

NOTICE OF MEETINGS

Meeting will be held via Video Conference

Meeting can be viewed at:
<https://regents.la.gov/live/>

Public comments can be made at:
<https://regents.la.gov/publiccomments>



*The meeting may begin later contingent upon adjournment of previous meeting. Meetings may also convene up to 30 minutes prior to posted schedule to facilitate business

BOARD OF REGENTS

P. O. Box 3677, Baton Rouge, Louisiana 70821-3677
Phone: (225) 342-4253 and FAX: (225) 342-9318

Board of Regents Tuesday, August 10, 2021

Event	Time	Location
Board of Regents Special Meeting	8:00 a.m.	Meeting will be held via Video Conference Meeting can be viewed at: https://regents.la.gov/live/

If you plan to attend any meeting listed on this notice and need assistance at that time because you are disabled, please notify this office seven (7) days in advance and arrangements will be made to accommodate you.

INDIVIDUAL COMMITTEE AGENDAS MAY BE FOUND ON THE INTERNET AT – <https://regents.la.gov>

Blake R. David
Chair

T. Jay Seale III
Vice Chair

Sonia A. Pérez
Secretary

Kim Hunter Reed, Ph.D.
Commissioner of
Higher Education



Randy L. Ewing
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Wilbert D. Pryor
Gary N. Solomon, Jr.
Terrie P. Sterling
Collis B. Temple III
Felix R. Weill
Judy A. Williams-Brown
Cameron T. Jackson, Student

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www.regents.la.gov

AGENDA
SPECIAL MEETING OF THE BOARD OF REGENTS*

Tuesday, August 10, 2021
8:00 a.m.

Meeting will be held via Video Conference

Meeting can be viewed at: <https://regents.la.gov/live/>

- I. Call to Order
- II. Roll Call
- III. Certification for Virtual Meeting
- IV. Oath of Office for Student Board Member
- V. Public Comments
- VI. Uniform Policy on Power-Based Violence and Title IX Review and Adoption
- VII. COVID-19 Update
- VIII. Other Business
- IX. Adjournment

*Note: The Board of Regents reserves the right to enter into Executive Session, if needed, in accordance with R.S. 42:11 *et seq.*

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LA-R.S. 42.17.1 CERTIFICATION

I certify that the August 10, 2021 Louisiana Board of Regents (BoR) meeting will be held via videoconference in accordance with La. R.S. 42.17.1.

The State of Louisiana continues to operate under a state of public health emergency declared by the governor, as most recently renewed in Proclamations 131 and 132 JBE 2021 (July 21, 2021). As a result, a traditional public meeting would be detrimental to the health, safety and welfare of the public. The BoR meeting concerns, and is limited to, matters that are directly related to its response to the public health emergency and are critical to the health, safety, and welfare of the public.

Pursuant to La. R.S. 42.17.1, BoR will provide for attendance by the public at the meeting of August 10, 2021 via video or teleconference, in a manner that allows for observation and input by members of the public, including a mechanism to receive electronic comment both prior to and during the meeting, as set forth in this notice, posted on August 3, 2021.

Members of the public can view the meeting and make public comment as follows:

The meeting can be viewed at: <https://regents.la.gov/live/>.

Public comments can be made prior to the meeting (until 5:00 pm on Monday, August 9, 2021) via email to: bor.publicaffairs@laregents.edu or online at: <https://regents.la.gov/publiccomments>.

Public comments can be made during the meetings via open conference call at: [888-204-5984](tel:888-204-5984); access code 1755460#.

A handwritten signature in black ink, appearing to read "Blake R. David", is written over a horizontal line.

Blake R. David, Chair
Louisiana Board of Regents

BOR POLICY BACKGROUND

Over the past few months Title IX has been a major topic of discussion and contention in our state, largely due to significant system failures in response to campus sexual assault and harassment incidents here in Louisiana. As a result, during the 2021 Regular Legislative Session, the Senate Select Committee on Women and Children spent several days and countless hours conducting hearings on this topic. The testimony received and the policy gaps identified informed the comprehensive legislative measures passed this session.

Those laws include the following:

- Act 472 of the 2021 Regular Session of the Louisiana Legislature, authored by Rep. Aimee Freeman, significantly extended the policy environment to power-based violence, which includes but expands beyond sexual misconduct and Title IX conduct. The law charged the Louisiana Board of Regents (BOR) with establishing uniform policies and best practices to address the reporting and prevention of power-based violence at public postsecondary campuses, as well as communication between institutions regarding incidents of power-based violence. The law requires termination of employees who fail to report or falsely report power-based violence incidents in accordance with institutional policies.
- Act 447, by Rep. Neil Riser, requires institutions to publish a semiannual report of campus security policies and campus crime statistics to include, at a minimum, information contained in the Clery Report. If an institution fails to comply, BOR is obligated to notify the Legislature and the State Bond Commission, resulting in the loss of an institution's ability to incur debt for two years.

EXECUTIVE SUMMARY

Campuses are mandated to provide a safe learning environment that is free from sexual misconduct as provided in Title IX of the Education Amendments of 1972 and its implementing regulations, along with other applicable laws. Title IX and its regulations prohibit any form of discrimination or harassment based on sex for all students and employees of educational systems that receive federal funding.

The BOR's Uniform Policy was drafted with collaboration, input and feedback from a wide range of postsecondary education stakeholders, who served on the Transcript Notation Workgroup (including registrars, Title IX coordinators, systems' counsel, and deans of students) and the Uniform Policy Workgroup (including Title IX coordinators, academic affairs staff, deans of students and systems' counsel), as well as public postsecondary system presidents, with expert guidance provided by Nina Gupta, a nationally recognized Title IX/power-based violence attorney and partner at Nelson Mullins, LLP.

KEY PROVISIONS

Key provisions of the updated Uniform Policy on Power-Based Violence include:

- Elevation of safety education as a critical preventative measure when addressing power-based violence;
- An express prohibition of retaliation against individuals who, in good faith, report what they believe is power-based violence;
- Up-the-chain summary reporting of power-based violence incidents submitted by Title IX coordinators, campus heads, system presidents and system management boards, culminating in statewide reporting to BOR. Based on these reports, BOR will annually submit information to the Governor, the President of the Senate, the Speaker of the House and the Senate and House Education Committees;
- Termination of employees who knowingly fail to report or falsely report power-based violence;
- Withholding of transcripts or transcript notations of pending investigations or findings of violations for transferring students;
- Establishment of Memoranda of Understanding (MOUs) between each campus, local law enforcement and other agencies to share information and coordinate training requirements on issues related to power-based violence on or before January 1, 2022;
- Recommendations of best practices for the handling of investigations and grievance procedures;
- Annual mandatory training for Title IX coordinators, confidential advisors and any “responsible employees” who receive direct statements regarding incidents of power-based violence; and
- Publication of Power-Based Violence Survey results every three years, along with annual reporting of Campus Security and Sex Crime Data Reports;

CONCLUSION

Upon formal adoption by the BOR, the Uniform Policy will immediately go into effect. Each institution (or each management board for its member institutions) shall begin establishing policies and procedures in full compliance with this Policy and shall implement those policies no later than October 2021. Each management board must review the policies of its member institutions for compliance with this Policy and applicable laws and regulations. Upon verification of such compliance, the management board shall forward the institutional policies, no later than December 15, 2021, to the BOR. All policies and processes shall be posted on institutional websites as required in this Policy.



BOR UNIFORM POLICY ON POWER-BASED VIOLENCE/SEXUAL MISCONDUCT

Subject to Board Approval - August 10, 2021

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I. INTRODUCTION

The Louisiana Board of Regents (BOR) is committed to the highest quality and most impactful educational experiences for all students attending public postsecondary institutions (Institutions) in the state. These experiences are key to Louisiana's prosperity and growth, and rely on campus environments that are safe, inclusive, and protective for the entire postsecondary education community. Leadership at all levels must collaborate on policy development and take all necessary steps to prevent discrimination, harassment, misconduct, and psychological and physical violence. Ultimately, we must fully commit to building and sustaining a strong culture of respect across campuses, systems, and the state.

This Uniform Policy on Power-Based Violence, promulgated pursuant to Act 472 of the 2021 Regular Legislative Session of the Louisiana Legislature, sets forth processes and procedures to guide public postsecondary education stakeholders in maintaining safety and protection for students and employees. Power-based violence is defined as any form of interpersonal violence intended to control or intimidate another person through the assertion of power over the person. It includes but is more expansive than sexual misconduct and Title IX misconduct (See definition in [Appendix A](#)). Act 472 directs the Board of Regents to establish uniform policies and best practices to implement measures to address the reporting of power-based violence on Institutions' campuses, the prevention of such violence, communication between Institutions regarding incidents of power-based violence, and the provision of medical and mental health care for these alleged victims.

Each Institution's Management Board shall institute policies incorporating the policies and best practices prescribed by BOR regarding the prevention and reporting of incidents of power-based violence committed by or against students of an Institution. This Policy shall be effective as of August 10, 2021 (subject to BOR approval). Each institution (or a Management Board for each of its member institutions) shall begin establishing policies and procedures in full compliance with this Policy upon BOR approval and shall implement those policies no later than October 15, 2021. Each Management Board must review the policies of each of its member institutions for compliance with this Policy and applicable laws and regulations. Upon verification of such compliance, the Management Board shall forward the institutional policies no later than December 15, 2021 to the BOR.

Upon the effective date of this Policy, all institutions shall immediately begin complying with this Policy as well as the institutional policy, once adopted, under the supervision and control of their Management Boards. All policies and processes shall be posted on institutional websites as required in this Policy. Each Management Board shall ensure that its member institutions' policies comply with applicable federal and state laws and regulations and must be amended to reflect any changes to federal and state laws and regulations.

II. POLICY STATEMENT

The Louisiana Board of Regents (BOR) prohibits discrimination on the basis of sex in any Louisiana public postsecondary institution. This policy applies to all Louisiana public postsecondary institutions in accordance with federal and state law, including Act 472 of the 2021 Legislative Session of the Louisiana Legislature (Act 472), Title IX of the Education Amendments of 1972 (Title IX) and Title VII of the Civil Rights Act of 1964 (Title VII), the Violence Against Women Act (VAWA), The Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (Clery Act), and other applicable laws.

The comprehensive scope of this Policy includes procedures to address both power-based violence (which includes sexual misconduct) and Title IX conduct (see Title IX Formal Grievance Procedures). All Institutions shall implement policies, procedures, practices, and educational programs to prevent, respond to, and redress incidents involving acts of power-based violence including sexual misconduct and Title IX conduct (See definition in Appendix A). This Policy is designed to help Institutions create and maintain safe learning, working and living environments for all individuals who participate in the institutions' activities and programs, including online instruction. It reflects BOR's strong commitment to promoting an environment that is free from power-based violence which includes sexual misconduct and Title IX conduct.

Institutions may develop supplementary procedures to further support the implementation of this Policy. However, this Policy establishes various mandatory obligations with which all institutional policies must comply.

The BOR will review, evaluate, and make any revisions or amendments to applicable power-based violence policies on an ongoing and as-needed basis.

Inquiries about the application of this policy should be directed to the relevant Institution's Title IX Coordinator, whose contact information is available on each Institution's Title IX website. Institutions shall provide additional information about Title IX on their respective Title IX websites and provide additional information about the U.S. Department of Education's Office for Civil Rights.

This Policy is not intended to infringe upon or restrict rights guaranteed by the United States Constitution, including the right to free speech under the First Amendment or the due process clauses of the Fifth and Fourteenth Amendments.

III. NONDISCRIMINATION

Each Institution must publish a notice of nondiscrimination in their power-based violence policies. The notice must be distributed to all students, employees, applicants for admission and employment, and other relevant individuals. The notice must be prominently displayed on the Institution's website and included in publications of general distribution that provide information to students and employees.

Title IX is a federal law that prohibits discrimination on the basis of sex in any federally funded education program or activity. Title IX prohibits use of federal money to support sex discrimination in education programs and provides individuals protection against such practices.

In compliance with federal law and USDOE federal guidance, including the provisions of Title VII of the Civil Rights Act of 1964 (Title VII), Title IX of the Education Amendments of 1972 (Title IX), Sections 503 and 504 of the Rehabilitation Act of 1973, the Americans with Disabilities Act (ADA) of 1990, the ADA Amendments Act of 2008, the Age Discrimination in Employment Act of 1967 (ADEA), Executive Order 11246, Executive Order 13988, the Vietnam Era Veterans Readjustment Assistance Act of 1974 as amended by the Jobs for Veterans Act, the Uniformed Services Employment and Reemployment Rights Act, as amended, and the Genetic Information Nondiscrimination Act of 2008, an Institution shall not discriminate against individuals on the basis of their race, sex, sexual orientation, gender identity, gender expression, religion, color, national or ethnic origin, age, disability, military service, covered veteran's status, or genetic information in its administration of education policies, programs, or activities; admissions policies; scholarship and loan programs; athletic or other Institution-administered programs; or employment.

As part of their commitment to maintaining a community free of discrimination, and in compliance with Title IX's mandate, Institutions should address allegations of power-based violence, including sexual harassment and sexual assault, in a timely and effective manner. Further, Institutions will provide resources as needed for affected persons (Reporters, Complainants, Respondents and third parties within an Institution's community), and will not tolerate retaliation against any person who reports or participates in the investigation of alleged power-based violence or sex/gender discrimination.

IV. SCOPE

A. SCOPE

This Uniform Policy (Policy) serves as BOR's overarching policy against power-based violence in all of its forms. It outlines procedures mandated by state law and identifies best practices that address both Title IX Conduct and power-based violence which includes sexual misconduct.

This Policy is intended to inform and guide the development of institutional policy to address individuals who have been affected by power-based violence, whether as a Complainant, a Respondent, or a witness, and to provide fair and equitable procedures for all parties. It is applicable to all Institutions with respect to conduct that occurs both on and off campus.

Power-based violence, which is addressed in this overarching Policy, is a broader term that covers gender/sex-based misconduct beyond the Title IX Regulations' "sexual harassment" definition. Power-based violence prohibited by this Policy includes conduct defined in Act 472. (See defined terms in [Appendix A.](#))

The accompanying Title IX Formal Grievance Procedure covers a narrower sub-set of conduct (i.e., Title IX Conduct) that must be addressed under a defined formal grievance process as required by the U.S. Department of Education under new Title IX Regulations, effective August 14, 2020. When power-based violence meets the criteria specified in the Title IX Regulations, it must be addressed under the Title IX Formal Grievance Procedure, and not this overarching Power-Based Violence Policy, to the extent the processes differ between the two policies. (See 34 C.F.R. §106.44-.45.)

"Sexual harassment" is defined in the Title IX Regulations (§106.30) as conduct on the basis of sex that satisfies one or more of the following:

1. An Institution's faculty or staff member/employee conditioning the provision of an aid, benefit, or service on an individual's participation in unwelcome sexual conduct;
2. Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to education programs or activities; or
3. Sexual assault, dating violence, domestic violence, or stalking. (See defined terms in [Appendix A.](#))

The Title IX Grievance Procedure applies to an Institution's education program activity, which is defined by the Title IX Regulations to include locations, events, or circumstances in which an Institution exercises substantial control over both the Respondent and the context in which the sexual harassment occurs, and also includes any building owned or controlled by a student organization that is officially recognized by the Institution. Under the Title IX Regulations, the Title IX Grievance Procedure does not apply to any education program or activity that does not occur in the United States (§106.44(a)).

However, power-based violence that is not covered by the Title IX Grievance Procedure, such as off-campus power-based violence alleged to have an on-campus effect or occurring during a study abroad program, may be addressed under this broader Policy.

Combined, BOR's and Louisiana's public postsecondary education systems and their Institutions' policies and procedures are intended to ensure that all students impacted by an incident or Formal Complaint of power-based violence receive appropriate support and fair treatment, and that allegations of power-based violence are handled in a prompt, thorough and equitable manner.

B. OVERVIEW OF POLICY AND SELECTED DEFINITIONS

Institutions will address all reports of power-based violence (“Reports”) received by the Title IX Coordinator. Each Institution is authorized under this Power-Based Violence Policy and its accompanying Title IX Formal Grievance Procedure to take certain actions to address or remedy power-based violence after receiving a Report, during an investigation, and after an investigation, even if the matter does not proceed to adjudication.

Anyone can report an incident of power-based violence to an Institution under the procedure described in [Section VII](#) of this Policy. For example, a “Reporter” can be any individual who reports to an Institution that they are a victim or survivor of power-based violence or that they have been affected by sex/gender discrimination or power-based violence (sometimes referred to as a “First-Party Reporter”) or that they have knowledge of power-based violence happening to or affecting someone else (sometimes referred to as a “Third-Party Reporter”).

A Report (verbal or written) will become a “Formal Complaint” if a First-Party Reporter files a written and signed document with the Title IX Coordinator describing an incident of power-based violence and indicating that they want the Institution to take further steps, such as conducting a full investigation and possibly holding an adjudication to resolve the alleged issue. An Institution can also convert a Report to a Formal Complaint if the Institution determines that, in order to meet its Title IX obligations to provide a safe and nondiscriminatory environment for the broader institutional community, it must take further steps to address and resolve the matter. *In such cases, the Complainant must be allowed to submit on paper (hard copy), in electronic form, or in person, whereby the individual can file a Formal Complaint by meeting with the Title IX Coordinator (or Deputy Coordinator) to provide a verbal description of the sexual misconduct which the Title IX Office will use to draft a written document that the individual will review, verify, and sign to constitute a Formal Complaint.*

A “Complainant” refers to an individual who is alleged to have been subjected to an incident of power-based violence (i.e., a First-Party Reporter or a victim or person who has otherwise been affected by power-based violence or, under the Title IX Formal Grievance Procedure governing sexual harassment, an individual who is alleged to be the victim of conduct that could constitute sexual harassment). A Complainant has certain rights under this Policy, as discussed below.

A “Respondent” refers to an individual who has been accused of conduct that could constitute power-based violence prohibited under this Policy (or, under the Title IX Formal Grievance Procedure governing sexual harassment, an individual who has been reported to be the perpetrator of conduct that could constitute sexual harassment). A student Respondent has certain rights under this Policy, as discussed below, and under the Title IX Formal Grievance Procedure when that Procedure is applicable.

A “Third Party” refers to any other participant in the process, including a witness to the incident or an individual who makes a Report on behalf of someone else.

As used throughout this Policy, references to the “Title IX Coordinator” shall include any Deputy Title IX Coordinator and any other person expressly designated by the Title IX Coordinator to act on their behalf.

Additional definitions are contained in [Appendix A](#).

V. SAFETY EDUCATION

A healthy and prevention-minded campus culture allows students to learn to the best of their abilities on a safe and nurturing campus. Robust education and training programs for both students and employees are the cornerstone of these efforts and essential to building a culture in which sexual misconduct is rare and both Complainants and Respondents are well supported. Prevention depends on clear and well-communicated guidelines, underpinned by regular education on understanding of sexual misconduct and power-based violence, positive versus harassing behaviors, tools for reporting harassment and adjudicating disputes, and sanctions for violations.

Based on management board policy, the administration of each Institution, in consultation with campus or local law enforcement agencies, shall develop and distribute information to students regarding power-based violence, campus safety, and internet and cell phone safety and online content that is a potential threat to school safety.

The information shall include the following:

1. Instruction on how to identify and prevent power-based violence and how to detect potential threats to school safety exhibited online, including on any social media platform;
2. How to report incidents of power-based violence, crimes on campus, violations of the student code of conduct, and possible threats to campus safety; and
3. Where to find reports regarding campus safety.

The information shall be distributed as part of new student orientation and shall be posted on an easily accessible page of each Institution's website.

The reporting process for possible threats to the campus shall, at a minimum, include:

- I. A standardized form to be used by students, faculty, and other personnel to report potential threats. The form shall request, at a minimum, the following information:

- a. Name of Institution, person, or group being threatened;
 - b. Name of student, individual, or group threatening violence;
 - c. Date and time the threat was made; and
 - d. Method by which the threat was made, including the social media outlet or website where the threat was posted, a screenshot or recording of the threat, if available, and any printed evidence of the threat.
- II. A process for allowing anonymous reporting and for safeguarding the identity of a person who reports an incident of power-based violence or a safety threat.

Each Institution shall adopt a policy to implement the provisions of this Section. That policy must require that for every report of an incident of power-based violence or a safety threat received the actions taken by the Institution and the campus law enforcement agency or security officers be documented. The policies shall also provide for guidelines on referring the reports to the appropriate law enforcement agencies.

VI. RETALIATION PROHIBITION

Retaliation is expressly prohibited under this Policy. Retaliation includes, but is not limited to, intimidation, harassment, threats, or other adverse action or speech against the person who reported the misconduct, the parties, and their witnesses.

The BOR, system management boards, and Louisiana's postsecondary Institutions expressly prohibit retaliation against anyone who: 1) in good faith reports what they believe is power-based violence, 2) cooperates with an investigation or proceeding under this Policy, or 3) opposes conduct that they believe to violate this Policy. However, an individual who reports an incident of power-based violence or participates in an investigation or proceeding and has perpetrated or assisted in the perpetration of committing the power-based violence reported, is still subjected to an investigation for a potential violation of this policy and may be subject to disciplinary action

Institutions will not only take steps to prevent retaliation but will also take strong corrective action if it occurs. Anyone who believes they have been retaliated against should immediately report it to the Title IX Coordinator, who will treat it as a Report. Any individual found to have retaliated against another individual will be in violation of this Policy and will be subject to disciplinary action. Employees who are mandatory reporters (i.e., Responsible Employees) under this Policy are required to report retaliation.

Anyone who knowingly makes a false accusation of unlawful discrimination, harassment, or retaliation of any form will be subject to an investigation for a potential violation of this Policy and may be subject to disciplinary action, up to and potentially including termination for employees and expulsion for students.

VII. REPORTING POWER-BASED VIOLENCE

An Institution's policy should provide that *anyone* can report an incident of power-based violence (to include Sexual Misconduct and Title IX Conduct).

A Report can be made by any individual who has:

1. Experienced or been affected by power-based violence (i.e., First-Party Reporter); or
2. Knowledge of or witnessed power-based violence happening to or affecting someone else (i.e., Third-Party Reporter).

Institutions should strongly encourage all individuals to report incidents of power-based violence even if the individual does not intend to pursue a Formal Complaint. In addition, the Institution should take prompt action to provide Supportive Measures for the safety and well-being of any affected person as well as the campus community.

A. REPORTING INCIDENTS OF POWER-BASED VIOLENCE

To make a Report, a reporting individual should report the incident to the **Title IX Coordinator or Deputy Coordinator**. Institutions are required to make available contact information for the Title IX Coordinator and any Deputy Coordinator(s), as well as methods for reporting power-based violence. Reporting methods may vary by Institution but shall include, at a minimum, in-person reporting, reporting by mail, and reporting via email.

The alleged victim shall have a right to obtain a copy of any Report made that pertains to the alleged victim.

After making a Report, an individual may choose to file or request a Formal Complaint and pursue resolution (under this policy or the Title IX Formal Grievance Procedure, as applicable) or, if applicable, an Informal Resolution involving the Respondent; may choose to be involved or not be involved in an Institution's investigation and any related proceedings; or may choose to end involvement in the process.

a. ONLINE REPORTING

Institutions shall provide an online reporting system to collect anonymous disclosures of incidents of power-based violence and crimes, and track patterns of power-based violence and crimes on campus. (See additional information about confidential and anonymous reporting in Section D.) The online system shall also include information regarding how to report an incident of power-based violence or crime to a Responsible Employee and law enforcement and how to contact a Confidential Advisor.

B. MANDATORY REPORTING FOR EMPLOYEES

An employee who receives a direct statement regarding or witnesses an incident of power-based violence committed by or against a student is a Responsible Employee (unless they are designated specifically as a Confidential Advisor). A Responsible Employee shall promptly report the incident to the Institution's Title IX Coordinator. (See [Appendix A](#) for definition of Responsible Employee.)

A Responsible Employee must report the following to the Title IX Coordinator:

1. The identity of the alleged victim;
2. The identity of the alleged perpetrator;
3. The type of power-based violence or retaliation alleged to have been committed;
4. Any other information about witnesses, location, date, and time that the incident occurred; and
5. Any other relevant information.

However, according to state law a Responsible Employee is not required to make a report if information involving power-based violence was received in the following circumstances:

1. During a public forum or awareness event in which an individual discloses an incident of power-based violence as part of educating others;
2. Disclosure made in the course of academic work consistent with the assignment; or
3. Disclosure made indirectly, such as in the course of overhearing a conversation.

If an individual chooses to make an initial report to an employee other than the Title IX Coordinator, that employee must refer the information to the Title IX Coordinator because the Title IX Office bears responsibility for responding to reports of power-based violence. Once the information is received by the Title IX Coordinator, it should constitute a Report.

BOR recommends as a best practice that, if an employee believes an individual may intend to share any information regarding an instance of power-based violence, the employee should seek to confirm that the reporting party understands the employee's obligations as a mandatory reporter. If the reporting party would prefer to speak with a confidential resource, the employee should direct the reporting party to a confidential resource. Institutions must provide a list of confidential resources in their policies.

C. CONFIDENTIAL AND ANONYMOUS REPORTING

In accordance with state law, unless waived in writing by the alleged victim, the identity of an alleged victim of an incident reported under R.S. 17:3399.13 is confidential and not subject to disclosure except to:

1. A person employed by or under contract with the Institution to which the report is made, if the disclosure is necessary to conduct the investigation of the report or any related hearings;

2. A law enforcement officer as necessary to conduct a criminal investigation of the report;
3. A person alleged to have perpetrated the incident, to the extent required by law; or
4. A potential witness to the incident as necessary to conduct an investigation of the report.

Note: Consistent with FERPA's prohibition on re-disclosure of confidential information, any person who receives another person's confidential information solely as a result of participation in any investigation or proceeding under this Policy is prohibited from using or disclosing such confidential information outside of such forums without express consent or for any improper purpose. This provision only applies to other people's confidential information, as a party is never restricted from discussing their own experience. This provision does not apply to any information learned outside of an investigation or proceeding under this Policy.

An alleged victim shall be advised of the right to seek a Confidential Advisor. See additional information pertaining to [Confidential Advisors](#).

D. ADMINISTRATIVE REPORTING

In accordance with state law, an Institution's Title IX Coordinator, Chancellor, System President, and System Management Board are required to submit summarized reports on power-based violence incidents and to publish those reports on their respective websites.

- a. **Title IX Coordinator:** Not later than **October Tenth (10)** and **April Tenth (10)** of each year, the Title IX Coordinator of an Institution shall submit to the Chancellor of the Institution a written report on the reports received in accordance with the information required in [Appendix B](#).

The Title IX Coordinator of an Institution shall immediately report to the Chancellor of the Institution of an incident reported to the Coordinator if the Coordinator has cause to believe as a result of the incident that the safety of any person is in imminent danger.

- b. **Chancellor:** The Chancellor of each Institution shall submit a report to the Institution's Management Board and System President within **fourteen (14) days** of receiving the report from the Title IX Coordinator in accordance with the information required in [Appendix B](#). The report shall be posted on the Institution's website.
- c. **System President:** The System President shall submit a system-wide summary report within **fourteen (14) days** of receiving the reports from the Chancellors to the System Management Board in accordance with the information required in [Appendix B](#). The report shall be published on the website of the system.
- d. **System Management Board:** The System Management Board shall send an annual system-wide summary report to BOR by **December Thirty-First (31)** in accordance with the information required in [Appendix B](#). BOR shall post the report on its website.

- e. **Board of Regents:** BOR shall annually submit a report to the Governor, the president of the Senate, the speaker of the House of Representatives, and the Senate and House Education Committees by **January Fifteenth (15)** which shall include the statewide information. The report shall also include any recommendations for legislation. The report shall be published on BOR's website.

E. EMPLOYEE'S FAILURE TO REPORT OR FALSE REPORTING

A Responsible Employee who is determined by the Institution's disciplinary procedures to have knowingly failed to make a Report or, with the intent to harm or deceive, made a Report that is knowingly false **shall be terminated**.

F. STUDENT'S FALSE REPORTING

As a Best Practice BOR recommends; Any student who knowingly and in bad faith makes a false accusation of power-based violence or retaliation of any form will be subject to an investigation for a potential violation of this Policy and may be subject to disciplinary action.

G. IMMUNITIES AND AMNESTY

An individual acting in good faith who reports or assists in the investigation of a report of an incident of power-based violence, or who testifies or otherwise participates in a disciplinary process or judicial proceeding arising from a report of such an incident may not be subjected to any disciplinary action by the Institution in which the individual is enrolled or employed for any violation of the Institution's code of conduct reasonably related to the incident for which suspension or expulsion from the institution is not a possible punishment.

Immunity shall not apply to an individual who perpetrates or assists in the perpetration of power-based violence.

Each Institution shall provide an amnesty policy for any student who reports, in good faith, power-based violence to the Institution. Such student shall not be sanctioned by the Institution for a nonviolent student conduct violation, such as underage drinking, that is revealed in the course of making such a report.

VIII. TRANSCRIPT WITHHOLDING, NOTATION & COMMUNICATION

In accordance with state law, public postsecondary Institutions shall implement uniform transcript notation and communication policies to effectuate communication regarding the transfer of a student who is the subject of a power-based violence Formal Complaint or who has been found responsible for an incident of power-based violence pursuant to an

Institution's investigative and adjudication process. The following Section(s), which include procedures relative to the withholding or notation of transcripts during the investigative and adjudication processes, were developed by BOR in consultation with the System Management Boards.

At a minimum, for any student who is the subject of a power-based violence Formal Complaint and who attempts to transfer to another institution, the Institution from which the student seeks to transfer ("Sending Institution") shall either (1) withhold the transcript of the student or (2) place a notation on the student's transcript. If the Sending Institution does not know whether the student seeks to transfer to another Institution, the student's transcript shall either be withheld or notated.

The Sending Institution shall notify the student that their transcript has been withheld or notated, and of the appeals process to have the hold or notation removed. Either the transcript is withheld or the notation remains on the transferring student's transcript until the Institution makes a determination that the transferring student is not responsible for power-based violence or the transferring student prevails in a request to appeal the withholding of a transcript or notation pursuant to Part c of this Section, whichever occurs first.

a. WITHHOLDING STUDENT TRANSCRIPTS

If the Sending Institution chooses to withhold upon the filing of a Formal Complaint, the Institution shall place an administrative hold on the transcript of a student who is the subject of the Formal Complaint. For any student who is the subject of a power-based violence Formal Complaint that also constitutes sexual harassment under Title IX, the Institution should commence an investigation and place a notation on the student's transcript, rather than withholding the transcript.

When a student transcript is withheld, the institution to which the student seeks to transfer ("Receiving Institution") must make a timely inquiry directed to the Sending Institution regarding the purpose of the transcript hold. Upon such an inquiry, the Sending Institution must timely disclose appropriate and factual information, consistent with the Family Education Rights and Privacy Act (FERPA), 20 U.S.C. § 1232g.

b. NOTATION

If the Sending Institution chooses to notate upon the filing of a Formal Complaint, the Institution *may* place a notation on the transcript of a student attempting to transfer to another institution. For any student who is the subject of a power-based violence Formal Complaint that also constitutes sexual harassment under Title IX, the Sending

Institution should commence an investigation and place a notation on the student's transcript, rather than withholding the transcript.

For a transferring student who is the subject of a pending investigation, the notation on the transcript shall read: **"ADMINISTRATIVE MATTER PENDING"** or other notation sufficient to place the Receiving Institution on notice and trigger an inquiry regarding the notation directed to the Sending Institution.

For a transferring student for whom a final decision has been rendered, and the student has been found to be responsible for power-based violence, the notation on the transcript shall read: **"STUDENT FOUND RESPONSIBLE IN VIOLATION OF CODE OF CONDUCT"** or other notation sufficient to place the Receiving Institution on notice and trigger an inquiry regarding the notation directed to the Sending Institution.

When a student transcript is notated as described above, the Receiving Institution must make a timely inquiry directed to the Sending Institution regarding the purpose of the transcript notation. Upon such an inquiry, the Sending Institution must timely disclose appropriate and factual information, consistent with the Family Education Rights and Privacy Act (FERPA), 20 U.S.C. § 1232g.

For a transferring student found to be responsible for power-based violence, the Sending Institution will determine how long the notation will remain on the student's transcript.

If a student is not found responsible, the Sending Institution must remove the notation and must send an updated version of the student's transcript to the Receiving Institution (if known).

c. TRANSCRIPT WITHHOLDING AND NOTATION APPEALS

A student whose transcript has been withheld or notated as described above may request a release of the hold or an expungement of the notation for good cause shown. Cause may include, but is not limited to, when (1) a student who transferred while under investigation was found not responsible or (2) a student was initially found responsible and later evidence showed that the student was in fact not responsible. In the second instance, an Institution must send an updated version of the student's transcript.

Such request shall be submitted in writing to the appropriate decision makers, to be designated by the Institution. The Institution shall notify the requesting student of its decision no later than seven (7) business days from the date that the appeal request is made.

d. APPLICABILITY

State law requires that all Louisiana public postsecondary institutions implement this Transcript, Withholding, Notation, and Communication policy; all Louisiana non-public postsecondary institutions are encouraged to implement this policy.

Nothing in this Policy shall prohibit or prevent a Sending Institution from withholding or notating the transcript of a student who is the subject of a power-based violence Formal Complaint, or who has been found responsible for power-based violence, when such student seeks to transfer to a non-public postsecondary or out-of-state institution. The BOR recognizes an obligation to ensure investigation and adjudication of all complaints of power-based violence, regardless of the type or location of the postsecondary institution where they occur. Accordingly, the BOR strongly encourages all institutions to adopt practices that fully meet this obligation.

IX. VICTIMS' RIGHTS POLICY

State law requires institutions to adopt a victims' rights policy, which, at a minimum, shall provide for a process by which a victim may petition and be granted the right to have a perpetrator of an incident of power-based violence against the victim barred from attending a class in which the victim is enrolled.

Institutions are to develop a policy to address victims' rights as required by this law.

X. IDENTIFIED BEST PRACTICES BY BOR

In addition to compliance with federal and state laws and regulations, BOR has prescribed and identified a set of best practices, in accordance with Act 472, which Institutions should implement to address the resolving of power-based violence.

Once the Title IX Coordinator learns of any Report of alleged power-based violence or sex/gender discrimination, they should implement [Supportive Measures](#) as needed and initiate an investigation into the alleged incident.

The form of the investigation may vary depending on whether the alleged conduct falls within the scope of power-based violence/sexual misconduct or Title IX Conduct. If the alleged power-based violence satisfies the USDOE's definition of Title IX sexual harassment

(i.e., Title IX Conduct), the Title IX Coordinator should ensure investigation and adjudication of the allegation pursuant to the Title IX Formal Grievance Procedure. However, if the alleged conduct does not satisfy the USDOE's definition of Title IX Sexual Harassment, the Title IX Coordinator will refer to the part of this Policy that addresses BOR's best practices, outlined in the Sections below.

Following an investigation, the Title IX Coordinator has authority to resolve a Report, including the implementation of any Supportive Measures, and should close the case if the Report does not constitute or become a Formal Complaint.

A. INITIAL STEPS & DETERMINATION OF APPROPRIATE PROCEDURES

After an Institution's Title IX Office has received a Report of alleged power-based violence, the Title IX Office should perform an initial assessment consistent with the information below prior to moving forward with an investigation (if one is required/requested) to determine whether the reported conduct meets the USDOE's jurisdictional and definitional requirements to be categorized as Title IX conduct. If that initial assessment reveals that the alleged conduct does meet the definition of sexual harassment as contained within the USDOE's Title IX Regulations, the investigation should proceed pursuant to the Title IX Formal Grievance Procedure. If the alleged conduct does not meet the USDOE's definition of sexual harassment, the investigation should proceed pursuant to this Policy.

B. INITIAL CONTACT WITH POTENTIAL COMPLAINANT

After receiving a Report of power-based violence, an Institution's Title IX Office should notify the individual who is the alleged victim in the Report of the option to have an Advisor accompany them to any meeting or interview related to the power-based violence process.

In initial contact with a potential Complainant, the Title IX Office should also:

- a. Give the potential Complainant a copy of the relevant policies;
- b. Explain the process for filing a Formal Complaint with the Title IX Office;
- c. Provide the potential Complainant with information regarding the rights/responsibilities as a party in this matter;
- d. Explain the process for investigating and resolving a power-based violence Formal Complaint (including the available appeal procedures);
- e. Explain the procedural differences based on Title IX vs power-based violence conduct;
- f. Instruct the potential Complainant not to destroy any potentially relevant documentation in any format;
- g. Inform the individual of the availability of Supportive Measures with or without the filing of a Formal Complaint;
- h. Discuss the potential Complainant's expressed preference for manner of resolution and any barriers to proceeding (e.g., confidentiality concerns);

- i. Explain the prohibition against retaliation; and
- j. Communicate necessary details of the report to the campus police department for entry into the Institution's daily crime log.

C. SUPPORTIVE MEASURES

If the Title IX Coordinator receives notice of alleged power-based violence, whether through online reporting or other reporting methods, the Title IX Coordinator or designee should contact the Complainant to discuss the availability of Supportive Measures with or without the filing of a Complaint (or Formal Complaint under the Title IX Grievance Procedure) and consider the Complainant's wishes with respect to Supportive Measures. Supportive Measures should also be made available to the Respondent.

Supportive Measures are non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the Complainant or the Respondent regardless of whether a Complaint (or Formal Complaint) has been filed. Such measures may include counseling, extensions of deadlines or other course-related adjustments, modifications of work or class schedules, campus escort services, mutual restrictions on contact between the parties, changes in work or housing locations, leaves of absence, and increased security and monitoring of certain areas of the campus, and other similar measures.

Supportive Measures should be designed to restore or preserve access to the Institution's education program or activity, including measures designed to protect the safety of all parties and the Institution's educational environment.

D. FILING A FORMAL COMPLAINT

If a potential Complainant wishes to pursue an incident of power-based violence beyond simply reporting it, they may file a Formal Complaint. The filing of a Formal Complaint means that the individual is asking an Institution to take further steps, such as a full investigation and possibly an adjudication to resolve the alleged issue. Any Complainant (i.e., an alleged victim or survivor or someone who has otherwise been directly affected by power-based violence) may file a Formal Complaint, and the Institution will treat it as such.

An individual who is alleged to have been subjected to an incident of power-based violence (i.e., a victim or a person who has been directly affected by power-based violence) and subsequently files a Formal Complaint will be referred to as a Complainant.

Any Third-Party Reporter (i.e., someone who has knowledge of or witnessed power-based violence) may request for an Institution to treat their Report as a Formal Complaint, but that request would not make the Third-Party Reporter into a Complainant.

Similarly, the fact that the Title IX Coordinator converts a Report to a Formal Complaint does not make the Title IX Coordinator a Complainant. However, the Title IX Coordinator reserves the right to initiate a Formal Complaint in order to meet an Institution's Title IX obligations to provide a safe and nondiscriminatory environment and if the Institution determines that it must take additional steps to protect the campus community. Depending on the conduct alleged and the location of the incident, a Formal Complaint and subsequent investigation will be governed by either this Policy or the Title IX Formal Grievance Procedure.

a. HOW TO FILE A FORMAL COMPLAINT

Individuals seeking to file a Formal Complaint may do so with the Title IX Coordinator. Formal Complaints should be in writing, signed and include all information the individual believes to be relevant (e.g., time, location, and nature of incident, names of individuals involved, witnesses to the incident, names of other persons affected by the incident, etc.).

Individuals seeking to file a Report should be allowed to submit on paper (hard copy), in electronic form, or in person, whereby the individual can file a Formal Complaint by meeting with the Title IX Coordinator (or Deputy Coordinator) to provide a verbal description of the power-based violence which the Title IX Office will use to draft a written document that the individual will review, verify, and sign to constitute a Formal Complaint.

Note: If the Complaint filed satisfies the requirements of a Title IX Formal Complaint as defined by 34 CFR §106.30, the Title IX Office ***should proceed under the Title IX Formal Grievance Procedure.***

b. WITHDRAWAL OF FORMAL COMPLAINT

Institutions should allow for a Complainant to withdraw their Formal Complaint. If a Formal Complaint is withdrawn, the Title IX Office should assess the information provided and proceed accordingly. Withdrawal of the Formal Complaint should ordinarily end the Formal Complaint and resolution process. However, the Title IX Office should reserve the right to proceed with the Formal Complaint, even after the Complainant withdraws it, in order to protect the interests and safety of the Institution's community. In such cases, the Complainant shall be notified immediately of the Institution's decision to proceed.

E. POWER-BASED VIOLENCE GRIEVANCE PROCEDURE

This Section describes the investigation and resolution process for cases in which the Respondent is a student and in which the conduct alleged does not fall within the scope of the Title IX Conduct.

Note: Institutions should also include policies that address procedures for cases involving employees.

Institutions should investigate all Reports of power-based violence reported to the Title IX Coordinator regardless of whether the Report becomes a Formal Complaint. The investigation and adjudication procedures (if needed) will be prompt, fair, and impartial.

a. NOTICE TO RESPONDENT

The person alleged to have committed power-based violence is called the Respondent. The Respondent should be notified in writing that a Formal Complaint alleging power-based violence has been filed against them. The Respondent should be advised that they may have an Adviser accompany them to any meeting or interview related to the investigation and resolution process.

Within seven (7) business days of receiving notice of the Formal Complaint, the Respondent should arrange to meet with the Title IX Office. The Title IX Office is required to provide the same information that was presented to the Complainant during their initial contact (See [Section B](#)).

After reviewing the Formal Complaint and meeting with the Title IX Office and appropriate decision makers, the Respondent may choose to end the resolution process by accepting responsibility for the conduct alleged in the Formal Complaint. If the Respondent accepts responsibility for the conduct alleged in the Formal Complaint, the appropriate decision makers should determine the appropriate sanction for the Respondent. If the Respondent disputes the allegations in the Formal Complaint, the matter will proceed to an investigation.

F. INVESTIGATION PROCESS

The Title IX Office should designate Investigators specifically trained in power-based violence investigations to conduct a prompt, thorough, and fair investigation. Assigned Investigators should not be the Title IX Coordinator or the Decision Makers.

The process should begin with intake meetings conducted by the Title IX Coordinator. The investigation phase should include interviewing the Complainant or Reporter, the Respondent, and any witnesses; reviewing law enforcement investigation documents if applicable; reviewing relevant student or employment files; and gathering and examining other relevant documents and evidence.

As a part of the investigation, the Institution should provide an opportunity for all parties to present written statements, identify witnesses, and submit other evidence.

Both Complainants and Respondents should be advised of the utilization of Advisors throughout the investigation process. Parties should be advised that Advisors are not permitted to participate directly in Resolution Hearings or Informal Resolution Conferences, except to the extent an Advisor's participation is required during Title IX grievance hearings; they may be present solely to advise or support the party and are prohibited from speaking directly to the Investigator, the power-based violence Adjudicator, other parties, or witnesses.

G. FINDINGS & INVESTIGATIVE REPORT

At the conclusion of the investigation, Investigators should prepare a report (the "Investigative Report") summarizing and analyzing the relevant facts determined through the investigation, with reference to any supporting documentation or statements. The report should be delivered to the Title IX Coordinator, who should analyze the report to ensure that the investigation was prompt, impartial, thorough, and consistent with this Policy. Before the Investigative Report is finalized, the Complainant and Respondent should be given the opportunity to review one another's statements and may also be provided with a written summary of other information collected during the investigation if the information is requested and the Title IX Office deems it appropriate to disclose.

A Complainant or Respondent should submit any comments about their own statement, or on any investigation summary that might be provided, to the Investigators within five (5) calendar days after the statement or summary was provided. Following the receipt of any comments submitted, or after the five-day comment period has lapsed without comment, the Investigators should address any identified factual inaccuracies or misunderstandings, as appropriate.

The final Investigative Report should provide a summary of the Investigators' impressions, including context for the evidence collected, but should not make a final determination as to whether a violation of the Power-Based Violence Policy occurred, reserving that decision (and any sanctions) for the appropriate decision maker(s). The parties should be provided with a copy of the final Investigative Report simultaneously.

H. RESOLUTION

a. INFORMAL RESOLUTION

For Formal Complaints with a student Respondent, at the discretion of the Title IX Coordinator, the parties should be advised of their option to pursue an Informal Resolution as an alternative to a Formal Resolution. An Informal Resolution should involve a remedies-based, non-judicial process designed to eliminate or address potential power-based violence. This process should aim to assure fairness, to facilitate communication, and to maintain an equitable balance of power between the parties. Institutions should not compel face-to-face confrontation between the parties or participation in any particular form of Informal Resolution.

The Title IX Coordinator should make an initial decision about whether a case qualifies for an Informal Resolution. If both parties then agree to pursue that path, the Institution will halt any investigation or scheduled Resolution Hearing so that the parties can explore the possibility of Informal Resolution. Participation in an Informal Resolution is voluntary, and either party can request to end the Informal Resolution process at any time and commence or resume the investigation process. If the parties agree to a resolution during an Informal Resolution process, the Title IX Coordinator should oversee its implementation, the Formal Complaint should be deemed withdrawn, and the matter should be terminated. An appeal of the process and its result should not be permitted. The resolution should be considered binding, and its breach would give rise to a new Formal Complaint.

b. FORMAL RESOLUTION

Institutions must provide for a process to resolve Formal Complaints. That process should be delineated in their policy. Institutions should avoid the “single investigator” or “sole investigator” model and ensure that the Title IX Coordinator and investigator(s) do not serve as the decision-maker(s) for a Formal Complaint.

I. SANCTIONS

Institutions should describe the range of sanctions for employees and students.

J. GRIEVANCE PROCEDURE APPEALS

Institutions' policies should provide an appeal process that is equally available to the parties and includes the procedures and permissible basis for the Complainant and Respondent to appeal.

Appeals should only be raised on one or more of the following grounds, for example:

- a. a procedural irregularity that affected the outcome of the matter;
- b. to consider new facts or information that were not known or knowable to the appealing party before or during the time of the resolution and that are sufficient to alter the decision;
- c. the Title IX Coordinator, Investigator, or Adjudicator(s) had a conflict of interest or bias that affected the outcome of the matter;
- d. the decision reached was not supported by a preponderance of evidence; or
- e. the sanctions were disproportionate to the findings.

As to all appeals the Institution should, at a minimum:

1. Notify the other party in writing when the appeal is filed and implement appeal procedures equally for both parties;
2. Ensure the decision maker(s) for the appeal **is/are not** the same individual(s) who reached the determination regarding responsibility or dismissal, the Investigator(s) or the Title IX Coordinator;
3. Give both parties a reasonable, equal opportunity to submit a written statement in support of or challenging the outcome;
4. Issue a written decision describing the result of the appeal and the rationale for the result; and
5. Provide a written decision simultaneously to both parties.

XI. TRAINING

A. RESPONSIBLE EMPLOYEES

Each Institution shall require annual training for each of its (i) Responsible Employees; (ii) individuals who are involved in implementing the Institution's student grievance procedures, including each individual responsible for resolving Formal Complaints of reported power-based violence or power-based violence policy violations; (iii) Title IX Coordinator(s); and (iv)

employees who have responsibility for interviewing any alleged victims of power-based violence. Each Institution shall ensure that the individuals and employees receive the training described in this Subsection no later than the beginning of the 2022-2023 academic year.

No later than January 1, 2022, BOR, in coordination with the attorney general and in consultation with state or local victim services organizations, shall develop the annual training program required in this Section. BOR shall annually review the annual training program and revise it as needed.

B. CONFIDENTIAL ADVISORS

Each Institution shall designate individuals who shall serve as Confidential Advisors, such as health care staff, clergy, staff of a women's center, or other such categories. Such designation shall not preclude the Institution from partnering with national, state, or local victim services organizations to serve as Confidential Advisors or in other confidential roles.

Prior to designating a person as a Confidential Advisor, the person shall complete a training program that includes information on power-based violence (including "sexual harassment" under Title IX, as well as other types of power-based violence falling outside Title IX's jurisdictional requirements), trauma-informed interactions, Title IX requirements, state law on power-based violence, and resources for victims. The Confidential Advisor shall also complete annual training relative to power-based violence and Title IX. The initial and annual training shall be developed by the Attorney General in collaboration with BOR and shall be provided through online materials.

Each Institution's website shall provide the contact information for obtaining a Confidential Advisor.

The Confidential Advisor to an alleged victim of power-based violence shall inform the alleged victim of the following:

1. The rights of the alleged victim under federal and state law and the policies of the Institution;
2. The alleged victim's reporting options, including the option to notify the Institution, the option to notify local law enforcement, and any other reporting options;
3. If reasonably known, the potential consequences of those reporting options;
4. The process of investigation and disciplinary proceedings of the Institution;
5. The process of investigation and adjudication of the criminal justice system;

6. The limited jurisdiction, scope, and available sanctions of the institutional student disciplinary proceeding, and that it should not be considered a substitute for the criminal justice process;
7. Potential reasonable accommodations that the Institution may provide to an alleged victim; and
8. The name and location of the nearest medical facility where an alleged victim may have a rape kit administered by an individual trained in sexual assault forensic medical examination and evidence collection, and information on transportation options and available reimbursement for a visit to such a facility.

The Confidential Advisor may, as appropriate, serve as a liaison between an alleged victim and the Institution or local law enforcement, when directed to do so in writing by an alleged victim who has been fully and accurately informed about what procedures shall occur if information is shared, and assist an alleged victim in contacting and reporting to a Responsible Employee or local law enforcement.

The Confidential Advisor shall:

1. be authorized by the Institution to liaise with appropriate staff at the Institution to arrange reasonable accommodations through the Institution to allow the alleged victim to change living arrangements or class schedules, obtain accessibility services, or arrange other accommodations;
2. Be authorized to accompany the alleged victim, when requested to do so by the alleged victim, to interviews and other proceedings of a campus investigation and institutional disciplinary proceedings;
3. Advise the alleged victim of, and provide written information regarding, both the alleged victim's rights and the Institution's responsibilities regarding orders of protection, no-contact orders, restraining orders, or similar lawful orders issued by a court of competent jurisdiction or by the Institution;
4. Not be obligated to report crimes to the Institution or law enforcement in a way that identifies an alleged victim or an accused individual, unless otherwise required to do so by law; and
5. To the extent authorized under law, provide confidential services to students. Any requests for accommodations made by a Confidential Advisor, as provided in this Section, shall not trigger an investigation by the Institution.

The Institution shall appoint an adequate number of Confidential Advisors. The BOR shall determine the adequate number of Confidential Advisors for an Institution based upon its size., no later than January 1, 2022, and on January 1st annually thereafter.

Each Institution that enrolls fewer than five thousand students may partner with another Institution in their system or region to provide the services described in this Section. However, this provision shall not absolve the Institution of its obligations under this Section.

XII. DATA PUBLICATION(S)

A. POWER-BASED VIOLENCE CLIMATE SURVEY

Beginning in the 2022-2023 academic year, each Institution shall administer an anonymous Power-Based Violence Climate Survey (Survey) to its students once every three (3) years. If an Institution administers other surveys with regard to campus safety, this Survey may be included as a separate component of any such survey, provided that the power-based violence component is clearly identified as such.

Participation in this Survey shall be voluntary. No student shall be required or coerced to participate in the Survey, nor shall any student face retribution or negative consequences of any kind for declining to participate.

Subject to the foregoing paragraph, each Institution shall make every effort to maximize student participation in the Survey.

BOR shall:

1. Develop the survey in consultation with the System Management Boards and in accordance with national best practices;
2. Work with System Management Boards in researching and selecting the best method of developing and administering the survey;
3. Consult with victims' advocacy groups and student leaders who represent a variety of student organizations and affiliations, including student government associations, academic associations, faith-based groups, cultural groups, and fraternities and sororities, when meeting the requirements of this Section;
4. Submit a written report on survey results to the House Committee on Education, Senate Committee on Education, and the Governor not later than forty-five (45) days prior to the convening of the next Regular Session of the Legislature following the administration of the survey. The report shall summarize results from each public postsecondary education Institution and the state as a whole; and
5. Publish the survey results on BOR's website and in any other location or venue BOR considers necessary or appropriate.

Institutions must:

1. Administer a survey during the 2022-2023 academic year and every third year thereafter;
2. Report Survey results to the System Management Board and BOR; and
3. Publish the Survey results in a prominent, easily accessible location on the Institution's website.

B. CAMPUS SECURITY REPORT

In accordance with Act 447 of the 2021 Regular Legislative Session of the Louisiana Legislature, each Institution must publish on its website a semiannual security report to contain updated campus security policies and campus crime statistics.

The reports shall be updated and posted by **April Tenth (10)** and **October Tenth (10)** of each academic year. The report must include, at a minimum, all information relative to such policies and statistics specified in the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act, 20 U.S.C. §1092 (Clery Act).

BOR recommends as a best practice to include information related to statistics of incidents of power-based violence.

The report shall be posted in a prominent location that is readily accessible from the main landing page of the Institution's website. If an individual campus does not have its own website, this information shall be posted on the main website of the Institution, with the campus clearly indicated.

BOR shall review Institutions' websites for compliance with this Section. BOR shall notify the House Committee on Education, the Senate Committee on Education, and the State Bond Commission upon an Institution's failure to comply with this Section.

In addition, the State Bond Commission shall not authorize the Institution to incur any debt that is subject to the Commission's approval for a period of two years following notification of the Institution's failure to comply with this Section.

In accordance with state law, any person may commence a suit in the district court for the parish in which an action in violation of this Section occurred for the issuance of a writ of mandamus or injunctive or declaratory relief to require compliance with the provisions of this Section, together with reasonable attorney fees and costs.

C. SEX CRIME DATA REPORT

By **February Fifteenth (15)** of each year, each Institution's campus police department shall submit a report containing the information required in [Appendix C](#) to the System President, the Institution's Chancellor, and the Institution's Title IX Coordinator.

The Chancellor shall ensure the report is posted on the Institution's website.

XIII. MEMORANDA OF UNDERSTANDING

On or before **January 1, 2022**, each Institution and law enforcement and criminal justice agency located within the parish of the campus of the Institution, including the campus police department, if any, the local district attorney's office, and any law enforcement agency with criminal jurisdiction over the campus, shall enter into and maintain a written memorandum of understanding (MOU) to clearly delineate responsibilities and share information in accordance with applicable federal and state confidentiality laws, including but not limited to trends about power-based violence committed by or against students of the Institution. This MOU must be signed by all parties to the MOU.

Each MOU shall include the following:

1. Delineation and sharing protocols of investigative responsibilities;
2. Protocols for investigations, including standards for notification and communication and measures to promote evidence preservation;
3. Agreed-upon training and requirements for the parties to the MOU on issues related to power-based violence for the purposes of sharing information and coordinating training to the extent possible;
4. A method of sharing general information about power-based violence occurring within the jurisdiction of the parties to the MOU in order to improve campus safety; and
5. A requirement that the local law enforcement agency include information on its police report regarding the status of the alleged victim as a student at an Institution.

Each executed MOU shall be reviewed annually by each Institution's Chancellor, Title IX Coordinator, and the executive officer of the criminal justice agency, and shall be revised as considered necessary.

Nothing in this Section or any MOU shall be construed as prohibiting an alleged victim or Responsible Employee from making a Formal Complaint to both the Institution and a law enforcement agency).

XIV. CAMPUS POWER-BASED VIOLENCE POLICIES

The Board of Regents shall establish uniform policies and best practices to implement measures to address the reporting of power-based violence on Institutions' campuses, the prevention of such violence, communication between Institutions regarding incidents of power-based violence, and the provision of medical and mental health care for these alleged victims.

Each Institution's Management Board shall institute policies incorporating the policies and best practices prescribed by BOR regarding the prevention and reporting of incidents of power-based violence committed by or against students of an Institution.

The policies, at a minimum, shall require each Institution to provide for the following:

1. **Confidential Advisors** (See Section about [Confidential Advisors](#))
2. **Website** (See Section about [Website Compliance](#))
3. **Online Reporting** (See Section about [Online Reporting](#))
4. **Amnesty Policy** (See Section about [Immunities and Amnesty](#))
5. **Training** (See Section about [Training](#))
6. **Inter-campus Transfer Policy** (See Section about [Transcript Notation](#))
7. **Victims' Rights Policy** (See Section about [Victims' Rights Policy](#))

XV. WEBSITE COMPLIANCE

In addition to publishing the specified reports outlined in this Policy, Institutions must list on their websites:

- a. Contact information for obtaining a Confidential Advisor;
- b. Reporting options for alleged victims of power-based violence;
- c. The process of investigation and disciplinary proceedings of the Institution;
- d. The process of investigation and adjudication of the criminal justice system;
- e. Potential reasonable accommodations that the Institution may provide to an alleged victim;
- f. The telephone number and website address for a local, state, or national hotline providing information to victims of power-based violence, which shall be updated at least on an annual basis;
- g. The name and location of the nearest medical facility where an individual may have a rape kit administered by an individual trained in sexual assault forensic medical

examination and evidence collection, and information on transportation options and available reimbursement for a visit to such facility;

- h. Each current memorandum of understanding between the Institution and local law enforcement and criminal justice agency located within the parish of the campus (12:15-13:5); and
- i. Data publications as specified in [Section XII](#) of this Policy.

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XVI. APPENDICES

A. DEFINITIONS

For purposes of this Policy, the following terms will have corresponding definitions.

Advisor: A person chosen by a party or appointed by the Institution to accompany the party to meetings related to the resolution process, to advise the party on that process, and to conduct cross-examination for the party at the hearing, if any.

Chancellor: The chief executive officer of a public postsecondary education Institution.

Coercion: The use of express or implied threats, intimidation, or physical force, which places an individual in fear of immediate harm or physical injury or causes a person to engage in unwelcome sexual activity. Coercion also includes administering a drug, intoxicant, or similar substance with the intent to impair that person's ability to consent prior to engaging in sexual activity.

Complainant: An individual who is alleged to be the victim of behavior that could constitute power-based violence under this policy (or an individual who is alleged to be the victim of conduct that could constitute sexual harassment under Title IX) irrespective of whether a Formal Complaint has been filed.

Confidential Advisor: A person designated by an Institution to provide emergency and ongoing support to students who are alleged victims of power-based violence.

Consent: Consent to engage in sexual activity must exist from beginning to end of each instance of sexual activity. Consent is demonstrated through mutually understandable words and/or actions that clearly indicate a willingness to engage in a specific sexual activity. Silence alone, without actions evidencing permission, does not demonstrate Consent. Consent must be knowing and voluntary. To give Consent, a person must be of legal age. Assent does not constitute Consent if obtained through coercion or from an individual whom the Alleged Offender knows or reasonably should know is Incapacitated. The responsibility of obtaining Consent rests with the person initiating sexual activity. Use of alcohol or drugs does not diminish one's responsibility to obtain Consent. Consent to engage in sexual activity may be withdrawn by any person at any time. Once withdrawal of Consent has been expressed, the sexual activity must cease. Consent is automatically withdrawn by a person who is no longer capable of giving Consent. A current or previous consensual dating or sexual relationship between the parties does not itself imply Consent or preclude a finding of responsibility.

Decision Maker: An individual selected by the institution and charged with determining responsibility for an allegation of power-based violence.

Employee: An employee is defined as:

- i. An administrative officer, official, or employee of a public postsecondary education board or Institution.
- ii. Anyone appointed to a public postsecondary education board or Institution.

- iii. Anyone employed by or through a public postsecondary education board or Institution.
- iv. Anyone employed by a foundation or association related to a System Management Board or Institution.

The employee category does not include a student enrolled at a public postsecondary Institution unless the student works for the Institution in a position such as a teaching assistant or residential advisor.

Formal Complaint: A signed document filed by a Complainant or signed by the Title IX Coordinator alleging power-based violence or retaliation and requesting the Institution investigate and possibly adjudicate the alleged issue. A third party who knows of or witnessed an incident of power-based violence but who did not suffer such conduct themselves may request that the Institution treat their third-party Report as a Formal Complaint. The Institution can convert a Report to a Formal Complaint if it determines that, in order to meet its state and/or federal obligations to provide a safe and nondiscriminatory environment for the broader institutional community, it must take further steps to address and resolve the matter.

For purposes of alleged misconduct that satisfies the jurisdictional requirements of Title IX, see Formal Complaint in the Title IX Grievance Policy.

Institution: A public postsecondary education institution.

Informal Resolution: A voluntary process that is separate and distinct from an Institution's investigation and adjudication processes that allows the parties (i.e., Complainant and Respondent) to reach a mutually agreeable resolution.

Incapacitation: An individual is considered to be incapacitated if, by reason of mental or physical condition, the individual is manifestly unable to make a knowing and deliberate choice to engage in sexual activity. Individuals who are asleep, unresponsive, or unconscious are incapacitated. Other indicators that an individual may be incapacitated include, but are not limited to, inability to communicate coherently, inability to dress/undress without assistance, inability to walk without assistance, slurred speech, loss of coordination, vomiting, or inability to perform other physical or cognitive tasks without assistance.

Investigators: Individuals designated by the Title IX Coordinator to conduct an investigation of alleged power-based violence. The Investigators will be a trained individuals who objectively collects and examines the facts and circumstances of potential violations of this Policy and documents them for review. The Investigators will be neutral and will not have a conflict of interest or bias against the Complainant or Respondent, or Complainants and Respondents generally.

Mandatory Reporter: An individual who is obligated by law to report any knowledge they may have of power-based violence. For purposes of this Policy, mandatory reporters include Responsible Employees. (See definition of Responsible Employee.)

Power-based Violence: Any form of interpersonal violence intended to control or intimidate another person through the assertion of power over the person, to include the following:

- a. Dating violence [\(R.S. 46:2151\(C\)\)](#).

- b. Domestic abuse and family violence ([R.S. 46:2121.1\(2\)](#) and [2132\(3\)](#)). For the purpose of this Part, domestic abuse shall also include any act or threat to act that is intended to coerce, control, punish, intimidate, or exact revenge on the other party, for the purpose of preventing the victim from reporting to law enforcement or requesting medical assistance or emergency victim services, or for the purpose of depriving the victim of the means or ability to resist the abuse or escape the relationship.
- c. Nonconsensual observation of another person's sexuality without the other person's consent, including voyeurism ([R.S. 14:283.1](#)), video voyeurism ([R.S. 14:283](#)), nonconsensual disclosure of a private image ([R.S. 14:283.2](#)), and peeping tom activities ([R.S. 14:284](#)).
- d. Sexual assault ([R.S. 14:41, 42](#) through [43.5, 89, 89.1](#), and [106](#)).
 - i. Sexual Battery ([14:43.1](#))
 - ii. Misdemeanor sexual battery ([14:43.1.1](#))
 - iii. Second degree sexual battery ([14:43.2](#))
 - iv. Oral sexual battery ([14:43.3](#))
 - v. Female genital mutilation ([14:43.4](#))
 - vi. Intentional exposure to HIV ([14:43.5](#))
 - vii. Crime against nature ([14:89](#))
 - viii. Aggravated Crime against nature ([14:89.1](#))
 - ix. Obscenity ([14:106](#))
- e. Sexual exploitation means an act attempted or committed by a person for sexual gratification, financial gain, or other advancement through the abuse of another person's sexuality including prostituting another person ([R.S. 14:46.2](#) and [82](#) through [86](#)).
 - i. Human trafficking ([14:46.2](#))
 - ii. Prostitution ([14:82](#))
 - iii. Prostitution of person under 18 ([14:82.1](#))
 - iv. Purchase of commercial sexual activity ([14:82.2](#))
 - v. Solicitation for prostitutes ([14:83](#))
 - vi. Inciting prostitution ([14:83.1](#))
 - vii. Promoting prostitution ([14:83.2](#))
 - viii. Prostitution by massage ([14:83.3](#))
 - ix. Sexual massages ([14:83.4](#))
 - x. Pandering (sexual) ([14:84](#))
 - xi. Letting premises for prostitution ([14:85](#))
 - xii. Enticing persons into prostitution ([14:86](#))
- f. Sexual harassment means unwelcome sexual advances, requests for sexual favors, and other verbal, physical, or inappropriate conduct of a sexual nature when the conduct explicitly or implicitly affects an individual's employment or education, unreasonably interferes with an individual's work or educational performance, or creates an intimidating, hostile, or offensive work or educational environment and has no legitimate relationship to the subject matter of a course or academic research.
- g. Stalking ([R.S. 14:40.2](#)) and cyberstalking ([R.S. 14:40.3](#)).
- h. Unlawful communications ([R.S. 14:285](#)).

- i. Unwelcome sexual or sex- or gender-based conduct that is objectively offensive and has a discriminatory intent.

Respondent: An individual who has been accused in a Report or Formal Complaint of conduct that could constitute power-based violence prohibited under this Policy (or, under the Title IX Grievance policy, an individual alleged to be the perpetrator of conduct that could constitute sexual harassment under Title IX).

Responsible Employee: An employee who receives a direct statement regarding or witnesses an incident of power-based violence. Responsible Employees do not include an employee designated as a Confidential Advisor pursuant to R.S. 17:3399.15(B) or an employee who has privileged communications with a student as provided by law.

System: A Louisiana public postsecondary management board.

System President: The president of a public postsecondary education system.

Supportive Measures: Non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the parties before or after the filing of a Formal Complaint or where no Formal Complaint has been filed. Such measures are designed to restore or preserve equal access to the education program or activity without unreasonably burdening the other party, including measures designed to protect the safety of all parties or the Institution's educational environment, or deter sexual harassment. Supportive Measures may include counseling, extensions of deadlines or other course-related adjustments, modifications of work or class schedules, campus escort services, mutual restrictions on contact between the parties, changes in work or housing locations, leaves of absence, increased security and monitoring of certain areas of the campus, and other similar measures.

Title IX Coordinator: The individual designated by a public postsecondary education institution as the official for coordinating the Institution's efforts to comply with and carry out its responsibilities under Title IX of the Education Amendments of 1972 and Act 472 the 2021 Regular Legislative Session of the Louisiana Legislature.

Title IX Grievance Procedure: A process for addressing and resolving a "Formal Complaint" that satisfies requirements set forth in 34 C.F.R. §106.30. See accompanying Title IX Grievance Procedure for key terms.

Title IX Sexual Harassment: For the purposes of determining whether power-based violence will be treated as a potential violation of Title IX in accordance with the Title IX Grievance Procedure, Title IX sexual harassment means conduct on the basis of sex that satisfies one or more of the following:

- A. An employee of the Institution conditioning the provision of an aid, benefit, or service of the recipient on an individual's participation in unwelcome sexual conduct;
- B. Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the recipient's education program or activity; or
- C. "Sexual assault" as defined in 20 U.S.C. 1092(f)(6)(A)(v), "dating violence" as defined in 34 U.S.C. 12291(a)(10), "domestic violence" as defined in 34 U.S.C. 12291(a)(8), or "stalking" as defined in 34 U.S.C. 12291(a)(30).

B. ADMINISTRATIVE REPORTING FORMS

1. Title IX Coordinator (Form B1)

Note: Act 472 requires the submission of reports to the Institution's Chancellor by October 10th and April 10th.

2. Chancellor (Form B2)

Note: Act 472 requires the submission of biannual reports to the System President 14 days after receipt from the Institution's Title IX Coordinator. To ensure timeliness of compliance BOR recommends submitting reports to System Board by October 24th and April 24th.

3. System President (Form B3)

Note: Act 472 requires the submission of biannual reports to the System Board 14 days after receipt from the Institution's Chancellor. To ensure timeliness of compliance BOR recommends submitting reports to System Board by November 7th and May 8th.

4. System Board (Form B3)

Note: Act 472 requires the submission of annual reports to BOR by December 31st. To ensure timeliness of compliance BOR recommends submitting reports to BOR by December 1st. Additionally BOR will request that the System Board submit an interim report to BOR by June 1st.

5. BOR

Note: Act 472 requires the submission of reports to the Legislature by January 15th. To ensure timeliness of compliance BOR will attempt to submit reports to the Legislature by early January.

**Draft Form B1 – Title IX Coordinator’s Data Report
2021-2022 Academic Year, Fall Semester¹**

Date Report Received ²	Status of Report ³	Date Formal Complaint Filed ⁴	Status of Formal Complaint ⁵	Basis for Charge ⁶	Disposition ⁷	Disciplinary Status ⁸	Gender of Complainant ⁹	Gender of Respondent

¹ June 29, 2021 is the effective date for purposes of complying with the Title IX Coordinator’s reporting requirements under Act 472.

² As required by Act 472, Title IX Coordinators are to track and report to the chancellor the investigation status of power-based violence reports and the disposition of reports. For your convenience we have included two columns where Title IX Coordinators may account from the information required in the Acts as it relates to administrative reporting requirements for Title IX Coordinators.

³ Information as to whether the report resulted in the filing of a Formal Complaint and the allegations contained therein.

⁴ Information about Formal Complaints is specifically required to be included in the Chancellor’s report. For convenience, BOR Recommends the Title IX Coordinators’ reporting in the third column serve as the basis of information to be included in the Chancellor’s report, so effectively Title IX Coordinators can copy and paste their reports regarding Formal Complaints into the Chancellor’s report.

⁵ Status of investigation as it pertains to Formal Complaints filed for an accusation of power-based violence or retaliation.

⁶ Type of power-based violence or retaliation alleged.

⁷ Disposition of any disciplinary processes arising from the Formal Complaints.

⁸ Institution should indicate where they are in the disciplinary status and also note if there was a sanction imposed and what sanction was imposed.

⁹ Although not required by law, for data collection purposes BOR requests information pertaining to the gender of both the Complainant and Respondent.

Draft Form B2 – Chancellor’s Data Report 2021-2022 Academic Year, Fall Semester¹⁰

Confidential Advisors and Responsible Employees¹¹	Total
a. Number of Responsible Employees	00
b. Number of Confidential Advisors	00
Annual Training <i>(please include number and percentage)</i> ¹²	
a. Completion rate of Responsible Employees	0 (0%)
b. Completion rate of Confidential Advisors	0 (0%)
Responsible Employee Reporting¹³	
a. Number of employees who made false reports	
i. Number of employees terminated	
b. Number of employees who failed to report	
ii. Number of employees terminated	
Power-Based Violence Formal Complaints¹⁴	
a. Formal Complaints received	00
b. Formal Complaints resulting in occurrence of power-based violence	00
c. Formal Complaints resulting in discipline or corrective action	00
Type of discipline or corrective action taken	
i. For example: Suspension or Expulsion	00
	00
Retaliation¹⁵	
a. Reports of retaliation received	00
b. Investigations	00
c. Findings	
i. Retaliation occurred	00
ii. Retaliation did not occur	00

¹⁰ June 29, 2021 is the effective date of the state statute for purposes of complying with the Title IX Coordinator reporting requirements under Act 472.

¹¹ In accordance with Act 472, the Chancellor’s report shall include the number of Responsible Employees (i.e., employees) and Confidential Advisors for the institution.

¹² In accordance with Act 472, the Chancellor’s report shall include the number and percentage of Responsible Employees and Confidential Advisors who have completed annual training.

¹³ Although this section is not required by Act 472, for data collection purposes BOR requests statistics regarding a responsible employees’ failure to comply with reporting requirements.

¹⁴ In accordance with Act 472, the Chancellor’s report shall include (1) the number of Formal Complaints of power-based violence received by an institution, (2) the number of Formal Complaints which resulted in a finding that power-based violence violations occurred, (3) the number of Formal Complaints in which the finding of power-based violations resulted in discipline or corrective action, (4) the type of discipline or corrective action taken, and (5) the amount of time it took to resolve each Formal Complaint (see 2nd form)

¹⁵ In accordance with Act 472, the Chancellor’s report shall include information about retaliation which include the number of reports of retaliation, and any findings of any investigations or reports of retaliation.

**Draft Form B2 – Chancellor’s Data Report
2021-2022 Academic Year, Fall Semester**

Date Formal Complaint Filed¹⁶	Status of Formal Complaint¹⁷	Basis for Charge¹⁸	Disposition¹⁹	Disciplinary Status²⁰	Gender of Complainant²¹	Gender of Respondent

¹⁶ Information about Formal Complaints is specifically required to be included in the Chancellor’s report. For convenience, BOR Recommends the Title IX Coordinators’ reporting in the third column serve as the basis of information to be included in the Chancellor’s report, so effectively Title IX Coordinators can copy and paste their reports regarding Formal Complaints into the Chancellor’s report.

¹⁷ Status of investigation as it pertains to Formal Complaints filed for an accusation of power-based violence or retaliation.

¹⁸ Type of power-based violence or retaliation alleged.

¹⁹ Disposition of any disciplinary processes arising from the Formal Complaints.

²⁰ Institution should indicate where they are in the disciplinary status and also note if there was a sanction imposed and what sanction was imposed.

²¹ Although not required by law, for data collection purposes BOR requests information pertaining to the gender of both the Complainant and Respondent.

**Draft Form B3 – System Data Report
2021-2022 Academic Year, Fall Semester**

R.S. 17:3399.13	Total
a. Number of Responsible Employees	00
b. Number of Confidential Advisors	00
Annual Training <i>(please include number and percentage)</i>	
a. Completion rate of Responsible Employees	0 (0%)
b. Completion rate of Confidential Advisors	0 (0%)
Responsible Employee Reporting	
a. Number of employees who made false reports	
i. Number of employees terminated	
b. Number of employees who failed to report	
ii. Number of employees terminated	
Power-Based Violence Reports	
a. Formal Complaints received	00
b. Formal Complaints resulting in occurrence of power-based violence	00
c. Formal Complaints resulting in discipline or corrective action	00
Type of discipline or corrective action taken	
i. For example: Suspension or Expulsion	00
	00
Retaliation Reports	
a. Reports of retaliation received	00
b. Investigations	00
c. Findings	
i. Retaliation occurred	00
ii. Retaliation did not occur	00

**Draft Form B3 – System Data Report
2021-2022 Academic Year, Fall Semester**

Institution	Date Formal Complaint Filed	Status of Formal Complaint	Basis for Charge	Final Disposition	Disciplinary Status	Gender of Complainant	Gender of Respondent

C. DATA PUBLICATION FORMS

1. Power-Based Violence Climate Survey Data Form
2. Campus Security Policy and Campus Crime Statistics (Form C1)
3. Campus Sex Crime Data Report (Form C2)

**Draft Form C1 – Crime Statistics Report
2021-2022 Academic Year, Fall Semester**

Offense	Location	October 2021	November 2021	December 2021	January 2022	February 2022	March 2022
Example Voyeurism (La. R.S. 14:283.1)	On Campus						
	Student Housing						
	Non-Campus						
	Public Property						
	Arrests						

**Draft Form C2 – Sex Crime Statistics Report
2021-2022 Academic Year, Fall Semester**

Offense	Location	October 2021	November 2021	December 2021	January 2022	February 2022	March 2022
Example Voyeurism (La. R.S. 14:283.1)	On Campus						
	Student Housing						
	Non-Campus						
	Public Property						
	Arrests						

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TITLE IX GRIEVANCE PROCEDURES

Subject to Board Approval - August 10, 2021

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I. INTRODUCTION

The Title IX Grievance Procedure addresses allegations of Title IX Sexual Harassment subject to the Title IX Regulations adopted by the U.S. Department of Education (USDOE), effective August 14, 2020. Conduct that falls outside the scope of the Title IX Regulations (i.e., power-based violence) may be addressed by applying BOR's Uniform Policy. The Title IX Grievance Procedure and its terms supersede any policies pertaining to the investigation or adjudication of "sexual harassment" as defined in this protocol.

II. SCOPE

The USDOE's Title IX Regulations apply to both:

1. Conduct on the basis of sex that constitutes "**sexual harassment**" (§106.30); and
2. Conduct that relates to an institution's "**education program or activity**" against a person in the United States on or after August 14, 2020.

A. SEXUAL HARASSMENT (§106.30)

Sexual harassment is defined as conduct on the basis of sex that satisfies one or more of the following criteria:

1. An employee of the institution conditioning the provision of an aid, benefit, or service of the recipient on an individual's participation in unwelcome sexual conduct;
2. Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the recipient's education program or activity; and/or
3. "Sexual assault" as defined in 20 U.S.C. 1092(f)(6)(A)(v), "dating violence" as defined in 34 U.S.C. 12291(a)(10), "domestic violence" as defined in 34 U.S.C. 12291(a)(8), or "stalking" as defined in 34 U.S.C. 12291(a)(30).

B. EDUCATION PROGRAM OR ACTIVITY

An education program or activity includes locations, events, or circumstances in which an institution exercises substantial control over both the Respondent and the context in which the sexual harassment occurs, and also includes any building owned or controlled by a student organization that is officially recognized by an institution. The Title IX Regulations exclude any education program or activity that does not occur in the United States. (§106.44(a).)

Conduct that does not satisfy the USDOE's jurisdictional requirement, such as off-campus behavior alleged to have an on-campus effect, may be addressed under

alternative procedures such as the overarching BOR's Policy addressing Power-Based Violence.

III. EQUITABLE TREATMENT

As required by the Title IX Regulations, institutions are to treat Complainants and Respondents equitably by: (1) offering Supportive Measures to a Complainant, and (2) following a grievance process that complies with the procedural requirements of the Title IX Regulations before the imposition of any disciplinary sanctions against a Respondent. (§ 106.44(a); § 106.45(b)(1)(i).) Supportive Measures also may be offered as needed to Respondents and other individuals who belong to an institution's community and who may be affected by sexual harassment.

An individual's status as a Respondent shall not be considered a negative factor during any process under this Procedure. Respondents are entitled to, and will receive the benefit of, a presumption that they are not responsible for the alleged conduct unless and until the process concludes and a determination regarding responsibility is issued. Similarly, a person's status as a Complainant, Respondent, or witness will not determine whether that person is deemed credible. (§ 106.45(b)(1)(ii-iv).)

Remedies are to be provided to a Complainant only if the grievance process described in this Procedure results in a determination that the Respondent is responsible for sexual harassment. Remedies are designed to restore or preserve equal access to an institution's education program or activity and may include the same individualized services as Supportive Measures. Remedies may be disciplinary and punitive and may burden a Respondent. (§106.45(b)(1)(i).)

Title IX Coordinators, investigators, decision makers, and any person who facilitates an informal resolution process (collectively, Title IX Administrators) will not have a conflict of interest or bias in favor of or against any party or participant in sexual misconduct (i.e., Complainants, Respondents, or Witnesses).

IV. OVERVIEW OF KEY TERMS

For purposes of this Title IX Grievance Procedure, key terms are defined as follows:

Actual Knowledge: Notice of sexual harassment or allegations of sexual harassment to an institution's Title IX Coordinator or any official of an institution who has authority to institute corrective measures on behalf of the institution.

Complainant: An individual who is alleged to be the victim of conduct that could constitute sexual harassment.

Formal Complaint: Under the Title IX Grievance Policy, a document filed by a Complainant or signed by the Title IX Coordinator alleging sexual harassment against a Respondent and requesting that the institution investigate the allegation. At the time of filing a Formal Complaint, a Complainant must be participating in or attempting to participate in the education program or activity of the institution with which the Formal Complaint is filed. A Formal Complaint may be filed with the Title IX Coordinator in person, by mail, by e-mail, or by any additional method designated by the institution.

Respondent: An individual alleged to be the perpetrator of conduct that could constitute sexual harassment under Title IX.

Sexual Harassment: Conduct on the basis of sex that satisfies one or more of the following criteria:

1. An employee of the institution conditioning the provision of an aid, benefit, or service of the recipient on an individual's participation in unwelcome sexual conduct;
2. Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the recipient's education program or activity; and/or
3. "Sexual assault" as defined in 20 U.S.C. 1092(f)(6)(A)(v), "dating violence" as defined in 34 U.S.C. 12291(a)(10), "domestic violence" as defined in 34 U.S.C. 12291(a)(8), or "stalking" as defined in 34 U.S.C. 12291(a)(30).

Supportive Measures: Non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the parties before or after the filing of a Formal Complaint or where no Formal Complaint has been filed. Such measures are designed to restore or preserve equal access to the education program or activity without unreasonably burdening the other party, including measures designed to protect the safety of all parties or the institution's educational environment, or deter sexual harassment. Supportive Measures may include counseling, extensions of deadlines or other course-related adjustments, modifications of work or class schedules, campus escort services, mutual restrictions on contact between the parties, changes in work or housing locations, leaves of absence, increased security and monitoring of certain areas of the campus, and other similar measures.

V. TIME FRAME TO RESOLVE GRIEVANCE

An institution's policy shall include reasonably prompt time frames for conclusion of the grievance process, including reasonably prompt time frames for filing and resolving appeals and informal resolution processes if the institution offers informal resolution processes, and a process that allows for the temporary delay of the grievance process or the limited extension of time frames for good cause with written notice to the Complainant and the Respondent of the delay or extension and the reasons for the action. Good cause may include considerations such as the absence

of a party, a party's advisor, or a witness; concurrent law enforcement activity; or the need for language assistance or accommodation of disabilities.

VI. FORMAL GRIEVANCE PROCESS

This section outlines the steps taken to initiate a grievance and procedural requirements for investigations and adjudications of Formal Complaints in accordance with federal regulations.

A. FILING A FORMAL COMPLAINT

A Formal Complaint is a document filed by a Complainant or signed by the Title IX Coordinator alleging sexual harassment as defined by the Title IX Regulations against a Respondent and requesting an institution investigate the allegation of sexual harassment. The submission of a Formal Complaint and its receipt by the Title IX Coordinator triggers the Formal Grievance Process.

A Formal Complaint must be in writing and may be filed with the Title IX Coordinator in person, by mail, or by e-mail. The Formal Complaint must contain the Complainant's physical or digital signature, or some other indication that the Complainant is the person filing it. (§106.30.) At the time of filing a Formal Complaint, a Complainant must be participating in or attempting to participate in the education program or activity.

When an institution receives an allegation of conduct that falls within the scope of the Title IX Grievance Procedure, whereby it meets both the Title IX Regulations' definition of "sexual harassment" and their jurisdictional requirements (see [Section II](#)), but no Formal Complaint is filed, then the Title IX Regulations prevent an institution from administering a formal grievance process (including any informal or early resolution) that permits the imposition of any disciplinary sanctions or other actions against a Respondent. Supportive Measures, however, may still be offered.

B. TITLE IX COORDINATOR FILING COMPLAINT

A Title IX Coordinator may sign a Formal Complaint to initiate or continue the Title IX Formal Grievance Procedure, if necessary, to fulfill an institution's duty under Title IX to not be deliberately indifferent to actual knowledge of sexual misconduct.

Signing a Formal Complaint does not make a Title IX Coordinator a Complainant or otherwise a party.

C. WITHDRAWAL

After filing a Formal Complaint, a Complainant may withdraw their Formal Complaint at any time by providing written notice to the Title IX Coordinator. That withdrawal concludes the Title IX Formal Grievance Procedure process unless the Title IX Coordinator takes action under [Subsection B](#) of this Section.

D. CONSOLIDATION

Institutions, at their discretion, may consolidate Formal Complaints alleging sexual harassment against more than one Respondent, or by more than one Complainant against one or more Respondents, or by one party against the other party, where the allegations of sexual harassment arise out of the same facts or circumstances.

E. MANDATORY DISMISSAL

If the conduct alleged in the Formal Complaint does not satisfy the requirements of sexual harassment as defined by §106.30, an institution must dismiss the Formal Complaint under this grievance process. However, the Title IX Coordinator will transfer the Complaint to BOR's Policy addressing power-based violence for review and possible investigation and resolution.

The institution will notify the parties simultaneously and in writing that the Formal Complaint is being dismissed for the purposes of the Title IX Grievance Process, and of the transfer if applicable. Each party may appeal this dismissal using the procedures outlined in an institution's policy.

F. PERMISSIVE DISMISSAL

An institution may dismiss a Formal Complaint or any allegations therein, if at any time during the investigation or hearing:

- a. A Complainant notifies the Title IX Coordinator in writing that the Complainant would like to withdraw the Formal Complaint or any allegations therein;
- b. The Respondent is no longer enrolled in or employed by the institution; or
- c. Specific circumstances prevent the institution from gathering evidence sufficient to reach a determination as to the Formal Complaint or allegations therein.

Upon dismissal, the institution must promptly send written notice of the dismissal and reason(s) simultaneously to the parties.

VII. INITIAL STEPS AND DETERMINATION OF APPROPRIATE PROCEDURES

Upon Actual Knowledge of a Report of alleged conduct, the Title IX Office should perform an initial assessment consistent with information outlined in Section X(B) and Section X(B) in BOR's Policy which includes making initial contact with the potential Complainant of the Report and offering information to include Supportive Measures.

If the initial assessment reveals that the alleged conduct does meet the definition of sexual harassment as contained within the USDOE's Title IX Regulations, the

investigation must proceed pursuant to the Title IX Formal Grievance Procedures below. If the alleged conduct does not meet the USDOE's definition of sexual harassment, the investigation will proceed pursuant to BOR's Policy addressing Power-Based Violence.

VIII. INVESTIGATION

A. NOTICE

Upon receipt of a Formal Complaint, the institution must provide written notice of the following to known parties:

- a. The investigation and adjudication process, including any informal processes;
- b. Allegations of sexual harassment, including sufficient details known at the time. Sufficient details include the identities of the parties involved in the incident, if known, the conduct allegedly constituting sexual harassment, and the date and location of the alleged incident, if known;
- c. A statement that the Respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility is made at the conclusion of the grievance process;
- d. The parties may have an advisor of their choice, who may be, but is not required to be, an attorney;
- e. The parties may inspect and review evidence;
- f. The parties are prohibited from knowingly making false statements or knowingly submitting false information during the investigation and adjudication process; and
- g. If the institution decides to investigate additional allegations not included in the original notice, it must provide notice of the additional allegations to the parties whose identities are known.

B. INVESTIGATION PROCEDURE

The Title IX Coordinator shall appoint an Investigator to investigate the allegations documented in the Formal Complaint. The investigation may include, among other steps, interviewing the Complainant, the Respondent, and any witnesses; reviewing law enforcement investigation documents if applicable; reviewing relevant student or employment files; and gathering and examining other relevant documents, social media posts, and other evidence.

The Investigator will attempt to collect all relevant information and evidence. Following the investigation, the Investigator will draft an investigation report succinctly describing

all collected information. The Investigator will not make any determination as to whether a policy violation has occurred or recommend potential sanctions.

While investigating the allegations of any Formal Complaint of sexual harassment, the Investigator will conduct an objective evaluation of all relevant evidence. Relevant evidence is any evidence that may tend to make the allegations at issue more or less likely to be true. (See §106.45(b)(1)(ii).)

In assessing allegations of sexual harassment, institution's policies must state whether the standard of evidence to be used to determine responsibility is the preponderance of the evidence standard or the clear and convincing evidence standard, apply the same standard of evidence for Formal Complaints against students as for Formal Complaints against employees, including faculty, and apply the same standard of evidence to all Formal Complaints of sexual harassment.

When investigating a Formal Complaint and throughout the investigation and adjudication process, the Institution must:

1. Ensure that the burden of proof and the burden of gathering evidence sufficient to reach a determination regarding responsibility rest on the institution and not on the parties;
2. Provide an equal opportunity for the parties to present witnesses, including fact and expert witnesses, and other inculpatory and exculpatory evidence;
3. Not restrict the ability of either party to discuss the allegations under investigation or to gather and present relevant evidence;
4. Provide the parties with the same opportunities to have others present during any investigation or adjudication proceeding, including the opportunity to be accompanied to any related meeting or proceeding by the advisor of their choice, who may be, but is not required to be, an attorney, and not limit the choice or presence of advisor for either the Complainant or Respondent in any meeting or grievance proceeding; however, the institution may establish restrictions regarding the extent to which an advisor may participate in the proceedings, as long as the restrictions apply equally to both parties' advisors;
5. Provide written notice to each party of the date, time, location, participants, and purposes of each Formal Grievance Process meeting in which they are invited to participate, with sufficient time for the party to prepare to participate;

6. Provide both parties an equal opportunity to inspect and review any evidence obtained as part of the investigation that is directly related to the allegations raised in a Formal Complaint, including the evidence upon which the institution does not intend to rely in reaching a determination regarding responsibility and inculpatory or exculpatory evidence whether obtained from a party or other source, so that each party can meaningfully respond to the evidence prior to the conclusion of the investigation.
 - i. Prior to completion of the investigative report, the institution must send the report to each party and the party's advisor, if any, the evidence subject to inspection and review in an electronic format or a hard copy, and the parties must have at least 10 days to submit a written response, which the investigator will consider prior to completion of the investigative report.
 - ii. The institution must make available at any hearing all such evidence subject to the parties' inspection and review, to give each party equal opportunity to refer to such evidence during the hearing, including for purposes of cross-examination; and
7. Create an investigative report that fairly summarizes relevant evidence and, at least 10 days prior to the hearing, send to each party and each party's advisor, if any, the investigative report in an electronic format or a hard copy, for their review and written response.

C. HEARINGS

Institutions must provide for a live hearing. An Adjudicator will consider all of the evidence presented and determine whether a Respondent is responsible for a violation of this protocol. The Adjudicator will not be the same person as the Title IX Coordinator or the investigator. Cases will be adjudicated by a trained third-party Adjudicator.

At the request of either party, an institution must provide for the live hearing to occur with the parties located in separate rooms, with technology enabling the Adjudicator and parties to simultaneously see and hear the party or the witness answering questions. Institutions will create a transcript or recording (audio or audiovisual) of any adjudicative hearing to be made available to the parties for inspection and review pursuant to FERPA.

At the live hearing, the Adjudicator must permit each party's advisor to ask the other party and any witnesses all relevant questions and follow-up questions, including those challenging credibility. Cross-examination at the live hearing must be conducted directly, orally, and in real time by the party's advisor of choice and never by a party personally. (106.45(b)(6)(i).) Only relevant cross-examination and other questions may be asked of a party or witness. Advisors may be present solely to advise or support the party and are prohibited from speaking directly to the Investigator,

Adjudicator, other parties, or witnesses during the hearing, except for conducting cross examination.

Before a Complainant, Respondent, or witness answers a cross-examination or other question, the decision maker(s) must first determine whether the question is relevant and explain any decision to exclude a question as not relevant. If a party does not have an advisor present at the live hearing, the institution must provide, without fee or charge to that party, an advisor of the institution's choice, who may be, but is not required to be, an attorney, to conduct cross-examination on behalf of that party.

Questions and evidence about the Complainant's sexual predisposition or prior sexual behavior are not relevant, unless such questions and evidence about the Complainant's prior sexual behavior are offered to prove that someone other than the Respondent committed the conduct alleged by the Complainant, or if the questions and evidence concern specific incidents of the Complainant's prior sexual behavior with respect to the Respondent and are offered to prove consent.

If a party or witness does not submit to cross-examination at the live hearing, the decision maker(s) must not rely on any statement of that party or witness in reaching a determination regarding responsibility provided, however, that the decision-maker(s) cannot draw an inference about the determination regarding responsibility based solely on a party's or witness's absence from the live hearing or refusal to answer cross-examination or other questions.

Live hearings may be conducted with all parties physically present in the same geographic location or, at the institution's discretion, any or all parties, witnesses, and other participants appearing at the live hearing virtually, with technology enabling participants simultaneously to see and hear each other.

Institutions must create an audio or audiovisual recording, or transcript, of any live hearing and make it available to the parties for inspection and review.

D. DETERMINATION REGARDING RESPONSIBILITY

The Adjudicator, must issue, simultaneously to both parties, a written determination regarding responsibility, which must include:

- a. Identification of the allegations potentially constituting sexual harassment;
- b. A description of the procedural steps taken from receipt of the Formal Complaint through the determination, including any notifications to the parties, interviews with parties and witnesses, site visits, methods used to gather other evidence, and hearings held;
- c. Findings of fact supporting the determination;
- d. Conclusions regarding the application of the institution's policy to the facts;

- e. A statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility, any sanctions the institution will impose on the Respondent, and whether remedies designed to restore or preserve equal access to the education program or activity will be provided to the Complainant; and
- f. Procedures and permissible bases for parties to appeal.

The determination regarding responsibility becomes final either on the date that the recipient provides the parties with the written determination of the result of the appeal, if an appeal is filed or, if an appeal is not filed, the date on which an appeal would no longer be considered timely.

E. SANCTIONS

Institutions should describe the range of sanctions for employees and students.

IX. APPEALS

Institutions must offer both parties an appeal of a determination regarding responsibility, and of a recipient's dismissal of a Formal Complaint or any allegations therein, on the following bases:

- a. A procedural irregularity that affected the outcome of the matter;
- b. New evidence that was not reasonably available at the time that the determination regarding responsibility or dismissal was made, which could affect the outcome of the matter; or
- c. The Title IX Coordinator, investigator(s), or decision maker(s) had a conflict of interest or bias for or against Complainants or Respondents generally or the individual Complainant or Respondent that affected the outcome of the matter.

An institution may offer an appeal equally to both parties on additional bases. For all appeals, the institution must:

1. Notify the other party in writing when an appeal is filed and implement appeal procedures equally for both parties;
2. Ensure that the decision maker(s) for the appeal is not the same person as the decision maker(s) who reached the previous determination regarding responsibility or dismissal, the investigator(s), or the Title IX Coordinator;
3. Give both parties a reasonable, equal opportunity to submit a written statement in support of, or challenging, the outcome;
4. Issue a written decision describing the result of the appeal and the rationale for the result; and
5. Provide the written decision simultaneously to both parties.

X. INFORMAL RESOLUTION

At any time prior to reaching a determination regarding responsibility, the institution may facilitate an informal resolution process, such as mediation, that does not involve a full investigation and adjudication. An institution may not offer an informal resolution process unless a Formal Complaint is filed. An institution may not require the parties to participate in an informal resolution process and will not require them to waive their rights to a Title IX Formal Grievance process. (§106.45(b)(9).)

An institution must:

1. Provide written notice to the parties disclosing:
 - i. The allegations;
 - ii. The requirements of the informal resolution process, including the circumstances under which it precludes the parties from resuming a Formal Complaint arising from the same allegations;
 - iii. The fact that at any time prior to agreeing to a resolution, any party has the right to withdraw from the informal resolution process and resume the investigation and adjudication process with respect to the Formal Complaint; and
 - iv. Any consequences resulting from participation in the informal resolution process, including the records that will be maintained or could be shared;
2. Obtain the parties' voluntary, written consent to the informal resolution process; and
3. Not offer or facilitate an informal resolution process to resolve allegations that an employee sexually harassed a student.

XI. RECORDKEEPING

Each institution must maintain, for seven (7) years, records of:

1. Each sexual harassment investigation, including any determination regarding responsibility and any audio or audiovisual recording or transcript required, any disciplinary sanctions imposed on the Respondent, and any remedies provided to the Complainant designed to restore or preserve equal access to the education program or activity;
2. Any appeal and the result thereof;
3. Any informal resolution process and the result therefrom; and
4. All materials used to train Title IX Coordinators, investigators, decision makers, and any person who facilitates an informal resolution process.

Each institution must make these training materials publicly available on its website.

Each institution must create and maintain for seven (7) years records of any actions, including any Supportive Measures, taken in response to a report or Formal Complaint of Sexual Harassment. In each instance, the institution must document the basis for its conclusion that its response was not deliberately indifferent, and document that it has taken measures designed to restore or preserve equal access to its education program or activity. If an institution does not provide a Complainant with Supportive Measures, then it must document the reasons why such a response was not clearly unreasonable in light of the known circumstances. The documentation of certain bases or measures does not limit the institution in the future from providing additional explanations or detailing additional measures taken.

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