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TO: Dr. Monty Sullivan
LCTCS President

THROUGH: Joseph F. Marin
Chief Operations Officer

FROM: Suzette Meiske
Director of Human Resources

SUBJECT: LCTCS Policy #6.011, "Harassment, Discrimination and Retaliation"

DATE: January 23, 2017

Recommendation: Staff recommends that the Board accept the attached revised LCTCS Policy #6.011, "Harassment, Discrimination and Retaliation".

Background: The current policy was adopted in 2001 and has never been revised. Revisions and updates are needed to acknowledge changes in federal laws and jurisprudence. The revisions include language specifically requiring employees to cooperate with investigations, creating responsibility for reporting unacceptable behavior or environment, and clarifying that making an intentionally false or malicious accusation is a violation of the policy.

The policy is intended to apply in the workplace and to employees. Students primarily are covered under LCTCS Student Service policies, but would be covered as student workers under this policy if employed at the System Office or a college.

Fiscal Impact: No fiscal impact is expected.

History of Prior Actions: The revisions to the policy were provided to the Board for review and advisement at the December 14, 2016 meeting.

Benefits to System: The proposed changes will bring the policy up to date with federal law and court decisions.

Approved for Distribution to the Board
Dr. Monty Sullivan, President

Date

LOUISIANA COMMUNITY & TECHNICAL COLLEGE SYSTEM
Policy # 6.011

Title: Harassment, Discrimination and Retaliation Policy

Authority: Board Action

Original Adoption: 06/13/01

Effective Date: 06/13/01-~~XX/XX/XX~~

Last Revision: Initial ~~XX/XX/XX~~

The Louisiana Community and Technical College System (LCTCS) seeks to maintain a workplace that fosters respect and promotes a harmonious and productive working relationship. LCTCS prohibits discrimination and/or harassment based on race, color, religion, sex (including identity and pregnancy), national origin, age, disability, genetic information, veteran status and/or any other basis protected by federal or state law by any person, applicant, vendor or contractor. LCTCS also prohibits retaliation against any individual who reports discrimination or harassment, or who participates in an investigation into discrimination or harassment.

~~Harassment, including sexual harassment, is prohibited by the Equal Employment Opportunity Commission, the Office for Civil Rights and state regulations (R.S. 23:301, 312, 332), and therefore, it is the policy of LCTCS that unlawful harassment of employees and students is prohibited.~~

~~Harassment is shall mean physical, verbal and/or visual conduct that creates is based on an intimidating, offensive, or hostile environment, which interferes with work performance. This includes harassment because of race, sex, sexual orientation, religious creed, color, national origin, ancestry, disability or medical condition, age, or any other basis protected by federal, state or local law, ordinance or regulation.~~

~~Sexual Harassment is defined by the Equal Employment Opportunity Commission as:~~

~~Sexual Harassment includes unwelcome Unwelcome sexual advances, requests for sexual favors, and other verbal, visual or physical conduct of a sexual nature... when (1) submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment or academic credit or interferes with a person's performance, (2) submission or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual, or (3) such conduct has the purpose and effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile or offensive working environment.~~

Racial slurs, ethnic jokes, obscene gestures, posting of offensive statements, posters or cartoons, or other similar conduct based on race are examples of racial harassment.

~~LCTCS applies this definition to the areas of academic advancement, academic standing or academic performance.~~

Workplace harassment infringes on employees' right to a comfortable work environment, and it is a form of misconduct that undermines the integrity of the employment relationship. No employee – male or female – should be subjected to unsolicited and unwelcome overtures or conduct, either verbally, visually, physically or electronically transmitted. ~~Although this list is not all-inclusive, examples of conduct that is prohibited includes:~~

- ~~• Taking any personnel action on the basis of an employee's submission to or refusal of sexual overtures~~
- ~~• Unwelcome or unwanted conversations~~
- ~~• Unwelcome or unwanted touching~~
- ~~• Continued or repeated verbal abuse of a sexual nature~~
- ~~• Explicit or degrading verbal comments, suggestions, or slurs about another individual or his/her appearance~~
- ~~• Offensive comments regarding sexual or private matters~~
- ~~• Display of sexually suggestive pictures, objects~~
- ~~• Offensive jokes~~
- ~~• Verbal abuse, comments, names or slurs that in any way relate to an individual's race, color, sex, sexual orientation, age, religion, national origin or disability~~
- ~~• Any other offensive or abusive physical, visual or verbal conduct~~

This policy applies to all members of the LCTCS Board of Supervisors, **classified and unclassified employees, students, supervisors, managers, faculty, vendors, and all other individuals doing business with LCTCS.** It is the policy of LCTCS that no member of the LCTCS community may harass another. ~~This includes harassment of an employee by another employee, of a student by an employee, of an employee by a student, of a student by another student.~~ Additionally, under appropriate circumstances, LCTCS may take action to protect its employees and students from harassment, on LCTCS property or at LCTCS-sponsored events, by individuals who are not ~~students or employees of LCTCS.~~

Complaints

Every employee is responsible for reporting any unacceptable behavior or environment which may violate this policy. A complaint of harassment should be presented as promptly as possible after the alleged harassment occurs. Any employee who believes he/she is the subject of harassment or who has knowledge of harassing behavior must report such conduct to their direct supervisor, and the institution's human resource department. All institutions are required to develop a system of recording all formal written complaints to be submitted and kept on file in the institution Chancellor's **or Director's (as appropriate)** office and in the office of the **System President** system president for the **those of LCTCS** system office staff. ~~Any student who believes he/she is the subject of harassment or who has knowledge of harassing behavior must report such~~

~~conduct to student affairs personnel. He/she also may submit a complaint to the institution's Chancellor. No student or employee is required to report or make a complaint of harassment to the person who is allegedly engaging in the problematic conduct. In the event that an individual feels uncomfortable making a complaint at the institution level, such complaint may be made at the system level with the LCTCS Director of Human Resources (225-219-8700 922-2800), Louisiana Community and Technical College System, ~~822 Neeshe Avenue,~~ 265 S. Foster Dr., Baton Rouge, Louisiana ~~70802-70806~~. Each campus is required to provide to employees ~~and students~~ a copy of this policy and post a poster with contact list identifying individual names, titles, physical location and telephone number where complaints may be filed.~~

Complaints of harassment will be taken seriously, investigated promptly and in as impartial and confidential a manner as possible. A member of human resources will conduct investigations, circumstances dictate otherwise, ~~unless otherwise deemed necessary, in order to assure an impartial and confidential investigation.~~

For an individual to make an intentionally false and/or malicious accusation of harassment, discrimination, and/or retaliation is a violation of this policy. Any individual found to have done so will be subject to disciplinary action, up to and including termination. This is not intended to discourage complaints and/or reports when there is sincere belief that harassment, discrimination, and/or retaliation occurred.

LCTCS will not tolerate any type of discipline or other form of retaliation, direct or indirect, against any employee or other person who, in good faith, files a complaint of or responds to questions in regard to having witnessed harassment. **All employees are required to fully cooperate in any investigation.** False charges are treated as serious offenses and may result in disciplinary and/or civil action.

Consequences of Violations

Any employee ~~or member of management~~ who is found, after appropriate investigation, to have engaged in harassing conduct prohibited by this policy shall be ~~is~~ subject to appropriate disciplinary action up to and including termination of employment ~~and/or student standing per the institution's policies in place governing students.~~ **Also, any person or business found in violation of this policy may be prohibited from conducting business with the institution involved.**

Discrimination/Harassment Complaint Form

Name of Complainant: _____ Date form completed: _____

Department/Institution: _____

Home Phone: _____ Business Phone: _____

1. Charge of discrimination based on:

- | | |
|---|--|
| <input type="checkbox"/> Race/Color | <input type="checkbox"/> Sex |
| <input type="checkbox"/> Sexual Orientation | <input type="checkbox"/> Religious Creed |
| <input type="checkbox"/> National Origin/Ancestry | <input type="checkbox"/> Disability or Medical Condition |
| <input type="checkbox"/> Age | <input type="checkbox"/> Other _____ |

2. ~~Statement of Discrimination/Harassment~~, please **Please** provide the following information (use an attached sheet if necessary):

- 1) Date(s), time(s), and location(s) of the incident/incidences that took place

- 2) Description of each incident: e.g., Was any physical contact made? What was said and/or done? etc.

- 3) Name(s) of anyone present during each incident

- 4) Anyone with whom you've discussed the incident/incidences

Comments:

Complainant Signature: _____ Date: _____

Complaint Recipient Signature: _____ Date: _____

Poster
Louisiana Community and Technical College System

HUMAN RESOURCES POLICY REGARDING HARASSMENT

~~Harassment, including sexual harassment, is prohibited by the Equal Employment Opportunity Commission, the Office for Civil Rights and state regulations. Therefore, it is the policy of LCTCS that unlawful harassment of employees and students is prohibited.~~

~~Harassment is physical, verbal and visual conduct that creates an intimidating, offensive, or hostile environment, which interferes with work performance. This includes harassment because of race, sex, sexual orientation, religious creed, color, national origin, ancestry, disability or medical condition, age, or any other basis protected by federal, state or local law, ordinance or regulation.~~

~~Sexual Harassment is defined as:~~

~~Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature...when (1) submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment, (2) submission or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual, or (3) such conduct has the purpose and effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile or offensive working environment.~~

~~LCTCS applies this definition to the areas of academic advancement, academic standing or academic performance.~~

~~No student or employee is required to report or make a complaint of harassment to the person who is allegedly engaging in the problematic conduct. Complaints should be presented as promptly as possible after the alleged harassment occurs through the following avenues for this institution:~~

~~Employee: Your direct supervisor and Human Resources contact at:~~

~~_____~~

~~Student: Student affairs personnel at:~~

~~_____~~

~~Chancellor~~

~~_____~~

~~LCTCS Director of Human Resources (225 219-8700), Louisiana Community & Technical College System, 822 Neosho Avenue, Baton Rouge, LA 70802~~

LCTCS HARASSMENT COMPLAINT INVESTIGATION FORM

Investigator: _____ Date: _____

Complainant: _____ Location/Dept.: _____

- Take the complaint seriously and inform Director of Human Resources
 - **Make arrangements to conduct investigation immediately – don't delay. Assure that the complainant is comfortable with the person(s) assigned to conduct the investigation.**
 - Determine appropriate person to conduct the investigation.
 - Have a witness during the investigation.
 - Document the facts each step of the investigation beginning with initial complaint.
 - Maintain the confidentiality of the investigation – limit to those involved and those with a need to know.
1. **Interview the complainant** Explore the allegations thoroughly **and ask follow-up questions as needed.**
- Who was the alleged harasser?
 - What is your relationship with the accused (i.e. subordinate, co-worker, personal friend)?
 - What exactly happened/nature of the harassment (comments, touching)?
 - When and where did the incident(s) occur? Be specific: dates & times.
 - Was the incident limited to one instance or was it continuing in nature? Explain.
 - How did you react to the incident(s)?
 - What did you tell the alleged harasser?
 - Can any witnesses be identified (I may need to speak to them)?
 - Is there any other evidence of the incident occurring?
 - Are you aware of any other employees that may have experienced the same or similar...?
 - Why the delay in reporting the incident (if not immediate)?
 - Are you aware of the system's harassment policy (provide a copy)
 - Was there a specific reason for the harassment, i.e. intimidation, retaliation, or attraction?
 - How were you and your work affected by this?
 - Did you discuss the incident with anyone else?
 - What is your desired result?

➤ ~~Offer Employee Assistance Program assistance at this time, if appropriate.~~

- Express a genuine concern and assure the employee that you will take the complaint seriously.
- Inform him/her that retaliation will not be tolerated, and that you will follow up after the investigation.
- Instruct him/her to keep the incident & contents of discussion confidential as to not impede the investigation.

2. Interview the Alleged Harasser

- Determine if any past problems **have occurred** in this or other areas.
- Inform the accused/alleged harasser of the claim (as specific as necessary) and afford an opportunity to respond to the allegations.
- Listen and document carefully.

➤ Are you aware of the system's harassment policy? (give a copy)

➤ Are there any witnesses to substantiate his/her position?

➤ What is your relationship with the complainant?

- Communicate **NO** tolerance of retaliation, i.e. mistreatment of the complainant
- Be sensitive, yet firm
- Let him/her know how you intend to proceed and that confidentiality will be maintained to the extent possible, keeping the investigation on a need to know basis.
- Instruct him/her to keep the incident & contents of discussion confidential as to not impede the investigation.

3. Resolve the complaint

➤ Interview witnesses (consider whether to interview before or after the alleged harasser).

➤ Was policy violated?

➤ Was conduct of a sexual nature? Was the sexual conduct unwelcome?

➤ Was harassment *quid pro quo* or *hostile work environment*?

➤ Was the complainant a participant?

➤ What is the emotional character of the complainant? ~~Should EAP assistance be offered?~~

➤ What is the accused/alleged harasser's emotional character?

➤ How does the complainant want it handled?

4. Follow up

- With the complainant, accused/alleged harasser, witnesses, or anyone else who has an ***absolute need to know***.
- Apply appropriate disciplinary action.

FAILURE TO INVESTIGATE PROMPTLY AND TAKE PROMPT REMEDIAL ACTION
MAY SUBJECT EMPLOYER TO LIABILITY