

LARAMIE COUNTY COMMUNITY COLLEGE
COLLEGE COUNCIL

Monday, March 17, 2014
3:00 to 5:00 p.m.
Health Sciences Building
HS 113

MINUTES

AN ATTENDANCE LIST IS ATTACHED.

CALL TO ORDER

1. Call to Order of the March 17, 2014, College Council Meeting – Kari Brown-Herbst, Co-chair

College Council Co-chair Kari Brown-Herbst called to order the March 17, 2014, College Council meeting at 3:05 p.m.

APPROVAL ITEMS (*Items on which College Council will take action.*)

2. Approval of the [College Council January 10, 2014, Minutes](#) – Kari Brown-Herbst

Chad Marley moved and Lisa Murphy seconded,

MOTION: That the January 10, 2014, College Council minutes be approved as written.

DISCUSSION: None

MOTION CARRIED unanimously.

DISCUSSION ITEMS (*Items needing discussion by College Council.*)

None

ACTION ITEMS (*Items on which College Council will make recommendations.*)

3. Policies and Procedures and Rules Amendment – President Schaffer

President Schaffer responded to an email forwarded by Jeff Shmidl from one faculty member and echoed by another stating “a serious breach of procedure” had taken place according to the *Policy Development and Approval Procedure* 1.2.11P. <http://policies.lccc.wy.edu/1.shtml> Attorney Greg Hacker stated in a letter to the Board of Trustees and President Schaffer dated March 12, 2014, that he needed “to address what appears to be possible non-compliance with college procedure.” [*Policy Development and Approval Procedure* 1.2.11P] The process to date is outlined below and is in compliance with *Policy Development and Approval Procedure* 1.2.11P.

- Board Review: January 24th Retreat
- Consultative Feedback Process – Round 1: January 22nd – February 17th
- Consultative Feedback Process Extended – Round 2: March 1st through March 10th
 - o The consultative feedback period was extended at the request of Faculty Senate President Rob Van Cleave on behalf of faculty and with Staff Senate Interim President Melissa Gallant’s

concurrence on behalf of classified and professional staff. A new forum was created on EaglesEye for additional feedback through Monday, March 10th, on the 23 policies and procedures that were revised from the feedback received on EaglesEye and during campus meetings as of Friday, February 28th. Changes resulting from the feedback were considered substantial and were highlighted on the policies and procedures. NOTE: The Board's *Policy Development and Approval Procedure* 1.2.11P does not establish an official length of time for the consultative feedback period.

- Board Review and Public Comment: March 5th
- President's Cabinet Review via Email: March 14th
- College Council Review: March 17th

POSTSCRIPT TO MINUTES: The policies and procedures were further processed as follows:

- Consultative Feedback – Round 3 – Policy 6.2 and Procedure 6.2P Nondiscrimination and Anti-Harassment and Policy 6.3 and Procedure 6.3P Sexual Misconduct: March 19th – April 18th
 - o The policies and procedures were re-posted for consultative feedback at the direction of College Council on March 17th.
- Board 1st Reading and Public Comment: March 19th
- Board 2nd Reading and Public Comment: April 2nd
 - o The Board approved the policies as presented, with the exception of policies and procedures 6.2, 6.2P, 6.3, and 6.3P that had been posted a third time for consultative feedback through April 18th.

President Schaffer stated substantial changes were made to the policies and procedures during Consultative Feedback Round 1 from January 22nd through February 17th. Additional input on the policies and procedures was garnered from the feedback received during forums held on February 21st with Faculty Senate, February 24th with LCCCEA, February 25th with Student Services, and February 27th with Staff Senate. The policies and procedures were again revised from feedback received during the forums and these versions were re-posted for a second round of consultative feedback from March 1st through March 10th. These same versions were presented to the Board on March 5th, and public input was taken under consideration.

According to Procedure 1.2.11P, “Determination of ‘substantial’ will be at the discretion of the originating entity.” Policy and procedure originators Human Resources Executive Director Peggie Kresl-Hotz and attorneys Debb Roden and Tara Nethercott agreed no substantial changes were made to the Human Resources policies and procedures with the exception of policies and procedures 6.2, 6.2P, 6.3, and 6.3., which they concurred the changes to these policies and procedures based on the feedback received from March 1st through March 10th may be considered substantial. President Schaffer stated if College Council determines any or all of policies and procedures 6.2, 6.2P, 6.3, and 6.3P should be re-posted for additional consultative feedback from their review of EaglesEye feedback, the “HR Policy and Procedure Reference Table” updates summary (emailed on March 13th), and Sabrina Lane’s presentation on the changes, they may direct President Schaffer to do so. Ms. Lane later updated College Council on the changes to these policies and procedures, and the Council concurred policies and procedures 6.2, 6.2P, 6.3, and 6.3P should be re-noticed for a third round of consultative feedback. President Schaffer emphasized College Council’s decision to either ratify or seek alternative direction for the finalization of the policies and procedures’ adoption is important because that decision will provide him guidance for the next steps to be taken. In making their decision whether or not to take action during today’s College Council meeting, President Schaffer asked College Council members to consider:

- o whether continuing the dialogue would conjure additional feedback on what has already been discussed and debated so significant that substantial changes would need to be made to the policies and procedures, and
- o whether the fundamental arguments have been relatively consistent since the February 28th updates.

Noting the policies and procedures have emotional issues, President Schaffer encouraged the Council to conduct a good and healthy debate and civil discourse.

Council members began offering comment on the policies and procedures prior to their being addressed in the order listed on the agenda. Those comments appear with their respective policy or procedure.

General Comments

- Burt Davis – Anyone (legacy employee) who accepts a transfer will lose their protective status and that is not acceptable. The current policies and procedures have stood the test of time, and so if they are not approved by College Council today, a disastrous situation would not occur. Having the policies and procedures in writing is a good idea so that they are binding on future administrations. Some questions are:
 - o What problem are the policies and procedures intended to solve?
 - o How much division of power should exist between the administration and the Board?
 - o Should the Board be more heavily involved in policy and the administration in procedure?Burt's opinion was that policy belongs with the Board and that policy should be more heavily controlled by the Board, because the Board's role is to be responsive to the community and LCCC is a community college.
- Jeff Shmidl – The “faculty email” to which President Schaffer responded at the beginning of the meeting was circulated through a number of faculty members after which Jeff received a phone call from an LCCCEA faculty member. Jeff also received responses from two non-LCCCEA faculty members. They had seen the letter from Greg Hacker and asked that the “faculty email” be forwarded to College Council. The faculty members believe more time is needed for the review of the policies and procedures. Jeff did not 100% agree with their position but certainly agreed with some of their concerns.
- Burt Davis – Noting the point may be arguable, he stated that he did not believe the process in *Policy Development and Approval Procedure* 1.2.11P was followed, because HR, who is the originator of the policies and procedures, has never issued a statement whether a policy or procedure has received substantial changes. FOR THE RECORD: The “Revision” section in the procedure states:

“The originating entity will consider campus feedback and will make any modifications to the policy/procedure or amendments it deems appropriate prior to advancement to the next step in the process. In the event the campus review and subsequent feedback results in substantial changes to the draft policy and/or procedure or amendment, the originating entity shall restart this process with step B above. Determination of ‘substantial’ will be at the discretion of the originating entity.”

- Tara Nethercott – Any significant changes to the policies and procedures were made following the first consultative feedback period. Since then, no substantive changes have been made. The changes made were in response to, for example, Mr. Shmidl's comments on EaglesEye. She also clarified with reference to Procedure 6.1.3, Section 5.C., that an employee accepting a lateral transfer would not lose their property rights.
- Lisa Murphy – Lisa pointed out that contrary to comment received the College has been operating under the same rules, Chapters I, II, and III, since they were adopted by the Board on May 18, 2011. She concluded the adoption of the rules might suggest the College was not operating just fine under the current policies and procedures. However well intended, though, Chapter II Rules of Practice and Procedure for Discipline for Employees states “within five days of a meeting with an employee to bring attention to the existing performance, conduct or attendance issue, the supervisor will prepare written documentation of the meeting to be placed in the employee's personnel file.” From a management perspective one does not want a verbal reprimand placed in an employee's personnel file as a formal complaint. Lisa also stated Mr. Hacker is now supporting the rules he vehemently opposed during their

adoption process three years ago, and because of this, she questions whether his recent comments represent what is best for the College.

- Jeff Shmidl – Jeff suggested that when due process was followed, employees were removed. Problems have resulted when due process was not followed.
- Kari Brown-Herbst – Kari offered the following observation in terms of the interpretation of “substantial,” which falls on Peggie Kresl-Hotz, Debb Roden, and Tara Nethercott. Referring to the “Proposed Human Resource Policy and Procedures Reference Table,” Kari pointed out that following the close of the consultative feedback period on March 10th, the changes made to *Employment General Procedure* 6.1.1P, *Existing or Non-Vacant Positions Procedure* 6.1.3P, *Employee Benefits Procedure* 6.4P, *Leaves of Absence – Other Leaves Procedure* 6.6.2P, *Employee Grievance Procedure* 6.8P, and *Employee Conduct and Discipline Procedure* 6.10P provided clarifying language and grammatical edits. None of the other policies and procedures have been changed.
- Arlene Lester – What is the next step?
 - o President Schaffer – The College Council’s action today will make a recommendation to him for the next step. If the Council approves policy(ies), the President recommends approval of the policy(ies) to the Board. If the Council ratifies a procedure for the President’s signature, he takes that ratification under consideration. Historically, President Schaffer has signed procedures ratified by the College Council. The Board will review the Human Resource policies on first reading on March 19th and consider those policies for approval on second reading on April 2nd. The companion procedures are provided to the Board for their information. Procedures signed by President Schaffer become effective upon approval of the corresponding policy.
- Chad Marley – Chad asked for clarification concerning transfer to a new position and the loss of property rights. President Schaffer stated if the administration does something to an employee, i.e., moves an employee to a new position, for example, as a result of a reduction in force, that property right cannot be taken away from the employee.

Policies and Procedures

Agenda items are listed in the order addressed.

College Council Co-chair Kari Brown-Herbst asked Sabrina Lane to address the changes made to Policy 6.2 and Procedure 6.2P *Nondiscrimination and Anti-Harassment* and Policy 6.3 and Procedure 6.3P *Sexual Misconduct*. Sabrina noted the changes incorporated in the policies and procedures were made from discussions held by Judy Hay, Danielle Saulsberry, attorneys Debb Roden and Tara Nethercott, and herself concerning Title IX compliance. The changes made to the policies and procedures are recorded with the respective policies and procedures.

Items F. through I. were considered as a group.
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F. [Nondiscrimination Anti-Harassment Policy 6.2](#)

No changes were made to this policy.

G. [Nondiscrimination Anti-Harassment Procedure 6.2P](#)

Sabrina Lane stated the changes to this procedure are minimal and were made to reference other policies; e.g., Policy 6.10 and Procedure 6.10P *Employee Conduct and Discipline* and the Student Discipline Adjudication procedures of the *Student Handbook*. 6.0 Confidentiality, 7.0 Retaliation, and 8.0 Contact Information were added to the procedure to align this procedure with Procedure 6.3P *Sexual Misconduct*. Pertinent to the conversation regarding frivolous or bad faith allegations, President Schaffer suggested

either moving 7.0 Retaliation, Section C. under 7.0 Retaliation, Section A. or creating another item unique to this section.

H. [Sexual Misconduct Policy 6.3](#)

The only change made to Policy 6.3 is in the title, which was changed from “Sexual Harassment” to “Sexual Misconduct”. The change was made because “Sexual Misconduct” encompasses more than sexual harassment.

I. [Sexual Misconduct Procedure 6.3P](#)

Judy Hay, Jill Koslosky, James Miller, and Sabrina Lane attended a conference in January where they received Title IX training and education by ATIXA (Association of Title IX Administrators), who are officials in Title IX law. Changes to Policy 6.2, Procedure 6.2P, Policy 6.3, and Procedure 6.3P were made to properly reflect the Office of Civil Rights interpretations of Title IX. Changes to the policies and procedures were made to further clarify and “ramp up” the procedures, so the steps to be taken are clearly defined, and the reader of the procedure will understand the sequence of steps that will be taken when sexual misconduct is reported. The more substantive changes made are listed below:

- 4.0 Definitions, Section D: Added the definition of “responsible employee.” All employees at Laramie County Community College are by definition a “responsible employee.”
- 4.0 Definitions, Section I: Enhances the definition and provides examples of “sexual misconduct.”
- 5.0 Responsibility, Section A – Explains to whom a report of sexual misconduct is to be made.
- 5.0 Responsibility, Section B – Explains who is a “responsible employee.”
- 6.0 Title IX Coordinator, Section A – This section was added and denotes the purpose of Title IX.
- 6.0 Title IX Coordinator, Section B – This section was added and provides the steps for which the Title IX Coordinator is responsible in compliance with Title IX. One of the compliance requirements is to “ensure training is provided regarding Title IX” and to assure appropriate officials are designated to serve as investigators, which was the rationale for attending the January conference.
- 7.0 Procedures, Section I and 10.0 Retaliation, Sections A. and B. – Policy 6.10 and Procedure 6.10P *Employee Conduct and Discipline* pertinent to employees and student discipline procedures as found with the Student Discipline Adjudication procedure of the *Student Handbook* are both referenced in these sections, because the procedures for these two groups are different under these sections.
- 13.0 Contact Information – This section was added to delineate the persons to whom a report of sexual misconduct should be made. Case Law and Office of Civil Rights’ decisions have determined the Title IX Coordinator’s proper name and contact information should be published to make it easier for a person in crisis to navigate the reporting process.

Comments and Clarifications

- “Sexual misconduct” is a form of gender discrimination. At Ann Murray’s suggestion a definition of sexual misconduct noting it is a form of discrimination may be added.
- 10.0 Retaliation, Section C. – “...Persons who file frivolous or bad faith allegations of discrimination may be subject to disciplinary action...” could be broader than just retaliation and may fit better addressed earlier in the procedure. For example, an employee may not be “retaliating” against another employee but files “frivolous or bad faith allegations” just because they don’t like the employee. Tara Nethercott and Judy Hay will get together and discuss the suggestion to include references to “frivolous or bad faith allegations” under 10.0 Retaliation, Section C. and another section that is not related to retaliation, perhaps 7.0 Procedures, Section A.
- The Title IX Coordinator varies from campus to campus. The common practice is to have the Dean of Students or the VP of Student Services be the Title IX Coordinator. A specific title is not denoted in the procedure so that the procedure is not binding. The rationale is to make sure the coordinator is

clearly identified and that is done by naming that person. Based on case law and the direction the Office of Civil Rights has taken, naming the Title IX Coordinator is the most prudent course of action. The Title IX Coordinator's name may be published in other publications that may be more readily accessed by students who are seeking this information.

- A number of trained investigators are available to persons wishing to file a complaint, so if someone is hesitant about working with Judy Hay because she is female, they may opt for a male investigator.
- The purpose of the policy and procedure is to ensure compatibility with Title IX regulations. No language has been added to address inappropriate dress, such as t-shirts with suggested language or pictures. In the case of an employee doing so, a manager would have recourse under Policy 6.10 and Procedure 6.10P *Employee Conduct and Discipline*.

Referring to policies and procedures 6.2, 6.2P, 6.3, and 6.3P, President Schaffer stated the College Council will need to decide whether to re-post these policies and procedures. If College Council decides re-posting the policies and procedures is best, formal motion will need to be taken to affirm the Council's decision.

College Council concurred these policies and procedures should be re-posted as a group for consultative feedback, even though Policy 6.2 had no changes and Policy 6.3 had a title change only.

Chad Marley moved and Burt Davis seconded,

MOTION: That agenda items F-I (Policy 6.2 and Procedure 6.2P *Nondiscrimination and Anti-Harassment* and Policy 6.3 and Procedure 6.3P *Sexual Misconduct*) be re-posted for consultative feedback because of late changes.

MOTION CARRIED unanimously.

At College Council Co-chair Kari Brown-Herbst's request President Schaffer identified the policies and procedures on which the Council could take action as a group because they received minimal or no feedback. The suggested group of policies and procedures included:

- Policy 6.4 and Procedure 6.4P *Employee Benefits* – few comments
- Policy 6.5 and Procedure 6.5P *FMLA* – no comments
- Policy 6.6 *Leaves of Absence*, Procedure 6.6.1P *Leaves of Absence – Paid Leave*, Procedure 6.6.2P *Leaves of Absence – Other Leaves*, and Procedure 6.6.3P *Leaves of Absence – Paid Leave Donation* – few comments

Burt Davis suggested the policy and procedure 6.6 *Leaves of Absence* series be considered separately after discussion is held on the 6.1 *Employment* series because "legacy" or "legacy status" are referenced in both series in Policy 6.1 *Employment* and Procedure 6.1.1P *Employment – General* and Procedure 6.6.2P *Leaves of Absence – Other Leaves*.

The following policies and procedures received the most feedback:

- Policy 6.1 *Employment* and Procedures 6.1.1P *Employment – General*, 6.1.2P *Employment – Hiring & Recruitment for Vacant Positions*, 6.1.3P *Employment – Existing or Non-Vacant Positions*, and 6.1.4P *Employment – Separation*
- Policy 6.8 and Procedure 6.8P *Grievance*
- Policy 6.9 and Procedure 6.9P *Reduction in Force*
- Policy 6.10 and Procedure 6.10P *Employee Conduct and Discipline*

Items J. through M. were considered as a group.

- J. [Employee Benefits Policy 6.4](#) – No changes since February 28th
- K. [Employee Benefits Procedure 6.4P](#) – Two word/phrase insertions (“insure” and “in those activities”) since February 28th
- L. [FMLA Policy 6.5](#) – No change changes since February 28th
- M. [FMLA Procedure 6.5P](#) – No changes since February 28th

Jodi Weppner moved and José Fierro seconded,

MOTION: *That the College Council consider approval of 6.4, 6.4P, 6.5, and 6.5P.*

DISCUSSION: Arlene Lester and Lisa Murphy brought forth comment on the sick leave bank, which was deferred to the discussion of Procedure 6.6.3*Leaves of Absence – Paid Leave Donation.*

MOTION CARRIED unanimously.

Items A. through E. were considered as a group.

- A. [Employment Policy 6.1](#)
- B. [Employment – General Procedure 6.1.1P](#)
- C. [Employment – Hiring and Recruitment for Vacant Positions Procedure 6.1.2P](#)
- D. [Employment – Existing or Non-Vacant Positions Procedure 6.1.3P](#)
- E. [Employment – Separation Procedure 6.1.4P](#)

Lisa Murphy moved and Chad Marley seconded,

MOTION: *That the College Council recommends approval of Policy 6.1 Employment, and Procedures 6.1.1P Employment - General, 6.1.2P Employment – Hiring and Recruitment for Vacant Positions, 6.1.3P Employment – Existing or Non-Vacant Positions, and 6.1.4P Employment – Separation.*

DISCUSSION:

Amy Ehlman – Staff does not support an at-will status, which many believe will have a wide-range of negative effects and will place staff in a lower rank. Many concerns have been expressed about why this change is being proposed. If the implementation of an at-will status is imminent for new employees, Amy recommended on behalf of the staff who would be affected by this change, that a two-year probationary period, but at the very least a one-year probationary period, accompany the “at-will” status. The probationary employee would have no rights of appeal and would be subject to termination without cause during that probationary period. Within 30 days of the end of the probationary period, the probationary employee’s supervisor will provide in writing to his/her supervisor reasons for either termination or continuation of employment with appeal and due process rights, the same as legacy employees. Referring to Procedure 6.1.1P *Employment – General*, 3.0 Persons Affected, paragraph four, Amy stressed legacy status should not be affected by a transfer into a new position. Specifically, a staff employee’s legacy status should not be changed to “at will” because the employee accepts a promotion; i.e., once a legacy employee, always a legacy employee. She also requested a clarification on whether a legacy employee will lose that status if their current position is reclassified and a title change accompanies that reclassification.

Jeff Shmidl – No faculty with whom he has spoken are in favor of an at-will status for classified staff employees. Some great classified staff are contributing to the College and want to be long-term

employees. Their long-term employment goal is partly due to their positive relationship with other employees and to the security that exists in their employment relationship with the College. Regardless of classification, employees should have due process rights.

Burt Davis – Faculty Senate voted to support the Staff Senate position that they do not agree with the concept of at-will employees. He added, though, a two-year probationary position is too long; one year is sufficient. The issue of status should be incorporated in Board policy; i.e., the categories of employees should be denoted in Board policy. He intends to vote against the policy because he believes employee status and categories should be a Board matter.

Arlene Lester – The inclusion of an at-will status has given the impression that staff, whether professional or classified, are not valued and is hurting the morale of some current employees. She personally does not believe an at-will status will make it any easier to remove employees. Referring to Procedure 6.1.3P *Employment – Existing or Non-Vacant Positions*, Section 5.C. Administrative Transfer “...so long as the transfer does not result in a promotion in wage or title for the employee.” she also stated an employee’s legacy status should be retained if that employee chooses to accept a promotion. Chad Marley heard the same concern from administrators.

- President Schaffer – The language was included so that a transfer must be lateral and equitable to prevent random promotions without competitive searching. An employee’s upgrade in their current position is addressed in the classification process currently in place.
- Peggie Kresl-Hotz – Several employees have requested a transfer to a similar or like position, from campus to campus, or from one instructor position to another instructor position. No mechanism has previously been in policy and procedure to allow for such a transfer. The current policy and procedure requires an employee to apply for that position, even though technically they are an incumbent in a similar position. The administrative transfer is a response to an institutional need. Compensation and classification and re-classification policies and procedures are yet to be developed.

Comments and Clarifications

- College Council action includes:
 - recommending the President advance policies to the Board for approval
 - recommending procedures be advanced to the President for approval
- The Board does not approve procedures.
- What are the other Wyoming community colleges’ policies and procedures for staff?
 - Northern Wyoming Community College District (Sheridan College) and Central Wyoming College – All employees are at-will except for tenured faculty.
 - Western Wyoming Community College – Staff have a probationary period followed by continued employment. Professional staff are appointed by the Board.
 - Northwest College – Their policies and procedures are probably the closest to what the College currently has. However, their HR policies and procedures are being overhauled.
 - Casper College – Their policies and procedures contain more than what is being proposed at LCCC and they have no rules.
 - Eastern Wyoming College – President Schaffer has not consulted EWC on their policies and procedures.
- The College should have employment and classification policies and procedures similar to the State of Wyoming’s because the College and the State compete for employees.
- The State of Wyoming is an at-will state.
- Typically, the at-will employees at the State are at a higher level and have additional salary to compensate for that status.

Hearing no further comment, Co-chair Kari Brown-Herbst restated the motion. Chad asked if the Council is entertaining any of the suggestions made by Amy. Co-chair Kari Brown-Herbst clarified the motion on the floor is to recommend approval of the policy and procedure as proposed. President Schaffer stated as a member of the Council Amy may offer a friendly amendment to the motion, and Lisa, who made the motion may or may not accept the friendly amendment. An amendment (not a friendly amendment) must be moved, seconded and voted on before the original motion may be voted on.

FRIENDLY AMENDMENT TO ORIGINAL MOTION BY AMY EHLMAN:

- A new staff employee will have a one-year probationary period, following which the staff employee will be placed on at-will status with no right for appeal and will be subject to termination at any time without cause.
- Within a 30-calendar-day period prior to the end of the probationary period, the employee's immediate supervisor will be required to meet with their supervisor to discuss the recommendation for employee's termination or continuation of employment. The recommendation will be provided in writing.
- The employee's immediate supervisor will discuss the recommendation with the employee and provide the employee a copy of the written recommendation.
- An employee who merits retention will be given regular employee status with rights of appeal and due process the same as legacy employees.
- An employee who has achieved non-probationary status will not return to probationary status because they accepted a different position.
- A legacy employee who chooses to accept a promotion will not lose their legacy status.
- Clarify a legacy employee, whose current position is reclassified and receives a title change and/or salary increase because of change in responsibilities will not lose their legacy status.

Comments and Clarifications

- President Schaffer stated for clarity that the re-classification process is an employer's action so the employee's legacy status would not change.
- Jodi Weppner stated she has to leave and has left her proxy votes with Arlene Lester.

FRIENDLY AMENDMENT TO ORIGINAL AMENDMENT FAILED due to Lisa Murphy's declining to accept the friendly amendment.

Co-chair Kari Brown-Herbst explained the proxy vote process. The College Council meeting date was scheduled in order to gain Council member's input and vote on the policies and procedures after the consultative feedback period ended on March 10th and prior to the policies and procedures being presented to the Board for first reading on March 19th. Because of the tight timeline, the meeting had to be scheduled on Monday, March 17th, during spring break week, which meant some members would be affording themselves vacation time or honoring other commitments previously arranged for the spring break week. All College Council members who knew they would be absent and excused from today's meeting were given the opportunity to send their votes in writing prior to noon today. Because the motions so far have passed unanimously, the need to bring those proxy votes onto the table was not necessary. Proxy votes have been received from Terry Harper, Stacy Maestas, and with Jodi's departure, from her as well.

Hearing no further comment, Co-chair Kari Brown-Herbst called for a vote on the original motion. Because the voiced vote did not clearly indicate a majority of Yes or No votes, a roll call vote was taken and is recorded below.

<p><u>Yes – 10</u> Terry Harper Stacy Maestas Kim Bender Kari Brown-Herbst José Fierro Judy Hay Carol Hoglund Peggie Kresl-Hotz Lisa Murphy Katy Wells</p>	<p><u>No – 9</u> Aaron Casteel Burt Davis Amy Ehlman Chad Marley Jeff Shmidl Arlene Lester Kathleen Urban Jodi Weppner Dawn Williams</p>
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ORIGINAL MOTION CARRIED.

Items N. through Q. were considered as a group.

- N. [Leaves of Absence Policy 6.6](#)
- O. [Leaves of Absence – Paid Leave Procedure 6.6.1P](#)
- P. [Leaves of Absence – Other Leaves Procedure 6.6.2P](#)
- Q. [Leaves of Absence – Paid Leave Donation Procedure 6.6.3P](#)

José Fierro moved and Kim Bender seconded,

MOTION: *That the College Council recommends Board approval of Leaves of Absence Policy 6.6 and Procedures 6.6.1P Leaves of Absence – Paid Leave, 6.6.2P Leaves of Absence – Other Leaves, and 6.6.3P Leaves of Absence – Paid Leave Donation*

DISCUSSION:

Jeff Shmidl – He has friends who are employees at the State, and they do not like their leave donation process. He recognized use of the sick leave bank may have been abused, but if the current sick leave bank procedure, which is a good concept, were prudently followed, the procedure would be a good one. He will oppose all 6.6 series policy and procedures based on the elimination of the sick bank.

Lisa Murphy – The new procedure will eliminate abuses such as persons not first exhausting their leave before requesting and receiving leave from the sick leave bank. Human Resources will determine if the request for donated leave is legitimate and will issue the request for leave donation, which eliminates the employee from having to do so. She feels strongly in favor of the leave donation procedure and will vote in favor of its approval. Lisa Murphy also shared the State of Wyoming had a similar process when she worked for the Department of Transportation and that the donation of leave proved to be a very efficient system. Additionally, some of her staff believe the sick leave bank has been abused and used for non-medical reasons.

Arlene Lester – Arlene stated she received feedback from several staff members that the sick leave bank should not be eliminated. Those who stated this believed the new procedure’s process would be humiliating and difficult for those needing the leave donation. Also, a burden would be placed on those from whom the leave donation is being requested to donate the sick leave even though they didn’t believe the request was justified.

NOTE: Procedure 6.6.3P, 5.0 Procedures, paragraph L. states: “Employees are prohibited from directly soliciting paid leave donations from their fellow employees.”

Comments and Clarifications

- The new paid leave donation procedure does not require an employee to exhaust their leave before receiving a paid leave donation.
- The current sick leave bank has limited use. An employee may use the leave only for their situation and only after they have been out for two weeks (10 working days).
- The paid leave donation procedure allows the leave to be used for other situations such as caring for a dependent or a spouse or some other situation, which would prevent the employee from exhausting their leave and going into an unpaid status.
- The paid leave donation procedure was developed in response to an institutional need. A significant number of employees have wanted to donate sick leave to an employee (e.g., so the employee could take care of an ailing spouse for an extended or successive periods of time), and the College had no mechanism for honoring that request. Under the current sick leave procedure an employee who has received 50 days of sick leave is not eligible for additional sick leave from the sick leave bank for two years.
- “Legitimate” is not defined. However, Procedure 6.6.1P *Leaves of Absence – Paid Leave*, 5.0 Procedures, A. Introduction, states: “With the exception of vacation and personal leave days, the President or Human Resources may require the employee to provide specific evidence to support the leave request.” 5.0 Procedures, B. Types of Leave, 2) Sick Leave, paragraph b. also states: “Human Resources may require a certificate of illness from a licensed health care provider or county health officer in sick leave cases.” NOTE: The numbering of the sections cited above may be different in the finalized policy and procedures.
- Employees must receive appropriate approval prior to taking leave of absence regardless of the type of leave being used.
- The College’s paid leave donation procedure was modeled after those at Cheyenne Regional Medical Center, State of Wyoming, and other institutions where the paid leave donation process has been considered successful.
- FMLA is not a type of leave but rather protection for an employee who is faced with extensive absences; for example, due to long-term health problems. “The basic FMLA leave entitlement provides that eligible employees may be granted up to twelve work weeks of job-protected leave during a 12-month period;...”
- Procedure 6.6.1P *Leaves of Absence – Paid Leave*, 5.0 Procedures, paragraph J.: “A paid leave donation may be made anonymously, or the donation may be noted, as the donating employee wishes.”
- Procedure 6.6.1P *Leaves of Absence – Paid Leave*, 5.0 Procedures, paragraph H.: “Once paid leave is donated, it will be considered ‘belonging’ to the employee to whom it was donated; donated paid sick leave will be added to the recipient’s paid sick leave balance and/or donated paid vacation leave will be added into the recipient’s paid vacation leave balance.”
- The need for a paid leave donation may be made known by word-of-mouth or an HR person may request the leave on behalf of the person.
- Any paid leave donation must be directed to an employee.

Hearing no further comment, Co-chair Kari Brown-Herbst called for a vote.

MOTION CARRIED with one no vote from Jeff Shmidl.

Items R. and S. were considered together.

- R. [Employee Grievance Policy 6.8](#)
- S. [Employee Grievance Procedure 6.8P](#)

José Fierro moved and Carol Hoglund seconded,

MOTION: *That the College Council recommends approval of Policy 6.8 and Procedure 6.8P Employee Grievance*

DISCUSSION:

Jeff Shmidl – Jeff stated he will not vote for this policy and procedure unless some of the language from the rules they are replacing is included in policy. The Board has a duty to the community to assure employees are treated fairly, and policy falls under the purview of the Board.

Burt Davis – The timeframe of seven days should be ten business days.

Amy Ehlman had to leave and so left her proxy votes with Dawn Williams.

Hearing no further discussion, Co-chair Kari Brown-Herbst called for the vote.

MOTION CARRIED with one no vote from Jeff Shmidl.

Items T. and U. were considered together.

T. [Reduction in Force Policy 6.9](#)

U. [Reduction in Force Procedure 6.9P](#)

Carol Hoglund moved and Kim Bender seconded,

MOTION: *That the College Council recommends Board approval of Policy 6.9 and Procedure 6.9P Reduction in Force.*

DISCUSSION:

Jeff Shmidl – Jeff reiterated some of the language in procedure needs to be in policy. He was discouraged that 85 days of severance pay in the previous procedure was reduced to one or two months based on years of service. He will oppose the policy and procedure on the basis of these concerns.

Burt Davis – If the staff become at-will, there is no reason to compensate them. He added that he will probably oppose the policy and procedure's approval because an at-will employee is not eligible for severance pay. Procedure 6.9P *Reduction in Force*, 5.0 Procedures, D. Severance Pay, paragraph three states: "At-will employees and employees in intermittent positions (e.g., Adjunct Faculty, Classified Staff, etc.) are not eligible for severance pay."

Arlene Lester – Sharing feedback she received, any employee who is RIF'd should receive severance pay regardless of their status. Procedurally, allowing one year in which an incumbent employee may return to his/her re-instated position is a good change.

Hearing no further comment, Co-chair Kari Brown-Herbst called for a vote. Because the voiced vote did not clearly indicate a majority of Yes or No votes, a roll call vote was taken and is recorded below.

<p><u>Yes – 12</u> Terry Harper Stacy Maestas Jodi Weppner Amy Ehlman Kim Bender Kari Brown-Herbst José Fierro Judy Hay Carol Hoglund Peggie Kresl-Hotz Chad Marley Katy Wells</p>	<p><u>No – 7</u> Aaron Casteel Burt Davis Lisa Murphy Arlene Lester Jeff Shmidl Kathleen Urban Dawn Williams</p>
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MOTION CARRIED.

ADDITIONAL DISCUSSION:

José Fierro – José asked if he could make a friendly amendment and stated he is not in favor of 85 days of severance pay but recommended two months of severance pay be paid to all employees who are eligible for severance pay. President Schaffer stated José could make a motion for President Schaffer to take his motion under consideration.

José Fierro moved and Lisa Murphy seconded,

MOTION: That in the instance of a Reduction in Force all contracted employees who fall under *Reduction in Force Procedure 6.9P* will receive 60 days severance pay vs. the proration based on years of service.

Because the “60 days” was subject to different interpretations, Co-chair Kari Brown-Herbst restated the motion with José’s consent.

RESTATED MOTION: Employees whose employment is discontinued because of a RIF action, and who are eligible and entitled to severance pay, shall receive severance pay valued as identified below:
 1) Two (2) months wage/salary value for individuals employed more than five (5) consecutive years with the College.

DISCUSSION:

Jeff Shmidl – What about 85 days?

José Fierro – He was comfortable with the motion as it was restated, noting it is a good compromise.

President Schaffer – As a point of consideration, typically, an employee who would be RIF’d from the College would qualify for unemployment for which the College also pays. The severance package then is not the only compensation provided to the employee.

Burt Davis – Would an employee who is receiving severance pay for two months continue to receive health insurance benefits? Peggie stated what an employee would be eligible to receive is dependent upon the benefit summary plan documents. For example, retirement cannot be paid on severance pay and that is statutorily mandated. Because the person is not performing any work, the College would offer COBRA (Consolidated Omnibus Budget Reconciliation Act) health insurance.

Hearing no further comment, Co-chair Kari Brown-Herbst called for the vote.

MOTION CARRIED with one abstention from Jeff Shmidl.

Items V. and W. were considered together.

- V. [Employee Conduct and Discipline Policy 6.10](#)
- W. [Employee Conduct and Discipline Procedure 6.10P](#)

José Fierro moved and Carol Hogle seconded,

MOTION: *That the College Council recommends approval of Policy 6.10 and Procedure 6.10P Employee Conduct and Discipline Policy 6.10.*

DISCUSSION:

Burt Davis – Burt agreed with changing the language about drug abuse because the procedure refers to illegal drug use and drug abuse. He also suggested seven business (7) days response time be changed to ten business (10) days. President Schaffer stated the number of days to respond is consistent with the number of days in Policy 6.8 and Procedure 6.8P *Employee Grievance*. The number of days in which to respond also affects the time it takes to complete the process, which directly affects an employee's current and future work status.

President Schaffer – Suggestions from the Education Association's attorney Greg Hacker were helpful in removing ambiguity from the procedure. Additionally, the following language was added at Greg Hacker's recommendation: "An employee's lack of appearance at a pre-termination hearing does not affect in any way the employee's right to an administrative hearing post-termination."

Chad Marley – Chad suggested "fifteen (15) days" on page 6 of the Level 3 – Termination Only section be stated as business days. President Schaffer suggested offering a friendly amendment to change the number of days. Following additional discussion about the number of days, business or calendar, and providing consistency in the procedure,

Chad Marley moved and Kim Bender seconded,

FRIENDLY AMENDMENT TO ORIGINAL MOTION BY CHAD MARLEY: That the number of days on page 6 of the Level 3 – Termination Only section be changed from "fifteen (15) days" to "seven (7) business days".

MOTION CARRIED ON THE FRIENDLY AMENDMENT with one abstention from Jeff Shmidl.

ORIGINAL MOTION CARRIED with one no vote from Jeff Shmidl.

Judy Hay had to sign off from her conference call connection and so left her vote in favor of the amended Chapter 1 Rules of Practice and Procedures for a Contested Case with Co-chair Kari Brown-Herbst.

Rules of Practice and Procedures

- A. [Amendment of Chapter 1 Rules of Practice and Procedures for a Contested Case](#)

President Schaffer explained no language in policy and procedure exists that requires the rules be brought forward for consideration of approval by College Council. However, in the interest of transparency

Chapter 1 Rules of Practice and Procedures for a Contested Case are on the College Council agenda so that the Council may take action or provide feedback, whichever the Council decides.

President Schaffer – If “business days” has not been specifically referenced, then the number of days is referring to calendar days.

Co-chair Kari Brown-Herbst opened the discussion on the rules. President Schaffer reiterated Council members may take action supporting or opposing the amendment, may take no action, or may simply provide comment for the record.

Co-chair Kari Brown-Herbst shared one comment from a faculty member who also copied Burt Davis and Jeff Shmidl. The faculty member recommended Chapter 1 Rules of Practice and Procedures for a Contested Case as amended and the proposed repeal of Chapter II Rules of Practice and Procedures for Reduction in Force and Chapter III Rules of Practice and Procedures for Discipline for Employees be tabled based on Greg Hacker’s comment during the March 5th Public Hearing. Mr. Hacker stated the rules should be re-noticed for another 45 days and another public hearing held because changes to Chapter I had not been publicized prior to the March 5th Public Hearing. President Schaffer pointed out changes are often made from continuous feedback and re-noticing the rules every time a change is made is not practical. He also pointed out the policies and procedures and rules will go before the Board two more times—for first reading on March 19th and second reading on April 2nd during which opportunity for additional feedback will be offered and changes may again result from that feedback.

Jeff Shmidl – Jeff again expressed his concern that the language in the three rules is not being placed in policy. He stressed not doing so may retract some protection rights for employees.

Burt Davis – Burt expressed concern about the appointment of a hearing officer because the rules do not include an option for the respondent (Laramie County Community College by definition in the Chapter 1 rules) to provide input about the selection of a hearing officer. Co-chair Kari Brown-Herbst read the following from Chapter 1. “Hearing Officer” shall mean an independent person or entity chosen by Laramie County Community College to conduct a hearing.”

José Fierro moved and Lisa Murphy seconded,

MOTION: That the College Council supports the amended Chapter I Rules of Practice and Procedure for a Contested Case as presented and the repeal of Chapter II Rules of Practice and Procedure for Reduction in Force and Chapter III Rules of Practice and Procedure for Discipline for Employees.

DISCUSSION: None

MOTION CARRIED with no votes from Jeff Shmidl and Burt Davis.

INFORMATION ITEMS (*Items not needing large discussion, but are important for College Council’s awareness.*)

4. **Enrollment Reports** – Ann Murray

The “Spring 2014 Enrollment Monitoring – End of Week 8” report was reviewed.

5. **Human Resources Recruitment (Position Vacancy Status) Report** – Peggie Kresl-Hotz

As of March 4, 2014, searches were active for 14 positions. Applications were with their respective search committees for four other positions.

6. Constituent Feedback

No feedback was presented.

ADJOURNMENT

7. Adjournment of the March 17, 2014, College Council Meeting – Kari Brown-Herbst, Co-chair

College Council Co-chair Kari Brown-Herbst adjourned the March 17, 2014, College Council meeting at 5:51 p.m.

Respectfully submitted,

Vicki Boreing
Recorder

		Member	Representative Area	Term Start Date	Term End Date
1.	P	President Joe Schaffer	President – ex officio (non-voting)	N/A	N/A
2.	E	Jennifer Anderson	Mid-level Manager (Nominated at Large; Appointed by the President)	Fall 2012	Spring 2014
3.	P	Kim Bender	President's Cabinet	N/A	N/A
4.	P	Kari Brown-Herbst	Faculty – Elected at Large	Fall 2012	Spring 2014
5.	P	Aaron Casteel	Classified Staff – Elected at Large	Fall 2012	Spring 2014
6.	P	Burt Davis	Faculty – Appointed by Faculty Senate	Fall 2012	Spring 2014
7.	P	Amy Ehlman	Classified Staff (replaced Classified Staff President Kim Adams)	Fall 2012	Spring 2014
8.	P	José Fierro	President's Cabinet	N/A	N/a
9.	E	Kylie Foster	SGA (Student Government Association); Elected by SGA	Fall 2013	Spring 2014
10.	E	Terry Harper	Mid-level Manager (Nominated at Large; Appointed by the President)	Fall 2013	Spring 2015
11.	By phone	Judy Hay	President's Cabinet	N/A	N/A
12.	P	Carol Hogle	President's Cabinet	N/A	N/A
13.	P	Peggie Kresl-Hotz	President's Cabinet	N/A	N/A
14.	P	Arlene Lester	Professional Staff – Elected at Large (replaced Chrissy Renfro SP '14)	Fall 2012	Spring 2014
15.	E	Stacy Maestas	Professional Staff – Elected at Large	Fall 2013	Spring 2015
16.	P	Chad Marley	Mid-level Manager (Nominated at Large; Appointed by the President)	Fall 2012	Spring 2014
17.	P	Lisa Murphy	President's Cabinet	N/A	N/A
18.	P	Ann Murray	Institution Research Manager – ex officio (non-voting)	N/A	N/A
19.	P	Jayne Myrick	Budget Coordinator – ex officio (non-voting)	N/A	N/A
20.	E	Daniel (Dan) Russell	SGA (Student Government Association); Elected by SGA	Fall 2013	Spring 2014
21.	P	Jeff Shmidl	Faculty – Elected at Large	Fall 2013	Spring 2015
22.	P	Kathleen Urban	President's Cabinet	N/A	N/A
23.	P	Katy Wells	SGA (Student Government Association); Elected by SGA	Fall 2013	Spring 2014
24.	P	Jodi Weppner	Professional Staff Vice President	Fall 2012	Spring 2014
25.	P	Dawn Williams	Classified Staff – Elected at Large	Fall 2013	Spring 2015
26.	P	Vicki Boreing	Recorder (non-voting)	N/A	N/A
27.	P	Sabrina Lane	Guest	N/A	N/A
28.	P	Tara Nethercott	Guest	N/A	N/A
*Key: P – Present E –Excused UE – Unexcused					
VISITORS – Shauna Best, James Crosby, Carolyn Cuestas, Judy Dunn, Roger Findley, Jeri Griego, Tammarra Holmes, Dana McCammon, Leah Noonan, Cathy Rogers, Maryellen Tast, and Rob Van Cleave					