



## **PROCEDURES FOR HANDLING COMPLAINTS AGAINST LLTC STAFF MEMBERS PURSUANT TO THE SEXUAL AND GENDER-BASED HARASSMENT POLICY**

### ***Please see the end of this document for additional resources***

The Leech Lake Tribal College (LLTC) students, faculty, staff, other LLTC appointees, or third parties who believe they are directly affected by the conduct of a LLTC staff member (collectively "Initiating Parties") may: request information or advice, including whether certain conduct may violate the Policy; seek informal resolution; or file a formal complaint. These three options are described below. Initiating Parties are encouraged to bring their concerns to the LLTC Title IX Coordinator, but may, if they choose, contact another School or LLTC officer, who will refer the matter as appropriate.

As set forth below, interim measures designed to support and protect the Initiating Party or the LLTC community may be considered or implemented at any time, including during a request for information or advice, informal resolution, or a formal complaint proceeding. Consistent with LLTC policy, interim measures might include, among others: restrictions on contact; work-schedule alteration; changes in work locations; leaves of absence; or increased monitoring of certain areas of the campus. These interim measures are subject to review and revision throughout the processes described below.

### **A. Requests for Information or Advice**

Anyone seeking information or advice can expect to learn about resources available at the LLTC, LLTC campus security, and elsewhere that provide counseling and support. They also will be advised about the steps involved in pursuing an informal resolution or filing a formal complaint. The Title IX Coordinator has information about any companion policies or procedures that may apply at LLTC. There is also a sexual harassment policy and complaint process in the LLTC Title IX policy, covering complaints brought by members of the LLTC. In addition, the Title IX Coordinator will discuss with Initiating Parties whether any interim measures are appropriate at this stage.

If the incident happened on campus, it can be reported to the Cass Lake Police Department at 218- 335-2351. If the incident happened anywhere else, it can be reported to the local law enforcement with jurisdiction in the location where it occurred. Know that the information you report can be helpful in supporting other reports and/or preventing further incidents.

## **B. Filing a Complaint**

A formal complaint must be in writing and signed and dated by a Complainant or a third party filing on behalf of a potential Complainant (Reporter). It should state the name of the alleged harasser (if known) and describe with reasonable specificity the incident(s) of alleged harassment, including the date and place of such incident(s). The complaint must be in the

Complainant or Reporter's own words, and may not be authored by others, including family members, advisors, or attorneys. Attached to the complaint should be a list of any sources of information (for example, witnesses, correspondence, records, and the like) that the Complainant or Reporter believes may be relevant to the investigation. However, a complaint should not be delayed if such sources of information are unknown or unavailable. The Title IX coordinator will not investigate a new complaint if it has already decided a formal complaint based on the same circumstances or if the parties and the LLTC have agreed to an informal resolution based on the same circumstances. Whether or not a complaint is filed with Title IX coordinator, any person may file a complaint of discrimination with Minnesota Department of Human Rights, the U.S. Equal Employment Opportunity Commission, the U.S. Department of Education Office of Civil Rights, or any other state or federal agency having jurisdiction.

## **C. Timeframe for Filing a Complaint**

The LLTC does not limit the timeframe for filing a complaint. The LLTC encourages complaints to be filed as soon as reasonably possible following an alleged Policy violation because the LLTC's ability to gather adequate information may be limited where a significant length of time has elapsed between an incident and the filing of a complaint. Further, the LLTC's ability to complete its processes may be limited with respect to Respondents who are no longer employed by the LLTC.

## **D. Initial Review**

Once a complaint is received by the Title IX coordinator, the Title IX coordinator will assign the case to the LLTC Title IX investigator for an initial review. The LLTC may designate an additional individual to work jointly with the Title IX investigator (collectively, the "Investigative Team"). Investigators and LLTC designees will have appropriate training, so that they have the specialized skill and understanding to conduct prompt and effective sexual and gender-based harassment investigations. The Investigative Team will contact the Complainant or Reporter in an attempt to gather a more complete understanding of the allegations, as well as any related conduct that may implicate the Policy. When a complaint is brought by a Reporter, the Investigative Team will endeavor to meet with the person identified as the potential

Complainant both to gather information and to discuss his or her interest in participating in an investigation. Based on the information gathered, the Investigative Team will determine whether the information, if true, would constitute a violation of the Policy such that an investigation is warranted or whether the information warrants an administrative closure. The Investigative Team will convey this determination to: the Complainant (and the Reporter, if there is one); the Title IX Coordinator. The Investigative Team will work with the LLTC Title IX Coordinator to implement any appropriate interim measures to be put in place by the School or unit pending the completion of the case (or to revise as necessary any measures already in place). Ordinarily, the initial review will be concluded within one week of the date the complaint was received.

## **E. Investigation**

Following the decision to begin an investigation, the Investigative Team will notify the Respondent in writing of the allegations and will provide a copy of the Policy and these procedures. The Respondent will have one week in which to submit a written statement in response to the allegations. This statement must be in the Respondent's own words; Respondents may not submit statements authored by others, including family members, advisors, or attorneys. Attached to the statement should be a list of all sources of information (for example, witnesses, correspondence, records, and the like) that the Respondent believes may be relevant to the investigation. If the decision is made to begin an investigation in a case where a Reporter filed the complaint, and the Complainant is unwilling to participate but the School or unit has assessed the severity of the harassment and the potential risk of a hostile environment for others in the community and has determined to proceed, then, for the purposes of these Procedures, the LLTC Title IX Coordinator will be considered the Complainant. The Investigative Team will request individual interviews with the Complainant and the Respondent, and, as appropriate, with other witnesses, which may include those identified by the parties as well as relevant officers of LLTC or others. When identifying potential witnesses, the parties should understand that the purpose of interviews is to gather and assess information about the incident(s) at issue in the complaint, not to solicit general information about a party's character. When a complaint involves allegations that, if true, also might constitute criminal conduct, Respondents are hereby advised to seek legal counsel before making any written or oral statements. The investigation process is not a legal proceeding, but Respondents might wish to obtain legal advice about how this process could affect any criminal case in which they are or may become involved. After the collection of additional information is complete but prior to the conclusion of the investigation, the Investigative Team will request individual follow-up interviews with the Complainant and the Respondent to give each the opportunity to respond to the additional information.

## **F. Personal Advisors**

In cases of alleged domestic violence, dating violence, sexual assault, or stalking, both the Complainant and the Respondent may bring a personal advisor to any interviews with the Investigative Team. A personal advisor may not be related to anyone involved in the complaint

or have any other involvement in the process. In cases where the Respondent is also a member of a collective bargaining unit and requests a union representative, in accordance with a union member's right to request representation during investigatory interviews that may reasonably lead to discipline, the Complainant may bring a personal advisor to any interviews with the Investigative Team. Personal advisors may view a redacted version of the complaint or other documents provided to the parties, offer feedback on their advisee's written statements, and provide general advice. During interviews, personal advisors may not speak for their advisees, although they may ask to suspend the interviews briefly if they feel their advisees would benefit from a short break.

## **G. Confidentiality**

The Title IX Coordinator, personal advisors, and others at the LLTC employees involved in or aware of the complaint will take reasonable steps to protect the privacy of all involved. Once a complaint is filed, the Complainant or Reporter, the Respondent, and any witnesses will be notified of the potential for compromising the integrity of the investigation by disclosing information about the case and the expectation that they therefore keep such information – including any documents they may receive or review – confidential. They also will be notified that sharing such information might compromise the investigation or may be construed as retaliatory. Retaliation of any kind is a separate violation of the Policy and may lead to an additional complaint and consequences.

The parties remain free to share their own experiences, though to avoid the possibility of compromising the investigation, it is generally advisable to limit the number of people in whom they confide.

## **H. Coordination with Law Enforcement Authorities**

In all cases, the Investigative Team will have completed the initial review without delay and, as appropriate, will have proposed interim measures to LLTC Title IX coordinator. In the event that an allegation includes behavior or actions that are under review by law- enforcement authorities, the Investigative Team will, in light of status updates from law- enforcement authorities and the Title IX Officer, assess and reassess the timing of the investigation under the Policy, so that it does not compromise the criminal investigation.

## **I. Conclusion of the Investigation and Issuance of Final Report**

At the conclusion of the investigation, the Investigative Team will make findings of fact, applying a preponderance of the evidence standard, and determine based on those findings of fact whether there was a violation of the Policy. The Investigative Team will provide the Complainant and the Respondent with a written draft of the findings of fact and analysis and will give both parties one week to submit a written response to the draft. The Investigative Team will consider any written responses before finalizing these sections of the report and the final section of the report, which will outline any recommended measures to be taken by the School or unit to eliminate any harassment, prevent its recurrence, and address its effects. The Title IX Officer and

LLTC will work jointly to put in place such measures as they determine are appropriate. Consistent LLTC policies, measures imposed at this stage might include, among others: restrictions on contact; work- schedule alteration; leaves of absence; or increased monitoring of certain areas of the campus. The investigation will be completed and the final report provided to the Complainant, the Respondent, the LLTC Title IX Coordinator, and the appropriate officer in the School or unit, ordinarily within six weeks of receipt of the complaint. The imposition of disciplinary sanctions will be considered separately by the appropriate officials of LLTC, consistent with the "Discipline Process" in the LLTC Personnel Policies Manual. Proven Sexual Misconduct/Violence may include the following sanction on the staff or faculty found responsible:

- Termination of employment status for an indefinite period. The conditions for re-employment, if any, shall be stated in the hearing outcome letter.

Both parties will be notified of the outcome in writing by certified mail or other agreed upon form of notice within five business days after the hearing at the same time. Both parties have the right to appeal the decision reached through the hearing proceedings within five days after the hearing.

## **K. Special Circumstances**

### ***i. Request for Anonymity***

If a potential Complainant asks to remain anonymous, then the Investigative Team, the LLTC Title IX Coordinator, or the Title IX Officer, as appropriate, will consider how to proceed, taking into account the potential Complainant's wishes, the LLTC's commitment to provide a non-discriminatory environment, and the potential Respondent's right to have specific notice of the allegations. The Investigative Team, LLTC Title IX Coordinator, or the Title IX Officer may conduct limited fact finding to better understand the context of the complaint. In some circumstances, a request for anonymity may mean an investigation cannot go forward, or the Investigative Team, or the LLTC Title IX Coordinator may determine that further investigation is necessary, in which case the potential Complainant will be informed that his or her identity will be disclosed as necessary for the investigatory process. In other circumstances, the Investigative Team and/or the LLTC Title IX Coordinator may determine that the matter can be appropriately resolved without further investigation and without revealing the Complainant's identity.

### ***ii. Administrative Closure***

If, after conducting the initial review of a formal complaint, the Investigative Team finds that the allegation, if true, would not constitute a violation of the Policy, then LLTC Title IX coordinator will administratively close the case and notify the Complainant (and the Reporter, if there is one). Where the Complainant is unwilling to participate in further investigation, the Title IX coordinator, in consultation with the Title IX Officer, will assess the severity of the alleged harassment or the potential risk of a hostile environment for others in the community and will determine whether administrative closure is appropriate or whether the LLTC should proceed

with an investigation. Within one week of the decision to close a case administratively, the Complainant or Reporter may request reconsideration on the grounds that there is substantive and relevant new information that was not available at the time of the decision and that may change the outcome of the decision. The Title IX coordinator will consider requests for reconsideration and inform the Complainant or Reporter of the outcome, ordinarily within one week of the date of the request. In cases where the Title IX coordinator concludes that the alleged conduct, while not a violation of the Policy, might implicate LLTC conduct policies, the Title IX coordinator may refer the complaint to the appropriate LLTC official.

### ***iii. Request to Withdraw the Complaint***

While every effort will be made to respect the Complainant's wishes to withdraw a formal complaint, the LLTC must be mindful of its overarching commitment to provide a non-discriminatory environment. Thus, in certain circumstances, the Title IX coordinator may determine that investigation is appropriate despite a Complainant's request to withdraw the complaint or failure to cooperate. Other circumstances also may result in a request to withdraw the complaint being declined, where, for example, a request to withdraw is made after a significant portion of the investigation has been completed and terminating the investigation would be inequitable.

### ***iv. Request for Informal Resolution After a Complaint has Been Filed***

Once a complaint has been opened for investigation and before the final report has been provided to the parties, a party may request informal resolution as an alternative to formal resolution of the complaint, but that disposition requires agreement of the Complainant and the Respondent and the approval of the Title IX coordinator. If such a request is approved, the timeframes will be stayed, and the Investigator or a designee will take such steps as he or she deems appropriate to assist in reaching a resolution. If the parties cannot reach an informal resolution within two weeks from receipt of the request, then the Investigative Team will resume the investigation of the complaint in accordance with the formal complaint procedures.

## **K. Appeal**

Both the Respondent and the Complainant may appeal the decision of the Investigative Team to the Title IX Officer or designee based on the following grounds:

1. A procedural error occurred, which may change the outcome of the decision; or
2. The original hearing was not conducted in conformity with prescribed procedures and substantial prejudice to the complainant or the respondent resulted.
3. The evidence presented at the previous hearing was not "sufficient" to justify a decision against the student or group.
4. New evidence which could have substantially affected the outcome of the hearing has been discovered since the hearing. The evidence must not have been available at the time of the original hearing. Failure to present information that was available is not grounds for an appeal.

5. The sanction is not appropriate for the violation. This provision is intended to be utilized when a determined sanction is inherently inconsistent with LLTC procedures or precedent. Simple dissatisfaction with a sanction is not grounds for overturning a sanction under this provision

Disagreement with the Investigative Team's findings or determination is not, by itself, a ground for appeal. Appeals of the Investigative Team's decision must be received by the Title IX coordinator or within one week of the date of the final report. Likewise, appeals of decisions to administratively close a case or to deny a request to withdraw the complaint must be received by the Title IX coordinator or designee within one week of the date of the decision under appeal. Ordinarily, appeals will be decided within two weeks and the parties and the School or unit Title IX Coordinator promptly will be informed of the outcome in writing.

## **L. Resources**

Support Within Reach: Bemidji/Walker Offices: 1-800-708-2727

MN Domestic Violence Hotline: 1-866- 223-1111

Minnesota's Day One Crisis Hotline: 1-866-223-1111

Minnesota Indian Women's Sexual Assault Coalition: 1-877-995-4800

National Domestic Violence Hotline: 1-800-799-7233 (SAFE)

Rape, Abuse & Incest National Network Hotline: 1-800-656-4673 (HOPE)

Leech Lake Family Violence Prevention Program: 1-800-442-3912

Communication Services for the Deaf (TTY): 1-800-252-1017 (TTY)

Know Your IX: Empowering Students to Stop Sexual Violence: <https://www.knowyourix.org/>

Communication Services for the Deaf (Voice): 1-866-845-7445 (Voice)

U.S. Department of Education, Office for Civil Rights (OCR)

U.S. Equal Employment Opportunity Commission (EEOC)