLD BUSINESS

#### a) Kaspersky Security

i) NDUS CIO Darrin King agreed LRSC need not be concerned with the Kaspersky software.

#### b) Librarian

i) The start date for LRSC Librarian Sheila Collins was pushed back due to a family emergency.

### 3) NEW BUSINESS

#### a) CTE Report

i) VP Halvorson discussed the Program Evaluation Report from the CTE Program Review. They suggested providing opportunities for the FiTT Program students to have access to a student organization like a fit club. They also suggested providing an opportunity for the Nursing students to join and compete in SkillsUSA but they have a student organization called SNO.

ii) They noted in the report that LRSC needs to upgrade internal signage so CTE classrooms and Instructors can be identified.

#### b) Annual Program Enrollment Report

i) In accordance with Section 700.24, VP Halvorson, in collaboration with the Registrar, shall produce a program enrollment report each academic year by October 15, 2017. The report will include a NDUS faculty load report, program enrollments by: freshmen, sophomore, full and part-time students.

#### c) High School Graduate Study

i) Academic Services Director Nelson compiled and submitted a High School Study report indicating which institution of Higher Education area high school graduates are choosing to attend. The study tracks the number of DLHS graduates who enrolled as degree-seeking students at LRSC and time between when they graduated and fall semester 2017, the program they enrolled in, other higher education institutions they enrolled in and, number of students from area high schools who graduated in the spring semester and enrolled at LRSC the following fall semester. Council agreed the information was informative and will be used to strengthen the enrollment marketing strategies. The study tracked DLHS students to institutions other than LRSC. Council wondered if it could also track area high school students that attended other institutions.

#### d) Auditorium Lighting Upgrades

i) VP Kenner reported he met with Director Driessen to discuss the expenses of the lighting system and would like to hire a consultant to come in to advise us on the lighting system. VP Kenner will work with Director Driessen to obtain a quote.

- ii) VP Halvorson requested VP Kenner's Administrative Affairs Department look into remodeling Chautauqua Gallery by removing the wallpaper, re-carpeting, and removing the stage to make the room available for larger meetings.
  - e) **Title IX Policy Change**
    - i) VP Halvorson took council through the changes to the wording of the Title IX Policy. In working through several alleged violations that have been reported since the policy was implemented, issues with wording were uncovered and corrected. President Darling approved the updates with revisions. (attached below)
  - f) **ERM Process Due in SPOL 10/31/17**
    - i) Council chose the following previously identified risks from the NDUS ERM Risk Register & Data Sheet: #6- Using the TLAB system for reporting/tracking vacation/sick leave, #7-Failure to pay employees timely using TLAB, & #9-Better documentation needed of donors' terms or intent. These are three of the fifteen identified fraud or control risks institutional senior leadership identified as key risks to the institutional objectives.
  - g) **Faculty Senate Update**
    - i) Faculty Senate Representative Olson brought a request from a member of the faculty to drop the requirement for University 101 for all students. VP Halvorson advised Representative Olson to instruct the faculty member to meet with the Curriculum and Academic Standards Committee as the committee is the campus governing body that can undo the requirement. The faculty member must be prepared to convince the committee those students don't need the class or that the faculty member will teach the curriculum.
    - ii) Cost for LRSC key cards: There was discussion about the fifteen-dollar replacement charge. The first key card is given free of charge, if the card is lost or broken, all faculty and staff are charged fifteen-dollars for each replacement card.
  - h) **Executive Order**
    - i) President Darling shared copies of Governor Burgum's Executive Order 2017-17, (attached below)
  - i) **Siemens Technical Scholars Program**
    - i) The Siemens Technical Scholars Program is a partnership between the Aspen Institute's College Excellence Program (CEP) and the Siemens Foundation designed to highlight the value that community colleges can provide individuals, communities, and businesses across the United States through excellent programs that prepare students for middle-skill jobs in science, technology, engineering, and math (STEM) fields. President Darling has asked Grant Writer Howe to work on a Nursing Program application to the Aspen Institute's College Excellence Program. If awarded the \$50,000 there is a possibility it could qualify for match.
  - j) **Airline Pilot Shortage**
    - i) President Darling reported he was approached about starting a Pilot Training Program to help combat the shortage of airline pilots. He looked into the possibility of a satellite program with UND. Council discussed and agreed that would be the only viable way to assist.
  - k) **Blue Line Club**
    - i) President Darling reported that he has been included in discussions that indicate the Blue Line Club is planning to circulate a petition, to put a Wellness Center funding request via sales tax increase, on the ballot for a city wide vote.
- 4) ADJOURNMENT**
- a) **Upcoming Scheduled Council Meetings**
    - (1) The next meeting of the Administrative Council will be: Tu-Oct 24@1:30p
  - b) **Adjournment**
    - i) The meeting was adjourned at 4:15 p.m.



## POLICY AND PROCEDURE MANUAL CHANGE REQUEST FORM

NAME OF POLICY, PROCEDURE OR FORM	CHAPTER NUMBER	ARTICLE NUMBER
SEXUAL MISCONDUCT & TITLE IX COMPLIANCE	1500	09

REQUESTED ACTION:  CHANGE  ADD  REMOVE

Text of Requested Change: (Continue on other side or attach a separate document.)
Changed due to procedural changes.

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

NAME OF LRSC GROUP SUBMITTING CHANGE REQUEST	DATE
Title IX	10/9/17
SIGNATURE & TITLE OF SUBMITTER	DATE
<i>Sandi Lillehaugen, Title IX Coordinator</i>	10/9/17

### ADMINISTRATIVE COUNCIL ACTION:

- REQUEST APPROVED  REQUEST TABLED FOR FURTHER REVIEW  
Date: \_\_\_\_\_  
 REQUEST NOT APPROVED  REQUEST APPROVED WITH REVISIONS  
Date: 10/9/17

LRSC PRESIDENT'S SIGNATURE	DATE
<i>[Signature]</i>	10/9/17

**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. ~~Harassment is a specific form of discrimination. Harassment, by definition, must be sufficiently severe, persistent, pervasive, or objectively offensive so as to interfere with or limit the ability of the individual or group to participate in, or benefit from, LRSC's programs or activities. Harassment and/or discrimination of an individual or group that is related to their status in a protected class is prohibited. Harassment may take the form of oral, written, graphic, or physical conduct that is related to an individual's or group's~~

~~protected class status, which includes: religion, sex, gender and gender identity, race, national origin, color, disability, sexual orientation, genetic information, age, economic or perceived social state, and any other protected classes.~~ 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**. ~~Responsible employees must address sex and gender-based discrimination and harassment, and report misconduct to the Title IX Coordinator or a vice-president.~~
- 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. Surreptitiously creates or possesses sexual images of another,~~
  - ~~vii. Disseminating unsolicited sexual images, or~~

- viii. Recording, photographing, disseminating, publishing (electronically or otherwise) or relaying sexual images of another without written consent.
- o. Sexual harassment is harassment, whether between individuals of the same or different sex, which includes unwelcome behavior or conduct 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 the effect of interfering with a person's work or a student's academic performance, or also occurred when the behavior it 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 and volunteers 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.
  - a. On campus counseling—701-662-1546
    - 1. During normal business hours, counseling staff can provide counseling and support for students to help victims/survivors understand, cope with, and recover from the effects of trauma. All contact with the counseling staff is confidential and can be done regardless of whether an individual is prepared to report the misconduct to police or LRSC.
    - 2. Disclosure to these employees will not initiate an investigation by LRSC against the student's wishes. These employees are required to report that an incident occurred without revealing any of the victim's personal identifying information. In some circumstances, LRSC counselors are required by state law to report cases involving physical trauma to law enforcement.
  - b. Off-campus advocates and counselors
    - 1. Safe Alternatives for Abused Families (SAAF), PO Box 646, Devils Lake, ND 58301  
Telephone: 701-662-7378 or Toll Free: 888-662-7378  
Crisis Line: 701-662-5050
    - 2. F-M Rape & Abuse Crisis Center; 701-293-7273; www.raccfm.com
  - c. Medical Providers
    - 1. CHI St. Alexius, 1031 7th Street NE, Devils Lake, ND 58301, 701-662-2131
    - 2. Altru Health Systems, 1001 7th Street NE, Devils Lake, ND 58301, 701-662-2157
    - 3. Lake Region District Health, 524 4th Ave NE #9, Devils Lake, ND 58301, 701-662-7035
    - 4. Premier Healthcare, 425 College Dr S, Devils Lake, ND 58301, 701-662-8662
- 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, and report misconduct to the Title IX Coordinator or a vice-president.** ~~Individuals~~ **Others** are encouraged to immediately report violations of this policy. ~~However,~~ 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](mailto:Sandra.Lillehaugen@lrsc.edu)  
~~Nicole Lundquist~~[Brandi Nelson](mailto:Brandi.Nelson@lrsc.edu), Title IX Deputy Coordinator - Office ~~13444~~; 701-662-~~16971509~~;  
~~Nicole.Lundquist@lrsc.edu~~[Brandi.Nelson@lrsc.edu](mailto:Brandi.Nelson@lrsc.edu)

Devils Lake Police Department – Lake Region Law Enforcement Center  
222 West Walnut Street, Devils Lake, ND 58301, 701-662-0700

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 ~~of the medical providers listed in Section 5e.~~

- 7) **CONFIDENTIALITY:** Individuals may request confidentially. 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 ~~desire~~ **need** to protect the safety and security of the entire campus. ~~Therefore, with the exception of the individuals identified as advocates in Section 5, LRSC employees cannot guarantee absolute confidentiality.~~
- 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 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 of sexual misconduct or any misconduct 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. In cases where the accused agrees to informal resolution, the investigator shall gather the necessary information and recommend an appropriate sanction (if any) to the Director of Student Services. 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 investigation team~~ **investigator(s) which will consist of one or more investigators.**
2. ~~The investigation team~~ **Title IX Coordinator may** shall recommend interim measures to ~~the appropriate campus supervisor, and in the case of students, 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 ~~students on~~ suspension pending the outcome of the investigation.

### b. Decision-making Process

1. The Director of Student Services ~~and/or campus supervisor~~ 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. Communicate in person (when possible) and provide in writing the final decision to both the complainant and the accused.~~
  - 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 appellant accused believes that the disciplinary action issued was insufficient or excessive.

The appellate panel will make a recommendation to the Vice President of Academic and Student 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 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 person 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 will 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 prevention and awareness training for students and employees. 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.

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.

SECTION 1500.09

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- 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 and volunteers 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 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 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 prevention and awareness training for students and employees. 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.

- 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.





State of  
**North Dakota**  
*Office of the Governor*

Doug Burgum  
*Governor*

**EXECUTIVE ORDER 2017-17**

**WHEREAS**, Doug Burgum, Governor of the State of North Dakota, by the authority granted under Article V, Section 1 of the North Dakota Constitution, hereby orders the North Dakota State Emergency Operations Plan (SEOP) inclusive of its Mission Area Operation Plans and other supporting documents be put into effect and promulgated to all appropriate entities in the state; and,

**WHEREAS**, the State Emergency Operations Plan incorporates the use of the Incident Command System (ICS)/Unified Command System (UCS) and critical components of the National Incident Management System (NIMS) as its foundation; and,

**WHEREAS**, it is directed that NIMS, in conjunction with ICS/UCS for command and management, be used and incorporated by all appropriate entities in the state, local emergency agencies and personnel to facilitate a standardized approach to effective and efficient incident management; and,

**WHEREAS**, it is directed that an adaptation of the National Preparedness Goal (NPG) and National Preparedness System (NPS) introduced in Presidential Policy Directive #8 (PPD-8), inclusive of its Mission Areas and Core Capabilities, become the standard framework from which to address state preparedness; and to better ensure synergy between all levels of government as well as Non-Government and Private Sector Organizations supporting emergency management efforts in the state; and,

**WHEREAS**, the SEOP is compatible with NIMS, National Planning Frameworks and Operations Plans for each Mission Area of the NPG/NPS; PPDs, the North Dakota State Standard Multi-Hazard Mitigation Plan, the Emergency Management Accreditation Program (EMAP), and other directives as applicable; and,

**WHEREAS**, the SEOP assigns tasks and responsibilities to state government agencies and subordinate organizations within state agencies, as well as boards and commissions; and establishes a broad concept for conducting prevention, protection, mitigation, response, and recovery operations daily; as well as if an emergency, disaster or catastrophe threatens or occurs anywhere in the state; and,

**WHEREAS**, those state agencies, boards, and commissions identified in the SEOP with responsibilities to maintain internal emergency plans are directed to do so in a manner compatible with the SEOP; to maintain resource capability inventories for executing their assignments pursuant to their internal emergency plans and the SEOP; to maintain Continuity of Operations (COOP)

October 6, 2017  
Page 2

plans and support Continuity of Government (COG) planning if directed to do so in the SEOP; and to fully support prevention, protection, mitigation, response, and recovery activities as coordinated by the Division of Homeland Security on a daily and emergency basis; and,

**WHEREAS**, it is further directed that all state agencies, boards, and commissions identified in the SEOP maintain internal emergency plans and resource capability inventories to provide them to the Division of Homeland Security annually, or when there are significant changes; and,

**WHEREAS**, the authority for continued development, maintenance, and revision of the SEOP to the Division of Homeland Security is directed herein; all state agencies, boards, and commissions are directed to support SEOP development, maintenance, and revision efforts in a cooperative and collaborative manner.

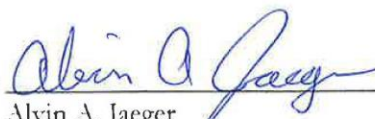
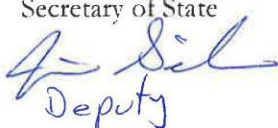
**NOW, THEREFORE**, this order is issued upon the following bases and for the following reasons:

1. The Governor is vested with the executive authority pursuant to Article V, Section 1, of the North Dakota Constitution; and,
2. The Governor is vested with statutory authority to issue executive orders to minimize or avert the effects of a disaster or emergency pursuant to Chapter 37-17.1, North Dakota Century Code; and,
3. A coordinated and effective effort of all state agencies, boards, and commissions is required to minimize the impact of emergencies and disasters in this state.

This order is effective immediately and shall remain in effect until further notice or upon revocation. All previous executive orders pertaining to the implementation of the SEOP are hereby revoked, and previous versions of the SEOP and supporting documents are hereby superseded where applicable.

Executed at Bismarck, North Dakota, this 6<sup>th</sup> day of October 2017

  
\_\_\_\_\_  
Doug Burgum  
Governor

Attest:   
\_\_\_\_\_  
Alvin A. Jaeger  
Secretary of State  
  
Deputy