



## **Procedure – Sexual Violence**

### **1B.3.1**

#### **Part 1. Procedure objective.**

This procedure is designed to further implement Lake Superior College policy 1B.3 prohibiting sexual violence. This procedure provides a process through which individuals alleging sexual violence may pursue a complaint.

This procedure is intended to protect the rights and privacy of both the complainant and respondent and other involved individuals, as well as to prevent retaliation and reprisal.

#### **Part 2. Definitions.**

**Subpart A. Policy definitions.** The definitions in Policy 1B.3 also apply to this procedure.

**Subpart B. Campus security authority.** Campus security authority includes the following categories of individuals at the College:

1. The College's Security Department;
2. Other individuals who have campus security responsibilities in addition to the College Security Department to include maintenance staff;
3. All College administrators and supervisors, Student Life personnel, advisors, and Student Services staff;
4. An official of the College who has significant responsibility for student and campus activities, including, but not limited to, student discipline and campus judicial proceedings, and advisors to recognized student organizations. Professional counselors, whose official responsibilities include providing mental health counseling, and who are functioning within the scope of their license or certification are not included in this definition.

#### **Part 3. Reporting incidents of sexual violence.**

**Subpart A. Prompt reporting encouraged.** Complainants of sexual violence may report incidents at any time, but are strongly encouraged to make reports promptly in order to best preserve evidence for a potential legal or disciplinary proceeding.

Complainants are strongly encouraged to report incidents of sexual violence to law enforcement for the location where the incident occurred. Complainants are also encouraged to contact the local victim/survivor services office, counseling and health care providers, and Lake Superior College campus security authorities for appropriate action.

**Subpart B. Assistance in reporting.** When informed of an alleged incident of sexual violence, all Lake Superior College students and employees are urged to encourage and assist complainants, as needed, to report the incident to local law enforcement, local victim/survivor services and campus security authorities.

Lake Superior College campus security authorities, when informed of an alleged incident of sexual violence, shall promptly assist the complainant, including providing guidance in filing complaints with outside agencies including law enforcement; obtaining appropriate assistance from victim/survivor services or medical treatment professionals; and filing a complaint with the appropriate administrator.

When appropriate, Lake Superior College may pursue legal action against a respondent, including, but not limited to, trespass or restraining orders, in addition to disciplinary action under the applicable student or employee conduct standard.

#### **Part 4. Confidentiality of reporting.**

**Subpart A. Confidential reports.** Because of laws concerning government data contained in Minnesota Statutes chapter 13, the Minnesota Government Data Practices Act, the College cannot guarantee confidentiality to those who report incidents of sexual violence except where those reports are privileged communications with licensed health care professionals. Some off-campus reports also may be legally privileged by law, such as reports to clergy, private legal counsel, or health care professionals.

**Subpart B. Reports to campus security authorities.** Complainants of sexual violence may contact any campus security authority for appropriate assistance or to report incidents. Absolute confidentiality of reports made to campus security authorities cannot be promised. However, campus security authorities shall not disclose personally identifiable information about a complainant of sexual violence without the complainant's consent except as may be required or permitted by law. There may be instances in which Lake Superior College determines it needs to act regardless of whether the parties have reached a personal resolution or if the complainant requests that no action be taken. In such instances, Lake Superior College will investigate and take appropriate action, taking care to protect the identity of the complainant and any other reporter in accordance with this procedure.

**Subpart C. Required Reports.** Any campus security authority or any college employee with supervisory or student-advising responsibility who has been informed of an alleged incident of sexual violence must follow College procedures for making a report. In

addition, the campus security authority shall report to the Regional Investigator, the Human Resources Director and/or the Vice President of Student Services in order to initiate any applicable investigative or other resolution procedures.

Campus security authorities may be obligated to report to law enforcement the fact that a sexual assault has occurred, but the name or other personally identifiable information about the complainant will be provided only with the consent of the complainant, except as may be required or permitted by law.

## **Part 5. College Policy Notices.**

**Subpart A. Distribution of policy.** Lake Superior College shall make available to each student and employee information about its Sexual Violence Policy and Procedure, post this information in appropriate campus locations, and on its policy website. Individuals may request a printed copy from the Regional Investigator, the Human Resources Office, or the Office of the Vice President of Student Services.

**Subpart B. Required Notice.** The College shall have a sexual violence policy, which shall include the notice provisions in this part.

1. **Notice of complainant options.** Following a report of sexual violence the complainant shall be promptly notified of:
  - a. Where and how to obtain immediate medical assistance; complainants should be informed that timely reporting and a medical examination within 72 hours are critical in preserving evidence of sexual assault and proving a criminal or civil case against a perpetrator. Complainants should be told, however, that they may report incidents of sexual violence at any time.
  - b. Where and how to report incidents of sexual violence to local law enforcement officials, and/or appropriate Lake Superior College system contacts for employees, students and others. Such contacts should be identified by name, location and phone number for 24-hour availability, as applicable.
  - c. Resources for where and how complainants may obtain on- or off-campus counseling, mental health or other support services.
  
2. **Notice of complainant rights.** Complainants shall be notified of the following:
  - a. Their right to file criminal charges with local law enforcement officials in sexual assault cases;
  - b. Rights under the crime victims bill of rights, Minnesota Statutes Sections 611A.01 – 611A.06, including the right to assistance from the Crime Victims Reparations Board and the commissioner of public safety;
  - c. Availability of prompt assistance from campus officials, upon request,

in notifying the appropriate campus investigating authorities and law enforcement officials, and, at the direction of law enforcement authorities, assistance in obtaining, securing and maintaining evidence in connection with a sexual violence incident;

d. Assistance available from campus authorities in preserving for a sexual violence complainant materials relating to a campus disciplinary proceeding;

e. That complaints of incidents of sexual violence made to campus security authorities shall be promptly and appropriately investigated and resolved;

f. That, at a sexual assault complainant's request, the College, may take action to prevent unwanted contact with the alleged assailant, including, but not limited to, transfer of the complainant and/or the respondent to alternative classes, or a work site if such alternatives are available and feasible.

**Subpart C. Complaint procedure.** The College shall notify students of the process used to investigate and resolve allegations of sexual violence, as provided in part 6, subpart H.

## **Part 6. Investigation and disciplinary procedures.**

**Subpart A. Immediate action.** Lake Superior College may, at any time during the report/complaint process, reassign or place on administrative leave an employee alleged to have violated this policy, in accordance with the procedures in System Procedure 1B.1.1. Such action must be consistent with the applicable collective bargaining agreement or personnel plan.

Lake Superior College may summarily suspend or take other temporary measures against a student alleged to have committed a violation of this policy, in accordance with College Procedure 1B.1.1.

**Subpart B. General principles.** Procedures used in response to a complaint of sexual violence should avoid requiring complainants to follow any plan of action, to prevent the possibility of re-victimization. Mediation or other negotiated dispute resolution processes between the complainant and the respondent concerning allegations of sexual violence shall be used only if both parties voluntarily consent. No party shall be required to participate in mediation.

Lake Superior College investigation and disciplinary procedures concerning allegations of sexual violence against employees or students shall:

1. Be respectful of the needs and rights of individuals involved;
2. Proceed as promptly as possible;
3. Permit a student complainant and a student respondent to have the same opportunity to have an appropriate support person or advisor present at

- any interview or hearing, in a manner consistent with the governing procedures and applicable data practices law;
4. Employees shall have the right to representation consistent with the appropriate collective bargaining agreement or personnel plan;
  5. Be conducted in accordance with applicable due process standards and privacy laws;
  6. Inform both the complainant and respondent of the outcome in a timely manner, as permitted by applicable privacy law.

The past sexual history of the complainant and respondent shall be deemed irrelevant except as that history may directly relate to the incident being considered.

A respondent's use of any drug, including alcohol, judged to be related to an offense may be considered to be an exacerbating rather than mitigating circumstance.

**Subpart C. Relationship to parallel proceedings.** In general, Lake Superior College investigation and disciplinary procedures for allegations of sexual violence will proceed independent of any action taken in criminal or civil courts. Lake Superior College need not, and in most cases should not, delay its proceedings while a parallel legal action is ongoing. If the College is aware of a criminal proceeding involving the alleged incident, they may contact the prosecuting authority to coordinate when feasible. Criminal or civil court proceedings are not a substitute for College procedures.

**Subpart D. False statements prohibited.** Lake Superior College takes allegations of sexual violence very seriously and recognizes the consequences such allegations may have on a respondent as well as the complainant. Any individual who knowingly provides false information regarding the filing of a complaint or report of sexual violence or during the investigation of such a complaint or report may be subject to discipline or under certain circumstances, legal action. Complaints of conduct that are found not to violate policy are not assumed to be false.

**Subpart E. Withdrawn complaint.** If a complainant no longer desires to pursue a complaint through the College's proceeding, the College reserves the right to investigate and resolve the complaint as it deems appropriate.

**Subpart F. Lake Superior College discretion to pursue certain allegations.** Lake Superior College reserves discretion whether to pursue alleged violations of policy under appropriate circumstances, including, but not limited to, a determination that an effective investigation is not feasible because of the passage of time, or because the respondent is no longer a student or employee of the College.

**Subpart G. Lake Superior College discretion to deal with policy violations disclosed in investigation.** Lake Superior College reserves the right to determine whether to pursue violations of policy by students or employees other than the respondent, including a complainant or witness, that come to light during the investigation of an incident of

sexual violence. In order to encourage reporting of sexual violence, under appropriate circumstances the College administrators may choose to deal with violations of Lake Superior College policy in a manner other than disciplinary action.

**Subpart H. Procedure for employees, students and individuals who are both an employee and student.**

*Employees and Students.* If the respondent is an employee or student, the investigation and disciplinary decision-making shall be conducted pursuant to the procedures outlined in Lake Superior College Procedure 1B.1.1, Nondiscrimination in Employment Education Opportunities except that use of the optional “Personal Resolution” described in Part 3. Subpart B. should not be encouraged in dealing with allegations of sexual violence due to the seriousness of the conduct.

Nothing in this procedure is intended to expand, diminish or alter in any manner any right or remedy available under a collective bargaining agreement, personnel plan or law. Any disciplinary action imposed as a result of an investigation conducted under this procedure will be processed in accordance with the applicable collective bargaining agreement or personnel plan.

*Individuals who are both an employee and a student.* If the respondent is both a student and employee, the investigation shall be conducted by the Regional Investigator or the Director of Human Resources, as defined by Lake Superior College Procedure 1.B.1.1, Part 2, Subpart A. The results of the investigation shall be submitted for review to both the decisionmaker who supervises the individual under investigation, concerning the personnel action, and to the Vice President of Student Services concerning the student action.

**Subpart I. Sanctions.** Sanctions that may be imposed if a finding is made that sexual violence has occurred include, but are not limited to, suspension, expulsion of students or termination from employment. The appropriate sanction will be determined on a case-by-case basis taking into account the severity of the conduct, the student’s or employee’s previous disciplinary history, and other factors as appropriate.

**Subpart J. Retaliation prohibited.** Actions by a student or employee intended as retaliation, reprisal or intimidation against an individual for making a complaint or participating in any way in a report or investigation under this policy are prohibited and are subject to appropriate disciplinary action.

**Part 7. Sexual violence prevention and education.**

**Subpart A. Campus-wide training.** Lake Superior College provides educational programs to students and employees to promote the awareness of sexual violence offenses, including sexual violence prevention measures and procedures for responding to incidents. Such programming is delivered on a regular basis through a variety of means including safety seminars conducted by Campus Security officials, information

presented as a part of student orientation and various other activities sponsored by the College.

**Subpart B. Training for individuals charged with decision making authority.** The College shall provide appropriate training and other resources to individuals charged with decision making responsibilities under applicable procedures in order to facilitate a fair, respectful and confidential procedure on allegations of sexual violence in accordance with this and other applicable policies, procedures and laws.

**Part 8. Maintenance of report/complaint procedure documentation.**

Data that is collected, created, received, maintained or disseminated about incidents of sexual violence will be handled in accordance with the privacy requirements of the Minnesota Statutes chapter 13 (Minnesota Government Data Practices Act), and other applicable laws.

Information on reports of incidents of sexual violence that are made to Campus Security Authorities shall be documented in accordance with the Jeanne Clery Disclosure of Campus Security and Campus Crime Statistics Act, codified at 20 United States Code section 1092 (f). Such information will be used to report campus crime statistics on campus as required by that Act.

During and upon the completion of the complaint process, the complaint file shall be maintained in the office of the Regional Investigator (when the respondent is an employee) or the Office of the Vice President of Student Services (when the respondent is a student). Access to complaint file information shall be in accordance with the applicable collective bargaining agreement or personnel plan, the Minnesota Government Data Practices Act, the Family Educational Rights and Privacy Act and other applicable law and policy.

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Signature of College President

Date