

*Collis B. Temple III*  
*Chair*

*Gary N. Solomon, Jr*  
*Vice Chair*

*Sonia A. Pérez*  
*Secretary*

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



**BOARD OF REGENTS**

*P. O. Box 3677*

*Baton Rouge, LA 70821-3677*

*Phone (225) 342-4253, FAX (225) 342-9318*

[www.regents.la.gov](http://www.regents.la.gov)

*Blake David*  
*Randy L. Ewing*  
*Stephanie A. Finley*  
*Robert W. Levy*  
*Phillip R. May, Jr.*  
*Charles R. McDonald*  
*Darren G. Mire*  
*Wilbert D. Pryor*  
*T. Jay Seale III*  
*Terrie P. Sterling*  
*Felix R. Weill*

*Judy A. Williams-Brown*  
*Cameron T. Jackson, Student*

January 14, 2022

The Honorable John Bel Edwards  
Governor, State of Louisiana

Dear Governor Edwards:

On January 6, 2022, the Louisiana Board of Regents approved the attached report, designed to update you and our legislative leadership on the actions taken pursuant to Act 472 of the 2021 Regular Legislative Session. This comprehensive legislation identified best practices for reporting and prevention of incidents of power-based violence, established termination as a consequence for employees who fail to report or falsely report in accordance with institutional policies power-based violence incidents, and required annual mandatory training for responsible employees at campuses, systems, and boards across the state.

As required by law, the Board of Regents adopted the Uniform Policy on Power-Based Violence in a special Board meeting on August 10. This Uniform Policy has been used by each public postsecondary management board in the development and adoption of aligned policies for their member institutions. Attached please find the new Board of Regents and system policies. Also please note that we are anticipating a revised policy to be forthcoming from the Louisiana State University System later this month.

The new law further mandates reporting and publishing of campus incidents of power-based violence. The attached report includes both a Board of Regents statewide incident report summary as well as system incident reports for their member campuses, including the required details specified in the new law.

**Other Items of Interest**

Mandatory training for all responsible employees as well as designated confidential advisors began last fall, immediately following the adoption of the new Regents' policy, and continues on campuses across the state.

Regarding the requirement pursuant to Act 472 that each campus obtain a signed Memorandum of Understanding (MOU) with each law enforcement and criminal justice agency within the campus' parish, all campuses have met their portion of the obligation and have reached out to secure required off-campus signatures; however, to date the following campuses have not yet received signatures from one or more jurisdictional law enforcement agencies:

Louisiana Community and Technical College System:

- Central Louisiana Technical Community College
- Delgado Community College
- Louisiana Delta Community College
- South Louisiana Community College

Louisiana State University System:

- Louisiana State University of Alexandria
- Louisiana State University Eunice
- Louisiana State University Health Sciences Center New Orleans

Institutions hope to have all MOUs signed by the end of this month. We appreciate the significant focus on improving student safety across our state and the responsibilities placed at Regents to promote improved campus culture, develop policies, advance best practices, and establish annual training in coordination with the Louisiana Office of the Attorney General and key stakeholders across Louisiana.

Collectively with system and campus leadership engaged at every level of this critical work, we are clear regarding the expectation to significantly improve. Our students, parents and communities must have confidence in our commitment to campus safety based not on our words but on our demonstrated actions each day.

Attached is the Board of Regents' legislative response pursuant to Act 472 of the 2021 Regular Legislative Session. If you have questions, please do not hesitate to contact me concerning this response or any other matters relating to higher education.

Sincerely,



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

Attachment

c: Patrick Page Cortez, President of the Senate  
Clay Schexnayder, Speaker of the House  
Senate Education Committee, Chairman Cleo Fields  
House Committee on Education, Chairman Lance Harris  
Senate Select Committee on Women and Children, Chairwoman Regina Barrow  
Yolanda Dixon, Secretary of the Senate  
Michelle Fontenot, Clerk of the House  
Poynter Library (DRPLibrary@legis.la.gov)



# LEGISLATIVE RESPONSE TO ACT 472 OF THE 2021 REGULAR LEGISLATIVE SESSION

# Table of Contents

- I. EXECUTIVE SUMMARY.....2**
- II. ADMINISTRATIVE REPORTING.....3**
- III. LEGISLATIVE RECOMMENDATIONS.....3**
  - A. ALIGNMENT OF DATA PUBLICATIONS.....4
  - B. ALIGNMENT OF ANNUAL MANDATORY TRAININGS.....4
  - C. LEGISLATIVE SUPPORT FOR ANNUAL REVIEW OF MOUs.....4
- IV. CONCLUSION.....5**
- V. APPENDIX .....6**
  - A. ACT 472 OF THE 2021 REGULAR LEGISLATIVE SESSION .....8
  - B. ACT 447 OF THE 2021 REGULAR LEGISLATIVE SESSION .....25
  - C. BOARD OF REGENTS UNIFORM POLICY ON POWER-BASED VIOLENCE .....27
  - D. LOUISIANA COMMUNITY & TECHNICAL COLLEGE SYSTEM POWER-BASED VIOLENCE/SEXUAL MISCONDUCT POLICY .....83
  - E. LOUISIANA STATE UNIVERSITY PERMANENT MEMORANDUM 73: PROHIBITING POWER-BASED VIOLENCE, INCLUDING SEX- AND GENDER-BASED HARASSMENT AND DISCRIMINATION, AND SEXUAL MISCONDUCT ..... 143
  - F. SOUTHERN UNIVERSITY SYSTEM UNIFORM POLICY ON POWER-BASED VIOLENCE, SEXUAL MISCONDUCT, AND TITLE IX..... 180
  - G. UNIVERSITY OF LOUISIANA SYSTEM SEXUAL MISCONDUCT/ POWER-BASED VIOLENCE POLICY .....213
  - H. BOARD OF REGENTS STATEWIDE DATA REPORT.....243
  - I. LOUISIANA COMMUNITY & TECHNICAL COLLEGE SYSTEM – SYSTEM DATA REPORT, FALL 2021 .....245
  - J. LOUISIANA STATE UNIVERSITY SYSTEM – SYSTEM DATA REPORT, FALL 2021.248
  - K. SOUTHERN UNIVERSITY SYSTEM – SYSTEM DATA REPORT, FALL 2021 .....253
  - L. UNIVERSITY OF LOUISIANA SYSTEM – SYSTEM DATA REPORT, FALL 2021 .....256
  - M. ACT 441 OF THE 2021 REGULAR LEGISLATIVE SESSION .....259

## I. EXECUTIVE SUMMARY

The Title IX portion of the Education Amendments of 1972 and its implementing regulations, along with other applicable laws, charges campuses to foster safe learning environments that are free from sexual misconduct and discrimination or harassment based on sex for all students and employees of educational systems that receive federal funding.

In furtherance of providing safe campus communities and implementation of Act 472 ([Appendix A](#)) and Act 447 ([Appendix B](#)) of the 2021 Regular Legislative Session, the Board of Regents gathered stakeholders across systems and functional areas to develop the BOR Uniform Policy on Power-Based Violence. Stakeholders included registrars, Title IX coordinators, systems' counsel, student affairs staff, academic affairs staff, and deans of students with the expert guidance of Nina Gupta, a nationally recognized Title IX/power-based violence attorney and partner at Nelson Mullins, LLP.

This policy elevates safety education, prohibits retaliation against those reporting possible instances of power-based violence in good faith, implements “up-the-chain” reporting from Title IX coordinators to management boards to legislative bodies, allows for termination of employees who fail to report or falsely report instances of power-based violence, and creates a provision to withhold or notate transcriptions of pending investigations or findings of violations for transferring students.

Additionally the Board of Regents Uniform Policy on Power-Based Violence required the establishment of Memoranda of Understanding (MOUs) between each institution and its local law enforcement and criminal justice agencies with jurisdiction by January 1, 2022, recommends best practices for handling instances of power-based violence and grievance procedures under Title IX, requires annual training for all Title IX coordinators, responsible employees and confidential advisors while also requiring institutional participation in a campus climate survey every three years and the publishing of relevant crime data.

Upon adoption of the Board of Regents Uniform Policy on Power-Based Violence ([Appendix C](#)) at a special Board meeting on August 10, 2021, each management board immediately began crafting its own policy for adoption by the end of October 2021 as required.

In the absence of a systemwide policy, each institution was required to develop an institutional policy in compliance with the BOR Policy and any other applicable laws and regulations to be verified by its management board. Upon adoption and verification of compliance, all management boards forwarded their policies to the Board of Regents by December 15, 2021.

The Louisiana Community & Technical College System (LCTCS) policy can be found in [Appendix D](#); the policy for the Louisiana State University System can be found in [Appendix E](#); the policy for the Southern University System can be found in [Appendix F](#); and the policy for the University of Louisiana System can be found in [Appendix G](#).

While training over 350 higher education community members on the new policy since adoption, the Board of Regents, in collaboration with the Louisiana Office of the Attorney General, the Louisiana Foundation Against Sexual Assault (LaFASA) and Nelson Mullins, LLP, has also developed specialized training for those who will serve as confidential advisors. Furthermore, through continued partnership with Nelson Mullins, LLP, the Board of Regents has produced new mandatory training for responsible employees to educate campus communities on creating safe campus cultures and how to report incidents of power-based violence, while supporting students in the process.

## II. ADMINISTRATIVE REPORTING

Pursuant to Act 472, the BOR Uniform Policy on Power-Based Violence requires that each Institution's Title IX coordinator submit reports of power-based violence to their chancellor by October 10<sup>th</sup> in fall semesters (April 10<sup>th</sup> in spring semesters). Within fourteen (14) days of receiving the report from the Title IX coordinator, the chancellor of each institution published a report detailing complaints of power-based violence on their website as well as submitted this information to their system president.

Upon receipt of each institutional report of incidences of power-based violence, each system president summarized this information into a systemwide report, submitted the report to the appropriate management board, published the report to the system website and forwarded the summarized report to the Board of Regents in early December.

A statewide summary of received reports of power-based violence in fall 2021 (June 29, 2021 – October 31, 2021) as reported from each system can be found in [Appendix H](#). Individual systemwide reports can be found as follows: for the Louisiana Community & Technical College System (LCTCS) in [Appendix I](#); for the Louisiana State University System in [Appendix J](#); for the Southern University System in [Appendix K](#); and for the University of Louisiana System in [Appendix L](#).

## III. LEGISLATIVE RECOMMENDATIONS

Through steady collaboration with each public postsecondary management board from policy development through early implementation, the recommendations below have emerged.

## **A. ALIGNMENT OF DATA PUBLICATIONS**

While all campuses recognize the need to report annual crime statistics, the higher education community has flagged an opportunity to better align the reporting into two, rather than three, annual reports. This can be accomplished by combining the Sex Crimes Data Report with the Semi-Annual Crime Statistics reports for both April 10<sup>th</sup> and October 10<sup>th</sup>.

## **B. ALIGNMENT OF ANNUAL MANDATORY TRAININGS**

In compliance with Act 472, the newly developed Board of Regents mandatory training for responsible employees includes instructions that differ from existing State Civil Service training on preventing sexual harassment.

In existing State Civil Service training, incidents are to be routed to an employee's supervisor, whereas new training for responsible employees in higher education requires that incidents of power-based violence be routed to one's institutional Title IX coordinator.

Additionally, the State Civil Service training does not mention, acknowledge, or define power-based violence.

Alignment of the state training modules is important. Therefore, in any forthcoming updates to the State Civil Service training to prevent sexual harassment, the inclusion of power-based violence information (even as a caveat for employees in higher education) should be included to reduce confusion and reinforce the specific expectations for higher education related to power-based violence.

## **C. LEGISLATIVE SUPPORT FOR ANNUAL REVIEW OF MOUs**

Act 472 of the 2021 Regular Legislative Session requires a signed MOU between each institution and all jurisdictional law enforcement and criminal justice agencies to be reviewed annually by each institution's chancellor, Title IX coordinator, and the executive officer of the criminal justice agency. This MOU shall be revised as considered necessary.

Annual written legislative communication to non-institutional parties in the facilitation of obtaining timely signatures would be both beneficial and welcome.

## IV. CONCLUSION

We will continue to work diligently and strategically with the legislature, public postsecondary management boards, campuses, students, law enforcement and other stakeholders to ensure that we are creating safe campus communities that reflect our collective commitment to prevention, education and support.

The continued elevation and evaluation of this work will be ongoing through the work of the Power-Based Violence Review Panel established through Act 441 of the 2021 Regular Legislative Session ([Appendix M](#)).

## **V. APPENDICES**

**A. ACT 472 OF THE 2021 REGULAR LEGISLATIVE SESSION**

**B. ACT 447 OF THE 2021 REGULAR LEGISLATIVE SESSION**

**C. BOARD OF REGENTS UNIFORM POLICY ON POWER-BASED VIOLENCE**

**D. LOUISIANA COMMUNITY & TECHNICAL COLLEGE SYSTEM POWER-BASED VIOLENCE/SEXUAL MISCONDUCT POLICY**

**E. LOUISIANA STATE UNIVERSITY PERMAMENT MEMORANDUM 73: PROHIBITING POWER-BASED VIOLENCE, INCLUDING SEX- AND GENDER-BASED HARASSMENT AND DISCRIMINATION, AND SEXUAL MISCONDUCT**

**F. SOUTHERN UNIVERSITY SYSTEM UNIFORM POLICY ON POWER-BASED VIOLENCE, SEXUAL MISCONDUCT, AND TITLE IX**

**G. UNIVERSITY OF LOUISIANA SYSTEM SEXUAL MISCONDUCT/ POWER-BASED VIOLENCE POLICY**

**H. BOARD OF REGENTS STATEWIDE DATA REPORT**

**I. LOUISIANA COMMUNITY & TECHNICAL COLLEGE SYSTEM – SYSTEM DATA REPORT, FALL 2021**

**J. LOUISIANA STATE UNIVERSITY SYSTEM – SYSTEM DATA REPORT, FALL 2021**

**K. SOUTHERN UNIVERSITY SYSTEM – SYSTEM DATA REPORT, FALL 2021**

**L. UNIVERSITY OF LOUISIANA SYSTEM – SYSTEM DATA REPORT,  
FALL 2021**

**M. ACT 441 OF THE 2021 REGULAR LEGISLATIVE SESSION**

2021 Regular Session

# ACT No. 472

HOUSE BILL NO. 409

BY REPRESENTATIVES FREEMAN, ADAMS, AMEDEE, BRASS, BROWN, BUTLER, CARPENTER, GARY CARTER, ROBBY CARTER, WILFORD CARTER, CORMIER, COX, DAVIS, DUPLESSIS, EDMONSTON, FREIBERG, GAROFALO, GLOVER, GREEN, HILFERTY, HODGES, HORTON, HUGHES, JEFFERSON, JENKINS, LACOMBE, LANDRY, LARVADAIN, MACK, MARCELLE, MIGUEZ, MOORE, NEWELL, CHARLES OWEN, PHELPS, PIERRE, RISER, SCHLEGEL, ST. BLANC, STAGNI, TARVER, THOMPSON, VILLIO, WHEAT, WHITE, WILLARD, AND WRIGHT AND SENATORS ABRAHAM, BARROW, FIELDS, JACKSON, ROBERT MILLS, MIZELL, PETERSON, AND TALBOT

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17

AN ACT

To amend and reenact Part XII of Chapter 26 of Title 17 of the Louisiana Revised Statutes of 1950, comprised of R.S. 17:3399.11 through 3399.17, and to enact R.S. 15:624(A)(3), relative to power-based violence on college and university campuses; to provide for reporting incidents of power-based violence at public postsecondary education institutions; to provide for coordination between institutions and law enforcement; to provide for confidential advisors, responsible employees, and Title IX coordinators; to require training; to provide for immunities for certain employees; to provide for confidentiality; to provide relative to failure to report or filing false reports; to prohibit retaliation; to require annual reports; to require student safety education; to provide for student power-based violence surveys; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 15:624(A)(3) is hereby enacted to read as follows:

§624. Sexually-oriented criminal offense data; reporting

A.

\* \* \*

1                   (3) By February fifteenth of each year, each college or university campus  
 2                   police department shall submit the report to the president of the institution's system,  
 3                   the chancellor of the institution, and the institution's Title IX coordinator. The  
 4                   chancellor shall ensure that the report is posted on the institution's website.

\* \* \*

6                   Section 2. Part XII of Chapter 26 of Title 17 of the Louisiana Revised  
 7                   Statutes of 1950, comprised of R.S. 17:3399.11 through 3399.17, is hereby amended  
 8                   and reenacted to read as follows:

PART XII. CAMPUS ACCOUNTABILITY AND SAFETY

§3399.11. Short ~~Title~~ title

This Part may be referred to as the "Campus Accountability and Safety Act".

~~3399.13.~~ §3399.12. Definitions

For the purposes of this Part, the following terms and phrases shall have the following meanings unless the context clearly indicates otherwise:

(1) "Chancellor" means the chief executive officer of a public postsecondary education institution.

(2) "~~President~~" means ~~the president of the system of the respective institution.~~  
"Confidential advisor" means a person designated by an institution to provide emergency and ongoing support to students who are alleged victims of power-based violence.

(3) "~~Sexually-oriented criminal offense~~" includes any sexual assault offense as defined in R.S. 44:51 and any sexual abuse offense as defined in R.S. 14:403.

"Employee" means:

(a)(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.

1                    (iv) Anyone employed by a foundation or association related to a public  
 2                    postsecondary education management board or institution.

3                    (b) "Employee" does not include a student enrolled at a public postsecondary  
 4                    institution, unless the student works for the institution in a position such as a  
 5                    teaching assistant or a residential advisor.

6                    (4) "Institution" means a public postsecondary education institution.

7                    (5) "Power-based violence" means any form of interpersonal violence  
 8                    intended to control or intimidate another person through the assertion of power over  
 9                    the person and shall include the following:

10                    (a) Dating violence (R.S. 46:2151(C)).

11                    (b) Domestic abuse and family violence (R.S. 46:2121.1(2) and 2132(3)). For  
 12                    the purposes of this Part, domestic abuse shall also include any act or threat to act  
 13                    that is intended to coerce, control, punish, intimidate, or exact revenge on the other  
 14                    party, for the purpose of preventing the victim from reporting to law enforcement or  
 15                    requesting medical assistance or emergency victim services, or for the purpose of  
 16                    depriving the victim of the means or ability to resist the abuse or escape the  
 17                    relationship.

18                    (c) Nonconsensual observation of another person's sexuality without the other  
 19                    person's consent, including voyeurism (R.S. 14:283.1), video voyeurism (R.S.  
 20                    14:283), nonconsensual disclosure of a private image (R.S. 14:283.2), and peeping  
 21                    tom activities (R.S. 14:284).

22                    (d) Sexual assault (R.S. 14:41, 42 through 43.5, 89, 89.1, and 106).

23                    (e) "Sexual exploitation" which means an act attempted or committed by a  
 24                    person for sexual gratification, financial gain, or other advancement through the  
 25                    abuse of another person's sexuality including prostituting another person (R.S.  
 26                    14:46.2 and 82 through 86).

27                    (f) "Sexual harassment" which means unwelcome sexual advances, requests  
 28                    for sexual favors, and other verbal, physical, or inappropriate conduct of a sexual  
 29                    nature when the conduct explicitly or implicitly affects an individual's employment  
 30                    or education, unreasonably interferes with an individual's work or educational

1 performance, or creates an intimidating, hostile, or offensive work or educational  
 2 environment and has no legitimate relationship to the subject matter of a course or  
 3 academic research.

4 (g) Stalking (R.S. 14:40.2) and cyberstalking (R.S. 14:40.3).

5 (h) Unlawful communications (R.S. 14:285).

6 (i) Unwelcome sexual or sex- or gender-based conduct that is objectively  
 7 offensive, has a discriminatory intent, and lacks a bona fide academic purpose.

8 (6) "Responsible employee" means an employee as defined in Paragraph (3)  
 9 of this Section who receives a direct statement regarding or witnesses an incident of  
 10 power-based violence. "Responsible employee" does not include an employee  
 11 designated as a confidential advisor pursuant to R.S. 17:3399.15(B) or an employee  
 12 who has privileged communications with a student as provided by law.

13 (7) "System president" means the president of a public postsecondary  
 14 education system.

15 (8) "Title IX coordinator" means the individual designated by a public  
 16 postsecondary education institution as the institution's official for coordinating the  
 17 institution's efforts to comply with and carry out its responsibilities under Title IX  
 18 of the Education Amendments of 1972.

19 §3399.13. Mandatory reporting of power-based violence

20 A. Except as provided in Subsection C of this Section, a responsible  
 21 employee who receives a direct statement regarding or witnesses an incident of  
 22 power-based violence committed by or against a student shall promptly report the  
 23 incident to the institution's Title IX coordinator.

24 B. A responsible employee who receives information regarding retaliation  
 25 against a person for reporting power-based violence shall promptly report the  
 26 retaliation to the institution's Title IX coordinator.

27 C. A responsible employee is not required to make a report if information is  
 28 received under any of the following circumstances:

29 (1) During a public forum or awareness event in which an individual  
 30 discloses an incident of power-based violence as part of educating others.

1                   (2) Disclosure is made in the course of academic work consistent with the  
2                   assignment.

3                   (3) Disclosure is made indirectly, such as in the course of overhearing a  
4                   conversation.

5                   D. A report under this Section shall include the following information if  
6                   known:

7                   (1) The identity of the alleged victim.

8                   (2) The identity of the alleged perpetrator.

9                   (3) The type of power-based violence or retaliation alleged to have been  
10                  committed.

11                  (4) Any other information about witnesses, location, date, and time that the  
12                  incident occurred.

13                  §3399.13.1. Administrative reporting requirements

14                  A. Not later than October tenth and April tenth of each year, the Title IX  
15                  coordinator of an institution shall submit to the chancellor of the institution a written  
16                  report on the reports received under R.S. 17:3399.13, including information  
17                  regarding:

18                  (1) The investigation of those reports.

19                  (2) The disposition, if any, of any disciplinary processes arising from those  
20                  reports.

21                  (3) The reports for which the institution determined not to initiate a  
22                  disciplinary process, if any.

23                  (4) Any complaints of retaliation and the status of the investigation of the  
24                  complaints.

25                  B. The Title IX coordinator of an institution shall immediately report to the  
26                  chancellor of the institution an incident reported to the coordinator under R.S.  
27                  17:3399.13 if the coordinator has cause to believe as a result of the incident that the  
28                  safety of any person is in imminent danger.

29                  C. The chancellor of each institution shall submit a report to the institution's  
30                  management board within fourteen days of receiving the report pursuant to

1            Subsection A of this Section from the Title IX coordinator. The report shall include  
 2            the number of responsible employees and confidential advisors for the institution,  
 3            the number and percentage of these who have completed required annual training,  
 4            the number of complaints of power-based violence received by the institution, the  
 5            number of complaints which resulted in a finding that power-based violations  
 6            occurred, the number of complaints in which the finding of power-based violations  
 7            resulted in discipline or corrective action, the type of discipline or corrective action  
 8            taken, the amount of time it took to resolve each complaint, the number of reports  
 9            of retaliation, and the findings of any investigations of reports of retaliation. The  
 10           report shall be posted on the institution's website.

11                    D. The system president shall submit a system-wide summary report within  
 12                    fourteen days of receiving the reports from the chancellors to the management board.  
 13                    The report shall be published on the website of the system.

14                    E. The management board shall send an annual system-wide summary report  
 15                    to the Board of Regents by December thirty-first. The Board of Regents shall post  
 16                    the report on its website.

17                    F. The Board of Regents shall annually submit a report to the governor, the  
 18                    president of the Senate, the speaker of the House of Representatives, and the Senate  
 19                    and House committees on education by January fifteenth, which shall include  
 20                    systemwide and statewide information. The report shall also include any  
 21                    recommendations for legislation. The report shall be published on the website of the  
 22                    Board of Regents.

23            §3399.13.2. Immunities

24                    A. A person acting in good faith who reports or assists in the investigation  
 25                    of a report of an incident of power-based violence, or who testifies or otherwise  
 26                    participates in a disciplinary process or judicial proceeding arising from a report of  
 27                    such an incident:

28                            (1) Shall be immune from civil liability and from criminal liability that might  
 29                            otherwise be incurred or imposed as a result of those actions.

1                   (2) May not be subjected to any disciplinary action by the institution in which  
 2                   the person is enrolled or employed for any violation by the person of the institution's  
 3                   code of conduct reasonably related to the incident for which suspension or expulsion  
 4                   from the institution is not a possible punishment.

5                   B. Subsection A of this Section shall not apply to a person who perpetrates  
 6                   or assists in the perpetration of the incident reported under R.S. 17:3399.13.

7                   §3399.13.3. Failure to report or false reporting

8                   A responsible employee who is determined by the institution's disciplinary  
 9                   procedures to have knowingly failed to make a report or, with the intent to harm or  
 10                   deceive, made a report that is knowingly false shall be terminated.

11                   §3399.13.4. Confidentiality

12                   A. Unless waived in writing by the alleged victim, the identity of an alleged  
 13                   victim of an incident reported under R.S. 17:3399.13 is confidential and not subject  
 14                   to disclosure except to:

15                   (1) A person employed by or under contract with the institution to which the  
 16                   report is made, if the disclosure is necessary to conduct the investigation of the report  
 17                   or any related hearings.

18                   (2) A law enforcement officer as necessary to conduct a criminal  
 19                   investigation of the report.

20                   (3) A person alleged to have perpetrated the incident, to the extent required  
 21                   by law.

22                   (4) A potential witness to the incident as necessary to conduct an  
 23                   investigation of the report.

24                   B. The alleged victim shall have the right to obtain a copy of any report made  
 25                   pursuant to this Part that pertains to the alleged victim.

26                   §3399.13.5. Retaliation prohibited

27                   A. An institution shall not discipline, discriminate, or otherwise retaliate  
 28                   against an employee or student who in good faith either:

29                   (1) Makes a report as required by R.S. 17:3399.13.

1                   (2) Cooperates with an investigation, a disciplinary process, or a judicial  
 2                   proceeding relating to a report made by the employee or student as required by R.S.  
 3                   17:3399.13.

4                   B. Subsection A of this Section does not apply to an employee or student who  
 5                   either:

6                   (1) Reports an incident of power-based violence perpetrated by the employee  
 7                   or student.

8                   (2) Cooperates with an investigation, a disciplinary process, or a judicial  
 9                   proceeding relating to an allegation that the employee or student perpetrated an  
 10                   incident of power-based violence.

11                   §3399.14. Coordination with local law enforcement

12                   A. ~~Each~~ On or before January first, 2022, each institution and law  
 13                   enforcement and criminal justice agency located within the parish of the campus of  
 14                   the institution, including the campus police department, if any, the local district  
 15                   attorney's office, and any law enforcement agency with criminal jurisdiction over the  
 16                   campus, shall enter into and maintain a written memorandum of understanding to  
 17                   clearly delineate responsibilities and share information in accordance with applicable  
 18                   federal and state confidentiality laws, including but not limited to trends about  
 19                   ~~sexually-oriented criminal offenses occurring~~ power-based violence committed by  
 20                   or against students of the institution.

21                   B. ~~The Board of Regents' Uniform Policy on Sexual Assault shall require that~~  
 22                   ~~the memorandum of understanding, as described in Subsection A of this Section, be~~  
 23                   ~~updated every two years.~~

24                   ~~Each~~ Each memorandum of understanding entered into pursuant to this Part  
 25                   shall include:

- 26                   (1) Delineation and sharing protocols of investigative responsibilities.
- 27                   (2) Protocols for investigations, including standards for notification and  
 28                   communication and measures to promote evidence preservation.
- 29                   (3) Agreed-upon training and requirements for the parties to the  
 30                   memorandum of understanding on issues related to ~~sexually-oriented criminal~~

1 offenses power-based violence for the purpose of sharing information and  
2 coordinating training to the extent possible.

3 (4) A method of sharing general information about ~~sexually-oriented criminal~~  
4 ~~offenses~~ power-based violence occurring within the jurisdiction of the parties to the  
5 memorandum of understanding in order to improve campus safety.

6 ~~D. The~~ (5) A requirement that the local law enforcement agency ~~shall~~ include  
7 information on its police report regarding the status of the alleged victim as a student  
8 at an institution as ~~defined in this Part.~~

9 ~~E. The Institutions shall not be held liable if the local law enforcement~~  
10 ~~agency refuses to enter into a memorandum of understanding as required by this~~  
11 ~~Section.~~

12 C. Each memorandum of understanding shall be signed by all parties to the  
13 memorandum.

14 D. Each executed memorandum of understanding shall be reviewed annually  
15 by each institution's chancellor, Title IX coordinator, and the executive officer of the  
16 criminal justice agency, and shall be revised as considered necessary.

17 E. Nothing in this Part or any memorandum of understanding entered into  
18 pursuant to this Section shall be construed as prohibiting a victim or responsible  
19 employee from making a complaint to both the institution and a law enforcement  
20 agency.

21 §3399.15. Campus security policy

22 A. The Board of Regents shall establish uniform policies and best practices  
23 to implement measures to address the reporting of ~~sexually-oriented criminal~~  
24 ~~offenses~~ power-based violence on institution campuses, the prevention of such  
25 ~~crimes~~ violence, communication between institutions regarding incidents of power-  
26 based violence, and the provision of medical and mental health care needed for these  
27 alleged victims ~~that includes the following.~~

28 B. Each public postsecondary education management board shall institute  
29 policies incorporating the policies and best practices prescribed by the Board of  
30 Regents regarding the prevention and reporting of incidents of power-based violence

1 committed by or against students of an institution. The policies, at a minimum, shall  
 2 require each institution under the board's management to provide for the following:

3 (1) Confidential advisors. (a) The institution shall designate individuals who  
 4 shall serve as confidential advisors, such as health care staff, clergy, staff of a  
 5 women's center, or other such categories. Such designation shall not preclude the  
 6 institution from partnering with national, state, or local victim services organizations  
 7 to serve as confidential advisors or to serve in other confidential roles.

8 (b) Prior to designating a person as a confidential advisor, the person shall  
 9 complete a training program that includes information on power-based violence,  
 10 trauma-informed interactions, Title IX requirements, state law on power-based  
 11 violence, and resources for victims.

12 (c) The confidential advisor shall complete ~~the training requirements as~~  
 13 ~~provided in this Part.~~ annual training relative to power-based violence and Title IX.  
 14 The initial and annual training shall be developed by

15 (c) ~~Not later than January 1, 2016,~~ the attorney general in collaboration with  
 16 the Board of Regents; and shall develop be provided through online training  
 17 materials, ~~in addition to the training required under this Part, for the training of~~  
 18 ~~confidential advisors.~~

19 (d) The confidential advisor shall inform the alleged victim of the following:

20 (i) The rights of the alleged victim under federal and state law and the  
 21 policies of the institution.

22 (ii) The alleged victim's reporting options, including the option to notify the  
 23 institution, the option to notify local law enforcement, and any other reporting  
 24 options.

25 (iii) If reasonably known, the potential consequences of the reporting options  
 26 provided in this Part.

27 (iv) The process of investigation and disciplinary proceedings of the  
 28 institution.

29 (v) The process of investigation and adjudication of the criminal justice  
 30 system.

1 (vi) The limited jurisdiction, scope, and available sanctions of the  
2 institutional student disciplinary proceeding, and that it should not be considered a  
3 substitute for the criminal justice process.

4 (vii) Potential reasonable accommodations that the institution may provide  
5 to an alleged victim.

6 (viii) The name and location of the nearest medical facility where an alleged  
7 victim may have a rape kit administered by an individual trained in sexual assault  
8 forensic medical examination and evidence collection, and information on  
9 transportation options and available reimbursement for a visit to such facility.

10 (e) The confidential advisor may, as appropriate, serve as a liaison between  
11 an alleged victim and the institution or local law enforcement, when directed to do  
12 so in writing by an alleged victim who has been fully and accurately informed about  
13 what procedures shall occur if information is shared, and assist an alleged victim in  
14 contacting and reporting to a responsible employee or local law enforcement.

15 (f) The confidential advisor shall be authorized by the institution to liaise  
16 with appropriate staff at the institution to arrange reasonable accommodations  
17 through the institution to allow the alleged victim to change living arrangements or  
18 class schedules, obtain accessibility services, or arrange other accommodations.

19 (g) The confidential advisor shall be authorized to accompany the alleged  
20 victim, when requested to do so by the alleged victim, to interviews and other  
21 proceedings of a campus investigation and institutional disciplinary proceedings.

22 (h) The confidential advisor shall advise the alleged victim of, and provide  
23 written information regarding, both the alleged victim's rights and the institution's  
24 responsibilities regarding orders of protection, no-contact orders, restraining orders,  
25 or similar lawful orders issued by a court of competent jurisdiction or by the  
26 institution.

27 (i) The confidential advisor shall not be obligated to report crimes to the  
28 institution or law enforcement in a way that identifies an alleged victim or an  
29 accused individual, unless otherwise required to do so by law. The confidential  
30 advisor shall, to the extent authorized under law, provide confidential services to

1 students. Any requests for accommodations, as provided in Subparagraph (f) of this  
 2 Paragraph, made by a confidential advisor shall not trigger an investigation by the  
 3 institution.

4 (j) ~~No later than the beginning of the 2016-2017 academic year, the~~ The  
 5 institution shall appoint an adequate number of confidential advisors. The Board of  
 6 Regents shall determine the adequate number of confidential advisors for an  
 7 institution, based upon its size, no later than January 1, ~~2016~~ first, 2022, and on  
 8 January first annually thereafter.

9 (k) Each institution that enrolls fewer than five thousand students may partner  
 10 with another institution in their system or region to provide the services described  
 11 in this Subsection. However, this Paragraph shall not absolve the institution of its  
 12 obligations under this Part.

13 (l) Each institution may offer the same accommodations to the accused that  
 14 are hereby required to be offered to the alleged victim.

15 (2) Website. The institution shall list on its website:

16 (a) The contact information for obtaining a confidential advisor.

17 (b) Reporting options for alleged victims of ~~a sexually-oriented criminal~~  
 18 ~~offense~~ power-based violence.

19 (c) The process of investigation and disciplinary proceedings of the  
 20 institution.

21 (d) The process of investigation and adjudication of the criminal justice  
 22 system.

23 (e) Potential reasonable accommodations that the institution may provide to  
 24 an alleged victim.

25 (f) The telephone number and website address for a local, state, or national  
 26 hotline providing information to ~~sexual violence~~ victims of power-based violence,  
 27 which shall be updated on ~~a timely~~ at least an annual basis.

28 (g) The name and location of the nearest medical facility where an individual  
 29 may have a rape kit administered by an individual trained in sexual assault forensic

1 medical examination and evidence collection, and information on transportation  
2 options and available reimbursement for a visit to such facility.

3 (h) Each current memorandum of understanding between the institution and  
4 a local law enforcement and criminal justice agency located within the parish of the  
5 campus.

6 (3) Online reporting. The institution ~~may~~ shall provide an online reporting  
7 system to collect anonymous disclosures of incidents of power-based violence and  
8 crimes and track patterns of power-based violence and crimes on campus. An  
9 individual may submit a confidential report about a specific incident of power-based  
10 violence or crime to the institution using the online reporting system. ~~If the~~  
11 ~~institution uses an online reporting system, the~~ The online system shall also include  
12 information regarding how to report a an incident of power-based violence or crime  
13 to a responsible employee and law enforcement and how to contact a confidential  
14 advisor.

15 (4) Amnesty policy. The institution shall provide an amnesty policy for any  
16 student who reports, in good faith, ~~sexual~~ power-based violence to the institution.  
17 Such student shall not be sanctioned by the institution for a nonviolent student  
18 conduct violation, such as underage drinking, that is revealed in the course of such  
19 a report.

20 (5) Training. ~~(a) Not later than January 1, 2016, the Board of Regents, in~~  
21 ~~coordination with the attorney general and in consultation with state or local victim~~  
22 ~~services organizations, shall develop a program for~~ The institution shall require  
23 annual training for each responsible employee, individual who is involved in  
24 implementing an institution's student grievance procedures, including each individual  
25 who is responsible for resolving complaints of reported ~~sex offenses~~ power-based  
26 violence, or sexual misconduct policy violations, each Title IX coordinator at all  
27 institutions, and each employee of an institution who has responsibility for  
28 conducting an interview with an alleged victim of a ~~sexually-oriented criminal~~  
29 ~~offense~~ power-based violence. Each institution shall ensure that the individuals and

1 employees receive the training described in this Subsection no later than the  
2 beginning of the ~~2016-2017~~ 2022-2023 academic year.

3 (b) Not later than January first, 2022, the Board of Regents, in coordination  
4 with the attorney general and in consultation with state or local victim services  
5 organizations, shall develop the annual training program required by Subparagraph  
6 (a) of this Paragraph. The Board of Regents shall annually review and revise as  
7 needed the annual training program.

8 (6) Inter-campus transfer policy. ~~(a) The Board of Regents' Uniform Policy~~  
9 ~~on Sexual Assault shall require that institutions communicate with each other~~  
10 ~~regarding transfer of students against whom disciplinary action has been taken as a~~  
11 ~~result of a code of conduct violation relating to sexually-oriented criminal offenses.~~

12 B. The Board of Regents' Uniform Policy on Sexual Assault shall require that  
13 institutions withhold transcripts of students seeking a transfer with pending  
14 disciplinary action relative to sexually-oriented criminal offenses, until such  
15 investigation and adjudication is complete. Institutions shall implement a uniform  
16 transcript notation and communication policy to effectuate communication regarding  
17 the transfer of a student who is the subject of a pending power-based violence  
18 complaint or who has been found responsible for an incident of power-based  
19 violence pursuant to the institution's investigative and adjudication process. The  
20 notation and communication policy shall be developed by the Board of Regents, in  
21 consultation with the postsecondary education management boards. The policy shall  
22 include procedures relative to the withholding of transcripts during the investigative  
23 and adjudication process.

24 (7) A victims' rights policy. The institution shall adopt a victims' rights  
25 policy, which, at a minimum, shall provide for a process by which a victim may  
26 petition and be granted the right to have a perpetrator of an incident of power-based  
27 violence against the victim barred from attending a class in which the student is  
28 enrolled.

1 §3399.16. Safety education; recognition and reporting of potential threats to safety

2 A. The administration of each ~~public~~~~postsecondary~~ institution, in  
3 consultation with campus or local law enforcement agencies, shall develop and  
4 distribute information to students regarding power-based violence, campus safety,  
5 and internet and cell phone safety and online content that is a potential threat to  
6 school safety. Such information shall include how to recognize and report potential  
7 threats to school safety that are posted on the internet, including but not limited to  
8 posts on social media.

9 B. The information shall include the following:

10 (1) Instruction on how to identify and prevent power-based violence and how  
11 to detect potential threats to school safety exhibited online, including on any social  
12 media platform.

13 (2) ~~Visual examples of possible threats.~~ How to report incidents of power-  
14 based violence, crimes on campus, violations of the student code of conduct, and  
15 possible threats to campus safety.

16 (3) ~~The reporting processes, as provided in Subsection D of this Section.~~  
17 Where to find reports regarding campus safety.

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

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

22 (1) A standardized form to be used by students, faculty, and other personnel  
23 to report potential threats. The form shall request, at a minimum, the following  
24 information:

25 (a) Name of institution, person, or group being threatened.

26 (b) Name of student, individual, or group threatening violence.

27 (c) Date and time the threat was made.

28 (d) Method by which the threat was made, including the social media outlet  
29 or website where the threat was posted, a screenshot or recording of the threat, if  
30 available, and any printed evidence of the threat.

1 (2) A process for allowing anonymous reporting and for safeguarding the  
 2 identity of a person who reports a ~~threat~~, an incident of power-based violence or a  
 3 safety threat.

4 E. Each institution shall adopt a policy to implement the provisions of this  
 5 Part. The policy shall require that for every ~~threat report~~ report of an incident of  
 6 power-based violence or a safety threat received, the actions taken by the institution  
 7 and the campus law enforcement agency or security officers be documented. The  
 8 policies shall also provide for guidelines on referring the ~~threats~~ reports to the  
 9 appropriate law enforcement agencies.

10 §3399.17. Public institutions of postsecondary education ~~institutions~~; ~~sexual assault~~  
 11 power-based violence climate surveys

12 A.(1) Each ~~public postsecondary education~~ institution shall administer an  
 13 anonymous ~~sexual assault~~ power-based violence climate survey to its students once  
 14 every three years. If an institution administers other surveys with regard to campus  
 15 safety, the ~~sexual assault~~ power-based violence climate survey may be included as  
 16 a separate component of any such survey provided that the ~~sexual assault~~ power-  
 17 based violence component is clearly identified as such.

18 (2) Participation in the ~~sexual assault~~ power-based violence climate survey  
 19 shall be voluntary; no student shall be required or coerced to participate in the survey  
 20 nor shall any student face retribution or negative consequence of any kind for  
 21 declining to participate.

22 (3) Each institution shall make every effort to maximize student participation  
 23 in the survey.

24 B. The Board of Regents shall:

25 (1) Develop the survey in consultation with the public postsecondary  
 26 education management boards and in accordance with national best practices.

27 (2) Work with the management boards in researching and selecting the best  
 28 method of developing and administering the survey.

29 (3) Consult with victims' advocacy groups and student leaders who represent  
 30 a variety of student organizations and affiliations, including student government

1           associations, academic associations, faith-based groups, cultural groups, and  
2           fraternities and sororities, when meeting the requirements of Paragraph (1) of this  
3           Subsection.

4           (4) Submit a written report on survey results to the House Committee on  
5           Education, Senate Committee on Education, and the governor not later than  
6           ~~September first following administration of the survey~~ forty-five days prior to the  
7           convening of the next Regular Session of the Legislature following the  
8           administration of the survey. The report shall summarize results from each public  
9           postsecondary education institution and the state as a whole.

10           ~~(4)~~(5) Publish the survey results on the board's website and in any other  
11           location or venue the board ~~deems~~ considers necessary or appropriate.

12           C. Each public postsecondary institution shall:

13           (1) Administer a survey during the 2022-2023 academic year and every third  
14           year thereafter.

15           (2) Report survey results to the institution's board of supervisors and the  
16           Board of Regents.

17           (3) Publish the survey results in a prominent easy to access location on the  
18           institution's website.

19           Section 3. This Act shall become effective upon signature by the governor or, if not  
20           signed by the governor, upon expiration of the time for bills to become law without signature  
21           by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If  
22           vetoed by the governor and subsequently approved by the legislature, this Act shall become  
23           effective on the day following such approval.

\_\_\_\_\_  
SPEAKER OF THE HOUSE OF REPRESENTATIVES

\_\_\_\_\_  
PRESIDENT OF THE SENATE

\_\_\_\_\_  
GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: \_\_\_\_\_

**ACT No. 447**

2021 Regular Session

HOUSE BILL NO. 394

BY REPRESENTATIVES RISER AND THOMPSON AND SENATORS BARROW, BERNARD, BOUDREAUX, BOUIE, FESI, FIELDS, FOIL, HARRIS, HEWITT, JACKSON, JOHNS, LUNEAU, MCMATH, FRED MILLS, MIZELL, PETERSON, POPE, PRICE, SMITH, AND WARD

1 AN ACT

2 To enact R.S. 17:3399.18, relative to campus safety and accountability; to require  
3 postsecondary education institutions to post security reports on their websites; to  
4 provide relative to the information contained in the security reports; to provide for  
5 compliance monitoring relative to the security reports by the Board of Regents; to  
6 provide for penalties and enforcement; and to provide for related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. R.S. 17:3399.18 is hereby enacted to read as follows:

9 §3399.18. Disclosure of campus security policies and campus crime statistics

10 A.(1) Each campus of each public postsecondary education institution shall  
11 publish on its website a semiannual security report that contains updated campus  
12 security policies and campus crime statistics. The reports shall be updated and  
13 posted by April tenth and October tenth of each academic year. The information in  
14 the report shall include, at a minimum, all of the information relative to such policies  
15 and statistics specified in the Jeanne Clery Disclosure of Campus Security Policy and  
16 Campus Crime Statistics Act, 20 U.S.C. 1092, referred to in this Section as the Clery  
17 Act.

18 (2) The report shall be posted in a prominent location that is readily  
19 accessible from the main landing page of each campus's website. If an individual  
20 campus does not have its own website, it shall be posted on the main website of the  
21 institution with the campus clearly indicated.

22 B.(1) The Board of Regents shall monitor websites for compliance with this  
23 Section. The board shall notify the House Committee on Education, the Senate

1            Committee on Education, and the State Bond Commission upon an institution's  
 2            failure to comply with this Section. For a period of two years following such a  
 3            notification, the State Bond Commission shall not authorize the institution to incur  
 4            any debt that is subject to the commission's approval.

5            (2) Any person may commence a suit in the district court for the parish in  
 6            which an action in violation of this Section occurred for the issuance of a writ of  
 7            mandamus or injunctive or declaratory relief to require compliance with the  
 8            provisions of this Section, together with reasonable attorney fees and costs.

---

SPEAKER OF THE HOUSE OF REPRESENTATIVES

---

PRESIDENT OF THE SENATE

---

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: \_\_\_\_\_



**BOR UNIFORM POLICY ON  
POWER-BASED  
VIOLENCE/SEXUAL  
MISCONDUCT**

# Table of Contents

- I. INTRODUCTION ..... 3**
- II. POLICY STATEMENT ..... 3**
- III. NONDISCRIMINATION ..... 4**
- IV. SCOPE ..... 5**
  - A. SCOPE ..... 5
  - B. OVERVIEW OF POLICY AND SELECTED DEFINITIONS ..... 6
- V. SAFETY EDUCATION..... 7**
- VI. RETALIATION PROHIBITION..... 9**
- VII. REPORTING POWER-BASED VIOLENCE..... 9**
  - A. REPORTING INCIDENTS OF POWER-BASED VIOLENCE ..... 10
    - a. ONLINE REPORTING ..... 10
  - B. MANDATORY REPORTING FOR EMPLOYEES..... 10
  - C. CONFIDENTIAL AND ANONYMOUS REPORTING ..... 11
  - D. ADMINISTRATIVE REPORTING ..... 12
  - E. EMPLOYEE’S FAILURE TO REPORT OR FALSE REPORTING ..... 12
  - F. STUDENT’S FALSE REPORTING ..... 12
  - G. IMMUNITIES AND AMNESTY ..... 13
- VIII. TRANSCRIPT WITHHOLDING, NOTATION & COMMUNICATION..... 13**
  - A. WITHHOLDING STUDENT TRANSCRIPTS..... 14
  - B. NOTATION ..... 14
  - C. TRANSCRIPT WITHHOLDING AND NOTATION APPEALS..... 15
  - D. APPLICABILITY..... 15
- IX. VICTIMS’ RIGHTS POLICY ..... 15**
- X. IDENTIFIED BEST PRACTICES BY BOR ..... 16**
  - A. INITIAL STEPS & DETERMINATION OF APPROPRIATE PROCEDURES..... 16
  - B. INITIAL CONTACT WITH POTENTIAL COMPLAINANT ..... 16
  - C. SUPPORTIVE MEASURES..... 17
  - D. FILING A FORMAL COMPLAINT ..... 17
    - a. HOW TO FILE A FORMAL COMPLAINT ..... 18
    - b. WITHDRAWAL OF FORMAL COMPLAINT ..... 18
  - E. POWER-BASED VIOLENCE GRIEVANCE PROCEDURE..... 19
    - a. NOTICE TO RESPONDENT ..... 19
  - F. INVESTIGATION PROCESS..... 19
  - G. FINDINGS & INVESTIGATIVE REPORT ..... 20

<b>H.</b>	<b>RESOLUTION</b> .....	<b>21</b>
a.	INFORMAL RESOLUTION .....	21
b.	FORMAL RESOLUTION.....	21
<b>I.</b>	<b>SANCTIONS</b> .....	<b>21</b>
<b>J.</b>	<b>GRIEVANCE PROCEDURE APPEALS</b> .....	<b>22</b>
<b>XI.</b>	<b>TRAINING</b> .....	<b>22</b>
A.	RESPONSIBLE EMPLOYEES.....	22
B.	CONFIDENTIAL ADVISORS .....	23
<b>XII.</b>	<b>DATA PUBLICATION(S)</b> .....	<b>24</b>
A.	POWER-BASED VIOLENCE CLIMATE SURVEY .....	25
B.	CAMPUS SECURITY REPORT.....	25
C.	SEX CRIME DATA REPORT.....	26
<b>XIII.</b>	<b>MEMORANDA OF UNDERSTANDING</b> .....	<b>26</b>
<b>XIV.</b>	<b>CAMPUS POWER-BASED VIOLENCE POLICIES</b> .....	<b>27</b>
<b>XV.</b>	<b>WEBSITE COMPLIANCE</b> .....	<b>27</b>
<b>XVI.</b>	<b>APPENDICES</b> .....	<b>29</b>
A.	DEFINITIONS .....	29
B.	ADMINISTRATIVE REPORTING FORMS .....	33
C.	DATA PUBLICATION FORMS.....	39

## 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. Each institution (or a Management Board for each of its member institutions) shall begin establishing policies and procedures in full compliance with this Policy 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 1<sup>st</sup> 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.

## 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 10<sup>th</sup> and April 10<sup>th</sup>.**

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 24<sup>th</sup> and April 24<sup>th</sup>.**

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 7<sup>th</sup> and May 8<sup>th</sup>.**

4. System Board (Form B3)

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

5. BOR

**Note: Act 472 requires the submission of reports to the Legislature by January 15<sup>th</sup>. 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 Semester<sup>1</sup>**

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

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

<sup>2</sup> 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.

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

<sup>4</sup> 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.

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

<sup>6</sup> Type of power-based violence or retaliation alleged.

<sup>7</sup> Disposition of any disciplinary processes arising from the Formal Complaints.

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

<sup>9</sup> 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 Semester<sup>10</sup>

<b>Confidential Advisors and Responsible Employees<sup>11</sup></b>	<b>Total</b>
a. Number of Responsible Employees	00
b. Number of Confidential Advisors	00
<b>Annual Training</b> <i>(please include number and percentage)</i> <sup>12</sup>	
a. Completion rate of Responsible Employees	0 (0%)
b. Completion rate of Confidential Advisors	0 (0%)
<b>Responsible Employee Reporting<sup>13</sup></b>	
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	
<b>Power-Based Violence Formal Complaints<sup>14</sup></b>	
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
<b>Retaliation<sup>15</sup></b>	
a. Reports of retaliation received	00
b. Investigations	00
c. Findings	
i. Retaliation occurred	00
ii. Retaliation did not occur	00

<sup>10</sup> 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.

<sup>11</sup> 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.

<sup>12</sup> 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.

<sup>13</sup> 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.

<sup>14</sup> 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 2<sup>nd</sup> form)

<sup>15</sup> 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 B3 – System Data Report  
2021-2022 Academic Year, Fall Semester**

<b>R.S. 17:3399.13</b>	<b>Total</b>
a. Number of Responsible Employees	00
b. Number of Confidential Advisors	00
<b>Annual Training</b> <i>(please include number and percentage)</i>	
a. Completion rate of Responsible Employees	0 (0%)
b. Completion rate of Confidential Advisors	0 (0%)
<b>Responsible Employee Reporting</b>	
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	
<b>Power-Based Violence Reports</b>	
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
<b>Retaliation Reports</b>	
a. Reports of retaliation received	00
b. Investigations	00
c. Findings	
i. Retaliation occurred	00
ii. Retaliation did not occur	00



## **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						



# TITLE IX GRIEVANCE PROCEDURES

## **CONTENTS**

<b>I.</b>	<b>INTRODUCTION .....</b>	<b>2</b>
<b>II.</b>	<b>SCOPE .....</b>	<b>2</b>
<b>A.</b>	<b>SEXUAL HARASSMENT (§106.30) .....</b>	<b>2</b>
<b>B.</b>	<b>EDUCATION PROGRAM OR ACTIVITY .....</b>	<b>2</b>
<b>III.</b>	<b>EQUITABLE TREATMENT .....</b>	<b>3</b>
<b>IV.</b>	<b>OVERVIEW OF KEY TERMS .....</b>	<b>3</b>
<b>V.</b>	<b>TIME FRAME TO RESOLVE GRIEVANCE .....</b>	<b>4</b>
<b>VI.</b>	<b>FORMAL GRIEVANCE PROCESS .....</b>	<b>5</b>
<b>A.</b>	<b>FILING A FORMAL COMPLAINT .....</b>	<b>5</b>
<b>B.</b>	<b>TITLE IX COORDINATOR FILING COMPLAINT .....</b>	<b>5</b>
<b>C.</b>	<b>WITHDRAWAL .....</b>	<b>5</b>
<b>E.</b>	<b>MANDATORY DISMISSAL .....</b>	<b>6</b>
<b>F.</b>	<b>PERMISSIVE DISMISSAL .....</b>	<b>6</b>
<b>VII.</b>	<b>INITIAL STEPS AND DETERMINATION OF APPROPRIATE PROCEDURES ..</b>	<b>6</b>
<b>VIII.</b>	<b>INVESTIGATION .....</b>	<b>7</b>
<b>A.</b>	<b>NOTICE .....</b>	<b>7</b>
<b>B.</b>	<b>INVESTIGATION PROCEDURE .....</b>	<b>7</b>
<b>C.</b>	<b>HEARINGS .....</b>	<b>9</b>
<b>D.</b>	<b>DETERMINATION REGARDING RESPONSIBILITY .....</b>	<b>10</b>
<b>E.</b>	<b>SANCTIONS .....</b>	<b>11</b>
<b>IX.</b>	<b>APPEALS .....</b>	<b>11</b>
<b>X.</b>	<b>INFORMAL RESOLUTION .....</b>	<b>12</b>
<b>XI.</b>	<b>RECORDKEEPING .....</b>	<b>12</b>

## 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) 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.

In reaching a determination regarding responsibility, the decision-maker(s) may rely, if appropriate, on a statement of a party or a witness even if that party or witness does not submit to cross-examination. However, 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 or 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.

**LOUISIANA COMMUNITY & TECHNICAL COLLEGE SYSTEM**  
**Policy # 9.001**

**Title: Power-Based Violence/Sexual Misconduct**

Authority: Board Action	Original Adoption: 10/20/2021 Effective Date: 10/20/2021 Last Revision: Initial
-------------------------	---

**I. INTRODUCTION**

The Board of Supervisors of the Louisiana Community and Technical College System (LCTCS) is committed to the highest quality and most impactful educational experiences for all students in its member colleges. 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 LCTCS and its member colleges.

This 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 member college 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](#)).

Each member college shall institute policies incorporating the policies and best practices prescribed by the Board of Regents (BOR) Uniform Policy on Power-Based Violence/Sexual Misconduct and this Policy 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 October 20, 2021. Each college shall begin establishing policies and procedures in full compliance with this Policy and shall implement those policies no later than October 20, 2021. The LCTCS 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 LCTCS 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 LCTCS. All policies and processes shall be posted on institutional websites as required in this Policy. The LCTCS 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. The LCTCS will review, evaluate, and make any

revisions or amendments to applicable power-based violence policies on an ongoing and as-needed basis.

## II. POLICY STATEMENT

The Board of Supervisors of the Louisiana Community and Technical College System (LCTCS) prohibits discrimination on the basis of sex in any of its member institutions. This policy applies to all LCTCS member 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 member 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 the LCTCS'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.

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 member 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- See definitions in Appendix A) 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**

This Policy serves as LCTCS'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 member 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 (Quid Pro Quo);
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, LCTCS's and member Institutions' policies and procedures are intended to ensure that all students and employees 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.

## 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 LCTCS 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 (i.e. through online Maxient Incident Reporting Forms/links); 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 through an online reporting platform (i.e. Maxient) to be used by students, faculty, other personnel, and the public 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 LCTCS expressly prohibits 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**. **Reports may also be made to any Responsible Employee, including Human Resources staff. Responsible Employees must send all reports of alleged Power-Based Violence to the appropriate Title IX Coordinator for the institution.** 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, reporting via email, and reporting through an online reporting platform (i.e. Maxient Incident Reporting Forms).

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 (i.e. Maxient) 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.

LCTCS 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 LCTCS 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 LCTCS Board of Supervisors 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 LCTCS 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**

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 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.

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 requests 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. 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 LCTCS 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.

### **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.

See [Appendix D](#).

### **X. IDENTIFIED BEST PRACTICES**

In addition to compliance with federal and state laws and regulations, LCTCS 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 LCTCS'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, the Title IX Coordinator will report all employee cases to the appropriate Human Resource Office

## **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.

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 (i.e. Maxient Incident Reporting 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: For non-Title IX conduct cases involving employees, see LCTCS Policies [6.011 Harassment, Discrimination, and Retaliation](#); [6.014 Discipline for All Employees](#); and [6.015 Grievance for All 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

Factors considered when determining a sanction/responsive action may include, but are not limited to:

- The nature, severity of, and circumstances surrounding the violation(s)
- The Respondent’s disciplinary history
- Previous allegations or allegations involving similar conduct
- The need for sanctions/responsive actions to bring an end to the discrimination, harassment, and/or retaliation
- The need for sanctions/responsive actions to prevent the future recurrence of discrimination, harassment, and/or retaliation
- The need to remedy the effects of the discrimination, harassment, and/or retaliation on the Complainant and the community
- The impact on the parties
- Any other information deemed relevant by the Decision-maker(s)

The sanctions will be implemented as soon as is feasible, either upon the outcome of any appeal or the expiration of the window to appeal without an appeal being requested.

The sanctions described in this policy are not exclusive of, and may be in addition to, other actions taken or sanctions imposed by external authorities.

### a. STUDENT SANCTIONS EXAMPLES

The following are the usual sanctions<sup>1</sup> that may be imposed upon students or organizations singly or in combination<sup>2</sup>:

- *Warning*: A formal statement that the conduct was unacceptable and a warning that further violation of any LCTCS or its colleges' policies, procedure, or directive will result in more severe sanctions/responsive actions.
- *Required Counseling*: A mandate to meet with and engage in either LCTCS or its colleges' college-sponsored or external counseling to better comprehend the misconduct and its effects.
- *Probation*: A written reprimand for violation of institutional policy, providing for more severe disciplinary sanctions in the event that the student or organization is found in violation of any institutional policy, procedure, or directive within a specified period of time. Terms of the probation will be articulated and may include denial of specified social privileges, exclusion from co-curricular activities, exclusion from designated areas of campus, no-contact orders, and/or other measures deemed appropriate.
- *Suspension*: Termination of student status for a definite period of time not to exceed two years and/or until specific criteria are met. Students who return from suspension are automatically placed on probation through the remainder of their tenure as a student at LCTCS or its colleges.
- *Expulsion*: Permanent termination of student status and revocation of rights to be on campus for any reason or to attend LCTCS or its colleges' college-sponsored events. This sanction will be noted permanently as a Conduct Expulsion on the student's official transcript, subject to any applicable expungement policies.
- *Withholding Diploma*: The LCTCS or its colleges may withhold a student's diploma for a specified period of time and/or deny a student participation in commencement activities as a sanction if the student is found responsible for an alleged violation.
- *Revocation of Degree*: The LCTCS or its colleges reserve the right to revoke a degree previously awarded from the LCTCS or its colleges for fraud, misrepresentation, and/or other violation of LCTCS or its colleges' policies, procedures, or directives in obtaining the degree, or for other serious violations committed by a student prior to graduation.
- *Organizational Sanctions*: Deactivation, loss of recognition, loss of some or all privileges (including LCTCS or its colleges' registrations) for a specified period of time.

---

<sup>1</sup> LCTCS or its colleges' policies on transcript notation will apply to these proceedings.

<sup>2</sup> Subject to LCTCS or its colleges' Organizational Codes of Conduct.

- *Other Actions:* In addition to or in place of the above sanctions, the LCTCS or its colleges may assign any other sanctions as deemed appropriate.

#### b. EMPLOYEE SANCTIONS EXAMPLES

Responsive actions for an employee who has engaged in power-based violence, including harassment, discrimination, and/or retaliation include:

- *Warning – Verbal or Written*
- *Performance Improvement/Management Process*
- *Required Counseling*
- *Required Training or Education*
- *Probation*
- *Loss of Annual Pay Increase*
- *Loss of Oversight or Supervisory Responsibility*
- *Demotion*
- *Suspension with pay*
- *Suspension without pay*
- *Termination*
- *Other Actions:* In addition to or in place of the above sanctions, the LCTCS or its colleges may assign any other sanctions as deemed appropriate.
- *See LCTCS Policy [6.014](#) **Discipline for All Employees***

### 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 procedural irregularity that affected the outcome of the matter;
- 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;
- the Title IX Coordinator, Investigator, or Adjudicator(s) had a conflict of interest or bias that affected the outcome of the matter;
- the decision reached was not supported by a preponderance of evidence; or
- 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.

The 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. LCTCS 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 1<sup>st</sup> 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 LCTCS and its member colleges and in accordance with national best practices;
2. Work with LCTCS 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 LCTCS 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).

LCTCS 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.

LCTCS and 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**

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**

Each member college shall institute policies incorporating the policies and best practices prescribed by LCTCS 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.

## XVI. APPENDICES

### A. DEFINITIONS

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

**Advisor:** In a Title IX conduct case or other power-based violence case involving a student, 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:** In a Title IX conduct case or other power-based violence case involving a student, 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/Member College:** 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/Sexual Misconduct:** 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 LCTCS Policy 9.002 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 10<sup>th</sup> and April 10<sup>th</sup>.*

- 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 24<sup>th</sup> and April 24<sup>th</sup>.*

- 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 7<sup>th</sup> and May 8<sup>th</sup>.*

- 4. System Board (Form B3)

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

- 5. BOR

*Note: Act 472 requires the submission of reports to the Legislature by January 15<sup>th</sup>. 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 Semester<sup>3</sup>**

<b>Date Report Received<sup>4</sup></b>	<b>Status of Report<sup>5</sup></b>	<b>Date Formal Complaint Filed<sup>6</sup></b>	<b>Status of Formal Complaint<sup>7</sup></b>	<b>Basis for Charge<sup>8</sup></b>	<b>Disposition<sup>9</sup></b>	<b>Disciplinary Status<sup>10</sup></b>	<b>Gender of Complainant<sup>11</sup></b>	<b>Gender of Respondent</b>

<sup>3</sup> June 29, 2021 is the effective date for purposes of complying with the Title IX Coordinator’s reporting requirements under Act 472.

<sup>4</sup> 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.

<sup>5</sup> Information as to whether the report resulted in the filing of a Formal Complaint and the allegations contained therein.

<sup>6</sup> 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.

<sup>7</sup> Status of investigation as it pertains to Formal Complaints filed for an accusation of power-based violence or retaliation.

<sup>8</sup> Type of power-based violence or retaliation alleged.

<sup>9</sup> Disposition of any disciplinary processes arising from the Formal Complaints.

<sup>10</sup> Institution should indicate where they are in the disciplinary status and also note if there was a sanction imposed and what sanction was imposed.

<sup>11</sup> 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 Semester<sup>12</sup>**

<b>Confidential Advisors and Responsible Employees<sup>13</sup></b>	<b>Total</b>
a. Number of Responsible Employees	00
b. Number of Confidential Advisors	00
<hr/>	
<b>Annual Training</b> <i>(please include number and percentage)<sup>14</sup></i>	
a. Completion rate of Responsible Employees	0 (0%)
b. Completion rate of Confidential Advisors	0 (0%)
<hr/>	
<b>Responsible Employee Reporting<sup>15</sup></b>	
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	
<hr/>	
<b>Power-Based Violence Formal Complaints<sup>16</sup></b>	
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
<hr/>	
<b>Retaliation<sup>17</sup></b>	
a. Reports of retaliation received	00
b. Investigations	00
c. Findings	00

<sup>12</sup> 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.

<sup>13</sup> 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.

<sup>14</sup> 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.

<sup>15</sup> 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.

<sup>16</sup> 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 2<sup>nd</sup> form)

<sup>17</sup> 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.

- i. Retaliation occurred
  - ii. Retaliation did not occur
- 

00



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

<b>R.S. 17:3399.13</b>	<b>Total</b>
a. Number of Responsible Employees	00
b. Number of Confidential Advisors	00
<b>Annual Training</b> <i>(please include number and percentage)</i>	
a. Completion rate of Responsible Employees	0 (0%)
b. Completion rate of Confidential Advisors	0 (0%)
<b>Responsible Employee Reporting</b>	
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	
<b>Power-Based Violence Reports</b>	
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
<b>Retaliation Reports</b>	
a. Reports of retaliation received	00
b. Investigations	00
c. Findings	00
i. Retaliation occurred	00
ii. Retaliation did not occur	



## **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						

#### **D. STATEMENT OF THE RIGHTS OF THE PARTIES**

- The right to an equitable investigation and resolution of all credible allegations of prohibited harassment or discrimination made in good faith to LCTCS or its colleges' officials.
- The right to timely written notice of all alleged violations, including the identity of the parties involved (if known), the precise misconduct being alleged, the date and location of the alleged misconduct (if known), the implicated policies and procedures, and possible sanctions.
- The right to timely written notice of any material adjustments to the allegations (e.g., additional incidents or allegations, additional Complainants, unsubstantiated allegations) and any attendant adjustments needed to clarify potentially implicated policy violations.
- The right to be informed in advance of any public release of information regarding the allegation(s) or underlying incident(s), whenever possible.
- The right not to have any personally identifiable information released to the public without consent provided, except to the extent permitted by law.
- The right to be treated with respect by LCTCS or its college officials.
- The right to have LCTCS or its colleges' policies and procedures followed without material deviation.
- The right not to be pressured to mediate or otherwise informally resolve any reported misconduct involving violence, including sexual violence.
- The right not to be discouraged by LCTCS or its college officials from reporting sexual misconduct or discrimination to both on-campus and off-campus authorities.
- The right to be informed by LCTCS or its college officials of options to notify proper law enforcement authorities, including on-campus and local police, and the option(s) to be assisted by LCTCS or its college authorities in notifying such authorities, if the party so chooses. This also includes the right not to be pressured to report, as well.
- The right to have allegations of violations of this Policy responded to promptly and with sensitivity by LCTCS or its college law enforcement and/or other LCTCS college officials.
- The right to be informed of available interim actions and supportive measures, such as counseling; advocacy; health care; legal, student financial aid, visa, and immigration assistance; or other services, both on campus and in the community.
- The right to a LCTCS or its college-implemented no-contact order or a no-trespass order against a non-affiliated third party when a person has engaged in or threatens to engage in stalking, threatening, harassing, or other improper conduct that presents a danger to the welfare of the party or others.
- The right to be informed of available assistance in changing academic, living, and/or working situations after an alleged incident of discrimination, harassment, and/or retaliation, if such changes are reasonably available. No formal report, or investigation, either campus or criminal, needs to occur before this option is available. Such actions may include, but are not limited to:
  - Relocating an on-campus student's housing to a different on-campus location
  - Assistance from LCTCS or its college staff in completing the relocation
  - Changing an employee's work environment (e.g., reporting structure, office/workspace relocation)
  - Transportation accommodations

- Visa/immigration assistance
  - Arranging to dissolve a housing contract and a pro-rated refund
  - Exam, paper, and/or assignment rescheduling or adjustment
  - Receiving an incomplete in, or a withdrawal from, a class (may be retroactive)
  - Transferring class sections
  - Temporary withdrawal/leave of absence (may be retroactive)
  - Campus safety escorts
  - Alternative course completion options.
- The right to have the LCTCS or its colleges maintain such actions for as long as necessary and for supportive measures to remain private, provided privacy does not impair the LCTCS or its colleges' ability to provide the supportive measures.
  - The right to receive sufficiently advanced, written notice of any meeting or interview involving the other party, when possible.
  - The right to ask the Investigator(s) and Decision-maker(s) to identify and question relevant witnesses, including expert witnesses.
  - The right to provide the Investigator(s)/Decision-maker(s) with a list of questions that, if deemed relevant by the Investigator(s)/Chair, may be asked of any party or witness.
  - The right not to have irrelevant prior sexual history or character admitted as evidence.
  - The right to know the relevant and directly related evidence obtained and to respond to that evidence.
  - The right to fair opportunity to provide the Investigator(s) with their account of the alleged misconduct and have that account be on the record.
  - The right to receive a copy of the investigation report, including all factual, policy, and/or credibility analyses performed, and all relevant and directly related evidence available and used to produce the investigation report, subject to the privacy limitations imposed by state and federal law, prior to the hearing, and the right to have at least ten (10) business days to review the report prior to the hearing.
  - The right to respond to the investigation report, including comments providing any additional relevant evidence after the opportunity to review the investigation report, and to have that response on the record.
  - The right to be informed of the names of all witnesses whose information will be used to make a finding, in advance of that finding, when relevant.
  - The right to regular updates on the status of the investigation and/or resolution.
  - The right to have reports of alleged Policy violations addressed by Investigators, Title IX Coordinators, and Decision-maker(s) who have received relevant annual training.
  - The right to a Hearing Panel that is not single-sex in its composition, if a panel is used.
  - The right to preservation of privacy, to the extent possible and permitted by law.
  - The right to meetings, interviews, and/or hearings that are closed to the public.
  - The right to petition that any LCTCS or its college representative in the process be recused on the basis of disqualifying bias and/or conflict of interest.

- The right to have an Advisor of their choice to accompany and assist the party in all meetings and/or interviews associated with the resolution process.
- The right to the use of the appropriate standard of evidence, preponderance of the evidence, to make a finding after an objective evaluation of all relevant evidence.
- The right to be present, including presence via remote technology, during all testimony given and evidence presented during any formal grievance hearing.
- The right to have an impact statement considered by the Decision-maker(s) following a determination of responsibility for any allegation, but prior to sanctioning.
- The right to be promptly informed in a written Notice of Outcome letter of the finding(s) and sanction(s) of the resolution process and a detailed rationale therefor (including an explanation of how credibility was assessed), delivered simultaneously (without undue delay) to the parties.
- The right to be informed in writing of when a decision by the LCTCS or its colleges is considered final and any changes to the sanction(s) that occur before the decision is finalized.
- The right to be informed of the opportunity to appeal the finding(s) and sanction(s) of the resolution process, and the procedures for doing so in accordance with the standards for appeal established by the LCTCS or its colleges.
- The right to a fundamentally fair resolution as defined in these procedures.

**LOUISIANA COMMUNITY & TECHNICAL COLLEGE SYSTEM**  
**Policy # 9.002**

---

**Title: Title IX Grievance Procedures**

---

Authority: Board Action

Original Adoption: 10/20/2021

Effective Date: 10/20/2021

Last Revision: Initial

---

**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., other power-based violence) may be addressed by applying BOR’s Uniform Policy or appropriate Human Resource 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 or appropriate Human Resource policy.

## **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. Under normal circumstances, most grievance processes will conclude within 60 business days.

## **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. The Title IX Coordinator will report all Power-Based Violence and Title IX cases involving employees to the appropriate Human Resource office.

### **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 this Title IX Grievance Procedure (LCTCS Policy # 9.002), 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) in BOR's Policy which includes making initial contact with the potential Complainant of the Report and offering information to include Supportive Measures. The Title IX Coordinator will report all Power-Based Violence and Title IX cases involving employees to the appropriate Human Resource office.

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 or the appropriate Human Resource policy.

## **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 that the standard of evidence to be used to determine responsibility is the preponderance of the evidence standard and 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.

A decision-maker may consider statements made by parties or witnesses that are otherwise permitted under the regulations, even if those parties or witnesses do not participate in cross-examination at the live hearing, in reaching a determination regarding responsibility in a Title IX grievance process.

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

Factors considered when determining a sanction/responsive action may include, but are not limited to:

- The nature, severity of, and circumstances surrounding the violation(s)
- The Respondent's disciplinary history
- Previous allegations or allegations involving similar conduct
- The need for sanctions/responsive actions to bring an end to the discrimination, harassment, and/or retaliation
- The need for sanctions/responsive actions to prevent the future recurrence of discrimination, harassment, and/or retaliation
- The need to remedy the effects of the discrimination, harassment, and/or retaliation on the Complainant and the community
- The impact on the parties
- Any other information deemed relevant by the Decision-maker(s)

The sanctions will be implemented as soon as is feasible, either upon the outcome of any appeal or the expiration of the window to appeal without an appeal being requested.

The sanctions described in this policy are not exclusive of, and may be in addition to, other actions taken or sanctions imposed by external authorities.

### a. STUDENT SANCTIONS EXAMPLES

The following are the usual sanctions<sup>1</sup> that may be imposed upon students or organizations singly or in combination<sup>2</sup>:

- *Warning:* A formal statement that the conduct was unacceptable and a warning that further violation of any LCTCS or its colleges' policies, procedure, or directive will result in more severe sanctions/responsive actions.
- *Required Counseling:* A mandate to meet with and engage in either LCTCS or its colleges' college-sponsored or external counseling to better comprehend the misconduct and its effects.
- *Probation:* A written reprimand for violation of institutional policy, providing for more severe disciplinary sanctions in the event that the student or organization is found in violation of any institutional policy, procedure, or directive within a specified period of time. Terms of the probation will be articulated and may include denial of specified social privileges, exclusion from co-curricular activities,

---

<sup>1</sup> LCTCS or its colleges' policies on transcript notation will apply to these proceedings.

<sup>2</sup> Subject to LCTCS or its colleges' Organizational Codes of Conduct.

exclusion from designated areas of campus, no-contact orders, and/or other measures deemed appropriate.

- *Suspension*: Termination of student status for a definite period of time not to exceed two years and/or until specific criteria are met. Students who return from suspension are automatically placed on probation through the remainder of their tenure as a student at LCTCS or its colleges.
- *Expulsion*: Permanent termination of student status and revocation of rights to be on campus for any reason or to attend LCTCS or its colleges' college-sponsored events. This sanction will be noted permanently as a Conduct Expulsion on the student's official transcript, subject to any applicable expungement policies.
- *Withholding Diploma*: The LCTCS or its colleges may withhold a student's diploma for a specified period of time and/or deny a student participation in commencement activities as a sanction if the student is found responsible for an alleged violation.
- *Revocation of Degree*: The LCTCS or its colleges reserve the right to revoke a degree previously awarded from the LCTCS or its colleges for fraud, misrepresentation, and/or other violation of LCTCS or its colleges' policies, procedures, or directives in obtaining the degree, or for other serious violations committed by a student prior to graduation.
- *Organizational Sanctions*: Deactivation, loss of recognition, loss of some or all privileges (including LCTCS or its colleges' registrations) for a specified period of time.
- *Other Actions*: In addition to or in place of the above sanctions, the LCTCS or its colleges may assign any other sanctions as deemed appropriate.

## **b. EMPLOYEE SANCTIONS EXAMPLES**

Responsive actions for an employee who has engaged in power-based violence, including harassment, discrimination, and/or retaliation include:

- *Warning – Verbal or Written*
- *Performance Improvement/Management Process*
- *Required Counseling*
- *Required Training or Education*
- *Probation*
- *Loss of Annual Pay Increase*
- *Loss of Oversight or Supervisory Responsibility*
- *Demotion*
- *Suspension with pay*
- *Suspension without pay*
- *Termination*
- *Other Actions:* In addition to or in place of the above sanctions, the LCTCS or its colleges may assign any other sanctions as deemed appropriate.
- *See LCTCS Policy 6.014 **Discipline for All Employees***

## **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.



**PERMANENT MEMORANDUM 73**

**Prohibiting Power-based Violence, including Sex- and Gender-based Harassment and Discrimination, and Sexual Misconduct**

Monitoring Unit: Office of Civil Rights & Title IX  
Initially Issued: December 15, 2015  
Last Revised: January 19, 2022

**TABLE OF CONTENTS**

- I. Purpose and Commitment ..... 3
- II. Nondiscrimination Notice ..... 3
- III. Definitions ..... 4
  - A. General Definitions ..... 4
  - B. Policy Definitions..... 6
- IV. Scope of Policy .....10
- V. Procedures.....11
  - A. Reporting Misconduct .....13
    - 1. Mandatory Reporting .....13
    - 2. Limited Exceptions .....14
    - 3. Confidentiality .....15
    - 4. Initial Contact with Complainant .....15
    - 5. Supportive Measures.....15
    - 6. Rights of Complainant and Respondent Following a Report ....17
  - B. Complaint and Investigation.....18
    - 1. Initial Response to Reports.....18
    - 2. Formal Complaint Process .....19
    - 3. Advisors.....20
    - 4. Notice and Investigation .....21

5. Resignation While a Case is Pending .....	23
C. Resolutions .....	23
1. Informal Resolution.....	24
2. Administrative Resolution .....	25
a. <i>Questioning During Administrative Resolution</i> .....	25
b. <i>Decision-Making</i> .....	26
3. Formal Resolution .....	27
a. <i>Pre-Hearing Conference</i> .....	28
b. <i>Hearing Panel</i> .....	28
c. <i>Advisors in Hearings</i> .....	29
d. <i>Presentation of Evidence</i> .....	29
e. <i>Absence or Failure to Appear/Answer</i> .....	30
f. <i>Deliberations</i> .....	30
g. <i>Determining Sanctions</i> .....	31
h. <i>Possible Corrective Actions</i> .....	32
D. Appeal.....	32
1. Right of Appeal .....	32
2. Appeal Procedures .....	32
VI. Additional Provisions.....	34
A. Preemption .....	34
B. Record Keeping .....	34
C. Administrative Reporting Requirements.....	35
D. Transcript Withholding, Notation, and Communication .....	36
VII. Resources.....	37

## **I. PURPOSE AND COMMITMENT**

This Permanent Memorandum outlines the procedures for addressing and resolving allegations of power-based violence including sex- and gender-based harassment and discrimination, and Sexual Misconduct (e.g. sexual assault, stalking, dating violence, domestic violence, sexual exploitation, retaliation, etc.). Such procedures are required and governed by (1) Title IX of the Education Amendments of 1972 which prohibits sex discrimination in any education program or activity receiving federal financial assistance, (2) Act 472 of the 2021 Regular Legislative Session of the Louisiana Legislature, and (3) the Board of Regents Uniform Policy on Power-Based Violence. LSU's Title IX Coordinator<sup>1</sup> is responsible for administering this policy at all University locations.

Power-based violence, and sex- and gender-based harassment and discrimination, including Sexual Misconduct, violate an individual's fundamental rights and personal dignity and will not be tolerated. LSU prohibits and is committed to an environment free of discrimination on the basis of sex, gender, and Sexual Misconduct. This policy affirms these principles and provides recourse for individuals whose rights have been violated.

LSU will affirmatively promote prevention, awareness and training programs to encourage individuals to report concerns or complaints. Everyone has a responsibility to prevent and report acts of prohibited conduct. Any LSU employee who has knowledge of sex- and gender-based harassment and discrimination, including Sexual Misconduct, must file a report with the Title IX Coordinator<sup>2</sup>.

LSU will take prompt, thorough, and impartial action to discipline those who violate this policy, prevent recurrence of prohibited behavior, and effect equitable remedies.

## **II. NONDISCRIMINATION NOTICE**

LSU is committed to creating an environment of inclusion and respect among students, faculty, staff and the community at large. LSU does not discriminate on the basis of race, creed, color, marital status, sexual orientation, gender identity, gender expression, religion, sex, national or ethnic origin, age, disability, genetic information, veteran's status, or any other status or organization protected by state or federal law, in its programs and activities. This includes all aspects of LSU's education programs and activities, including admission and employment. The entire LSU community is responsible for fostering a welcome environment conducive to learning and working.

---

<sup>1</sup> The term "LSU Title IX Coordinator" refers to the LSU A&M Coordinator, who also serves as the System Coordinator.

<sup>2</sup> The term "Title IX Coordinator" refers to either the LSU Title IX Coordinator, the respective Title IX Campus Coordinator, or their designee.

Inquiries regarding the non-discrimination policy should be directed to the individual or individuals designated in each campus's applicable policy. Inquiries about the application of Title IX or this policy may be directed to the Title IX Coordinator. Inquiries or concerns regarding Title IX may also be made to the U.S. Department of Education Office for Civil Rights; Dallas office, [OCR.Dallas@ed.gov](mailto:OCR.Dallas@ed.gov), (214) 661-9600.

This Permanent Memorandum applies to incidents of power-based violence including harassment and discrimination on the basis of sex, gender, gender identity, gender expression, and sexual orientation.

### III. DEFINITIONS

#### A. GENERAL DEFINITIONS

**Actual Knowledge:** Any reasonable information of sex- and gender-based harassment and discrimination, including Sexual Misconduct or allegations of such provided to a Title IX Coordinator, Deputy Coordinator, or any other Mandatory Reporter. Actual Knowledge would also include personal observation by any employee of such conduct.

**Administrative Resolution:** A process by which allegations and evidence are presented to a Decision-Maker for determination as to whether a Respondent is responsible for a violation of this policy. Administrative Resolution is not used in cases where the allegation could violate Title IX, or where probable cause indicates that the Respondent found in violation faces suspension or expulsion from LSU, or termination of employment.

**Advisor:** May be any person not otherwise a party or witness to the case, selected by a party or appointed by LSU to accompany the party to meetings related to the Resolution Process, to advise the party on that process, and to conduct questioning for the party at the Hearing, if any. The Advisor may, but is not required to, be an attorney. Participation shall be limited as stated herein.

**Confidential Resource:** Those deemed confidential by law or professional ethics, or individuals explicitly selected, trained, and designated by LSU to provide confidential support to students and employees for concerns arising under this policy. Confidential Resources may also help facilitate supportive measures and assist with reporting to Title IX and/or law enforcement, if desired by the Complainant.

**Complainant:** An individual who is alleged to be the victim of conduct that could constitute power-based violence, or sex- or gender-based harassment or discrimination under this policy.

**Decision-Maker:** A trained individual who reviews all relevant and directly related evidence including the investigation report and makes a decision regarding responsibility based on preponderance of the evidence as well as any applicable sanctions. A Decision-Maker is used during the Administrative Resolution Process.

**Determination Letter:** A letter provided by the Hearing Panel to the parties and their Advisors at the conclusion of the Formal Resolution Process. This letter summarizes the allegations and applicable policies, the investigation, and the findings and sanctions of the panel.

**Formal Complaint:** A document filed by a Complainant or signed by the Title IX Coordinator alleging sex- or gender-based harassment or discrimination (including Sexual Misconduct) against one or more Respondents, and requesting LSU to investigate the allegation.

**Formal Resolution:** A process by which allegations and evidence are presented in a live hearing to a Hearing Panel for determination as to whether a Respondent is responsible for a violation of this policy.

**Hearing Panel:** A body of three trained individuals assembled to hear testimony and weigh evidence resulting in a decision regarding responsibility based on the preponderance of the evidence.

**Incident Report:** Initial report alleging sex- or gender-based harassment or discrimination. An Incident Report does not, by itself, trigger an investigation.

**Informal Resolution:** A process whereby the parties voluntarily work with a professional to reach a mutually agreeable resolution of the complaint.

**Interim Measures:** Remedial measures taken to help deescalate and offer a short-term temporary resolution during the pendency of a resolution under this policy.

**Mandatory Reporter:** Any employee given the duty of reporting actual notice of incidents of sexual violence or any other misconduct prohibited by this policy. All LSU employees including Graduate Assistants are considered Mandatory Reporters (also referred to as “responsible employees”) with a few notable exceptions which are identified in this policy.

**Notice:** A report of sex- or gender-based discrimination or harassment, including Sexual Misconduct, made to the Title IX Coordinator, Deputy Coordinator or any Mandatory Reporter.

**Resolution Process Pool:** A pool of trained LSU officials who can serve in any of the following roles at the direction of a Title IX Coordinator: Hearing Panelist, Hearing Panel Chair, Appeals Reviewer, or as Advisor for the Complainant or the Respondent. Pool members cannot serve in more than one role for a given case.

**Respondent:** A person alleged to have engaged in actions that could constitute power-based violence, or sex- or gender-based harassment or discrimination, including Sexual Misconduct, under this policy.

**Title IX Coordinator:** Individual designated by the University to be responsible for responding to all complaints of possible sex- or gender-based harassment or discrimination and to coordinate appropriate responses to such complaints. All references to Title IX Coordinator in this document include Title IX Coordinator or designee.

## **B. POLICY DEFINITIONS**

**Coercion:** The use of unreasonable express or implied threats, intimidation, or physical force placing an individual in fear of immediate harm or physical injury or causes a person to engage in unwelcome sexual activity. Coercion may include administering a drug, intoxicant or other substance with the intent to incapacitate prior to engaging in sexual activity.

**Consent:** Clear, knowing, and voluntary permission demonstrated through mutually understandable words or actions clearly indicating willingness to engage in a specific sexual activity and any conditions on the activity. It is active, not passive; and silence, absent actions evidencing permission, is not consent. Responsibility for obtaining consent lies with the individual initiating the sexual activity.

Consent to engage in sexual activity may be withdrawn by any person at any time, as long as the withdrawal is reasonably and clearly communicated. Once withdrawal of consent is expressed, the sexual activity must immediately cease. Consent is automatically withdrawn by a person who, during the activity, becomes incapacitated. A current or previous consensual intimate relationship between the parties does not itself imply consent or preclude a finding of responsibility.

To give consent, a person must be of legal age. Consent cannot be obtained through coercion, fraud, or from a person whom the alleged offender knows or should reasonably know is incapacitated. Use of alcohol or drugs does not diminish the responsibility to obtain consent.

**Dating Violence:** Violence, when on the basis of sex or gender, committed by a person who is or has been in a social relationship of a romantic or intimate nature with the Complainant. The existence of such a relationship shall be determined based on the Complainant's statement and with consideration of the length of the relationship, the type of relationship and the frequency of interaction between the persons involved in the relationship. For the purposes of this definition, Dating Violence includes, but is not limited to, sexual or physical abuse or threat of such abuse. Dating Violence does not include acts covered under the definition of Domestic Violence.

**Domestic Violence:** A felony or misdemeanor crime of violence, when on the basis of sex or gender, committed by a current or former spouse or intimate partner of the Complainant; a person with whom the Complainant shares a child in common; a person who is cohabitating with, or has cohabitated with, the Complainant as a spouse or intimate partner; a person similarly situated to a spouse of the Complainant under the domestic or family violence laws of Louisiana; or by any other person against an adult or youth who is protected from that person's acts under the domestic abuse or family violence laws of Louisiana.

*\*To categorize an incident as Domestic Violence, the relationship between the parties must be more than people living together as roommates. The people cohabitating must be current or former spouses or have an intimate relationship.*

**Hazing:** Acts likely to cause physical or psychological harm or social ostracism to any person within the LSU community when related to the admission, initiation, pledging, joining, or any other group-affiliation activity. Hazing falls under this policy when based either in whole or in-part on sex- or gender-based harassment and discrimination.

**Hostile Environment Harassment:** Unwelcome conduct, determined by a reasonable person, to be so severe, pervasive, and objectively offensive, that it effectively denies a person equal access to an education program or activity.

**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. Being drunk or intoxicated can lead to incapacitation; however, drunkenness or intoxication is not necessarily the same as incapacitation. Incapacitation is a state beyond drunkenness or intoxication. 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 or stand without assistance, slurred speech, loss of coordination, vomiting, or inability to perform other physical or cognitive tasks without assistance.

**Intimidation:** Implied threats or acts that cause an unreasonable fear of harm in another.

**Power-based Violence:** Any form of interpersonal violence intended to control or intimidate another person through the assertion of power of the person, including but not limited to dating violence, domestic violence, sexual assault, sexual harassment, and stalking. Violations categorized as power-based violence are further described in the Louisiana Board of Regents Policy on Power-Based Violence/Sexual Misconduct.

**Quid Pro Quo Sexual Harassment:** An employee conditioning the provision of aid, benefit, or service on the Complainant's participation in unwelcome sexual conduct.

**Retaliation:** Any acts against an individual for the purpose of interfering with or discouraging an individual from exercising a right or privilege under this policy. Activities protected from retaliation include reporting or opposing sex- or gender-based harassment and discrimination; filing a Formal Complaint; and participation in an investigation, process or Hearing, whether as a party, witness, Hearing Panel member, appeals officer, or Advisor. Prohibited retaliatory acts include, but are not limited to, intimidation, threats, coercion or discrimination.

**Sex and Gender Discrimination:** Behaviors and actions that deny or limit a person's ability to benefit from, and/or fully participate in the educational programs, activities and services because of a person's actual or perceived sex or gender.

**Sexual Assault:** Sexual contact or penetration without consent

- a. **Sex Offenses, Forcible:** Any sexual act directed against another person, without the consent of the Complainant including instances where the Complainant is incapable of giving consent.
  - i. **Forcible Rape:** Penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the Complainant.
  - ii. **Forcible Sodomy:** Oral or anal sexual intercourse with another person, forcibly and/or against that person's will, or not forcibly or against the person's will (non-consensually) in instances where the Complainant is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity.
  - iii. **Sexual Assault With An Object:** To use an object or instrument to penetrate, however slightly, the genital or anal opening of the body of another person, forcibly and/or against that person's will, or not forcibly or against the person's will (non-consensually) in instances where the Complainant is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity.
  - iv. **Forcible Fondling:** The touching of the private body parts of another person (buttocks, groin, breasts) for the purpose of sexual gratification, forcibly and/or against that person's will (non-consensually), or not forcibly or against the person's will in instances where the Complainant is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity.
- b. **Sex Offenses, Non-forcible:** Non-forcible sexual intercourse.
  - i. **Incest** – Non-forcible sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by Louisiana law.
  - ii. **Statutory Rape** – Non-forcible sexual intercourse with a person

- who is under the statutory age of consent of Louisiana.
- c. Sexual Assault also includes sexual battery as defined in La. R.S. 14:43.1.

**Sexual Exploitation:** An individual taking non-consensual or abusive sexual advantage of another for their own benefit or for the benefit of anyone other than the person being exploited, and that conduct does not otherwise constitute sexual harassment under this policy. Examples of sexual exploitation include, but are not limited to, non-consensual observation of individuals who are undressed or engaging in sexual acts, non-consensual audio- or videotaping of sexual activity, prostituting another person, human trafficking, allowing others to observe a personal consensual sexual act without the knowledge or consent of all involved parties, and knowingly exposing an individual to a sexually transmitted infection without that individual's knowledge.

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

- a. Quid pro Quo Harassment;
- b. Hostile Environment Harassment; or
- c. Retaliation.

**Sexual Misconduct:** A sexual act or contact of a sexual nature that occurs, regardless of personal relationship, without the consent of the other person(s), or that occurs when the person(s) is unable to give consent or whose consent is coerced or obtained in a fraudulent manner. Examples include but are not limited to threatening or causing physical harm; extreme verbal, emotional, or psychological abuse; or other conduct which threatens or endangers the health or safety of any person. For the purpose of this Policy, Sexual Misconduct includes, but is not limited to, sexual abuse, violence of a sexual nature, Sexual Harassment, Sexual Assault, Sexual Exploitation, as well as Dating Violence, Domestic Violence and Stalking when on the basis of sex or gender, as well as crimes of a sexual nature as defined in Title 14 of the Louisiana Revised Statutes or at La. R.S. 44:51.

**Sexually-Oriented Criminal Offense:** Any sexual assault offense as defined in La. R.S. 44:51, and any sexual abuse offense as defined in La. R.S. 14:403.

**Sexual Orientation Discrimination:** Behaviors and actions that deny or limit a person's ability to benefit from, and/or fully participate in the educational programs, activities, and services because of a person's actual or perceived sexual orientation.

**Stalking:** Engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for the person's safety or the safety of others or suffer substantial emotional distress.

For the purposes of this definition:

- a. Course of conduct means two or more acts, including, but not limited to, acts in which the stalker directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with a person's property.
- b. Reasonable person means a reasonable person under similar circumstances and with similar identities to the Complainant.  
Substantial emotional distress means significant mental suffering or anguish that may but does not necessarily require medical or other professional treatment or counseling.
- c. Nothing in these definitions will be interpreted in a way that violates the First Amendment rights of any individual.

#### **IV. SCOPE OF POLICY**

This policy applies to all members of the University community, including faculty, staff, students, volunteers, organizations, and any other affiliate that participates in activities associated with LSU.

Title IX law applies to educational institutions and specifically covers sexual misconduct under a limited set of circumstances. Title IX has jurisdiction over conduct that occurs:

- a. Where the Complainant is an LSU student, or an LSU employee acting within their job responsibilities;
- b. Where LSU exercised substantial control over the Respondent in the context of where or how the alleged incident occurred;
- c. In the course of LSU's operations;
- d. On an LSU campus or any other University owned, leased, controlled or operated location;
- e. Within the bounds of the United States; and
- f. At any LSU sponsored event or organizational activity in the United States whether on or off campus.

Sex- or gender-based harassment and discrimination have broad jurisdiction that includes all Title IX allegations, but also many more allegations that involve possible sex- or gender-based harassment or discrimination that do not rise to the level of a Title IX violation. If the sex- or gender-based harassment or discrimination does not meet Title IX jurisdictional requirements, then the allegation is "dismissed" as a Title IX case. The case still may be considered for possible investigation and resolution under this policy or the applicable student code of conduct, employee policies, or other relevant policy or procedure. (i.e. non-sex or gender-based misconduct). Such cases include, but are not limited to:

- a. Sex- or gender-based harassment or discrimination that does not meet the

- required definitions under Title IX;
- b. Off-campus or online conduct, social media or other electronic media/communication where:
  - i. The University deems that the off-campus sexual misconduct effectively deprives someone access to LSU's educational programs or employment;
  - ii. The Title IX Coordinator, in their discretion, exercises jurisdiction, such as when the Sexual Misconduct may affect the safety or well-being of the LSU community
- c. Instances of power-based violence that are independent of sexual misconduct.

Further, even when the Respondent is not a member of the LSU community, supportivemeasures, remedies, and resources may be available to the Complainant by contactingthe Title IX Coordinator.

Students are responsible for their conduct from notice of admission through the awarding of a degree or departure from the University. Employees are covered by this policy when representing LSU (or deemed to be a representative of LSU) whether before, during, or after work. This policy also applies to any person who is both a student and an employee at LSU.

This policy may also address any alleged misconduct (e.g.: student code of conduct, employee code of conduct, etc.) that is ancillary to or concurrent with alleged violations of this policy. Officials in the Resolution Process may consult with relevant departments (e.g.: HR, Student Affairs, Academic Affairs, etc.) regarding the ancillary or concurrent misconduct to help ensure greater uniformity in addressing such conduct.

This policy is not intended to infringe on or restrict rights guaranteed by the United States Constitution including free speech under the First Amendment, due processes clauses of the Fifth and Fourteenth Amendments and the Fourth Amendment. Additionally, this policy is not meant to inhibit or prohibit educational content or discussions inside or outside of the classroom that include germane, but controversial or sensitive, subject matter protected by academic freedom.

## **V. PROCEDURES**

Addressing allegations of sex- or gender-based harassment and discrimination is a necessarily detailed process committed to a fair and impartial resolution. In the sections below, the process is largely outlined in chronological order of reporting, supportive measures, investigating, options for resolution, and appeal. The LSU Title IX Coordinator will aid in administering the process and serve as a consultant on cases involving Power-Based Violence and Sexual Misconduct on all LSU campuses. Individual campuses are encouraged to adopt a PolicyStatement to support this Permanent Memorandum by providing more explicit information at the local level.

## **Amnesty Policy**

LSU encourages reporting and seeks to remove barriers in reporting of power-based violence and sex- or gender- based harassment or discrimination, including sexual misconduct. A Complainant and/or witness who, in good faith, reports an alleged violation of this policy and/or serves as a witness may not be disciplined by the institution in which they are enrolled or employed for code of conduct violations reasonably related to the incident, such as underage drinking or unauthorized use of facilities, provided such violation did not place the health and safety of any other person at significant risk of harm. Immunity does not apply to a person who perpetrates or assists in the perpetration of the reported incident.

## **Retaliation**

LSU expressly prohibits retaliation against an individual who reports incidents of power-based violence, the parties involved, and their witnesses. Specifically, retaliation against anyone who in good faith reports what they believe to be power-based violence, cooperates with an investigation covered in this policy, or opposes conduct they believe to violate this policy may be subject to disciplinary action. However, an individual who reports retaliation but is identified as the perpetrator of, or having assisted in the perpetration of, the power-based violence reported, will still be subjected to an investigation and potential disciplinary action under this policy. Anyone who believes they have been retaliated against should immediately report it to the Title IX Coordinator who will treat it as an Incident Report.

## **LSU Title IX Coordinator and Title IX Campus Coordinators**

The LSU Title IX Coordinator serves as the Title IX Campus Coordinator for the LSU A&M campus and is responsible for administering this policy at all University locations. The LSU Title IX Coordinator can be contacted at:

LSU Title IX Coordinator  
118 Himes Hall  
Baton Rouge, LA 70803  
titleix@lsu.edu  
Phone: 225-578-9000  
Fax: 225-578-4442

Each campus has a designated Title IX Campus Coordinator who serves as the local responder to complaints of power-based violence and Sexual Misconduct on individual campuses and is responsible for managing intake, providing supportive measures, convening Hearing Panels, and implementing sanctions. The Campus Coordinator works closely with the LSU Title IX Coordinator throughout the investigation and resolution

processes. A listing of Title IX Campus Coordinators can be found here:

## A. REPORTING MISCONDUCT

### 1. Mandatory Reporting

All employees, with few exceptions, are **required** to report instances of sex- or gender-based harassment and discrimination, including Sexual Misconduct and Power-Based Violence (e.g. sexual assault, stalking, dating violence, domestic violence, sexual exploitation, retaliation, etc.) for which they are not the Complainant, but of which they are aware. The term “employee” includes students working in a position such as a teaching assistant or a residential advisor. An employee who fails to promptly make the report without good cause or, with the intent to harm or deceive, knowingly makes a report that is false, **shall be terminated** in accordance with the institution’s disciplinary procedures.

Reports **must** be made to Title IX Coordinator. Incident Reports must include the following information if known:

- a. Identity of the alleged Complainant;
  - b. Identity of the alleged perpetrator;
  - c. Type of power-based violence or retaliation alleged to have been committed;
  - d. Any other information about witnesses, location, date, and time that the incident occurred; and
  - e. Any other relevant information
2. Reports to the Title IX Coordinator can be made in person, via phone, online, or email. A link to each campus’ Title IX page may be found on the LSU Title IX page at <https://www.lsu.edu/titleix/>
  3. In the event that the incident is a safety threat to the individual or the community, the report should be shared with a campus CARE team and/or law enforcement as appropriate.

Anyone subjected to any type of power-based violence is encouraged to file a complaint with the Title IX office. Any individual who has experienced any form of power-based violence is also urged to utilize supportive measures available through the University whether or not the person who caused the harm is a University community member. Supportive measures are available whether or not a Formal Complaint is filed.

### 2. Limited Exceptions

There are limited exceptions to the reporting requirement. These exceptions represent LSU's commitment to providing victims and survivors of power-based trauma with confidential support and resources needed to address their needs. Employees who do not have to report power-based trauma to the Title IX Coordinator:

1. The following are confidential by reason of law:
  - a. Mental health counselors acting within the scope of their licensure at the time of the report;
  - b. Staff operating in a Student Health Center capacity at the time of the report;
  - c. Staff providing services through a psychological services or other HIPAA protected center acting within the scope of their licensure at the time of the report;
  - d. Clergy acting within the scope of their credentials at the time of the report.
2. Campuses may designate others as Confidential Resources so long as they receive annual training and are specifically listed on the campus's webpage.

*Note, these confidential resources must still report non-identifiable data consistent with the Clery Act's requirements.*

3. The following are exceptions to the Mandatory Reporter reporting requirement:
  - a. Information disclosed at public awareness events (e.g.: Take Back the Night, candlelight vigils, protests, speak outs), or other public forums in which individuals may disclose incidents of prohibited conduct as part of educating others, or
  - b. Disclosures made in the course of academic work product consistent with the assignment (ex. Public speaking class, creative writing assignment, group work)
  - c. Disclosure is made indirectly, as in overhearing a conversation

In such cases, faculty are encouraged to contact the student to determine whether or not the student intended to report the matter to LSU to obtain supportive measures and/or to file a complaint. If so, the faculty member should report the matter to the Title IX Coordinator, in a manner consistent with this policy. In either case, the faculty member is encouraged to provide the student with the Title IX Coordinator's contact information.

### **3. Confidentiality**

Unless waived in writing by the Complainant, the identity of the Complainant is confidential and not subject to disclosure. The following exceptions apply:

1. Identified to someone employed by the institution to investigate allegations if the disclosure is necessary to investigate the report
2. Identified to a law enforcement officer if necessary to conduct a criminal investigation into the allegations of the report
3. Identified to the alleged perpetrator of the incident to the extent required by law
4. Identified to a potential witness to the incident in order to conduct an investigation of the report

#### **4. Initial Contact with Complainant**

Upon notice of a possible complaint through an Incident Report, the Title IX Coordinator will provide the Complainant information on, and assistance with, reporting options including filing a Formal Complaint with LSU, and filing a criminal complaint with law enforcement (if applicable). The Title IX Coordinator will also provide the Complainant with options for other available supportive measures, including health care, counseling, academic adjustments, work adjustments, etc.

Individuals are strongly encouraged to report the offense to campus police or local law enforcement if they believe criminal conduct occurred (i.e. sexual assault, sexual battery, stalking, etc.). The Title IX Coordinator will offer to assist the individual in contacting campus or local law enforcement.

To the extent possible, the Complainant, and those who receive the complaint, should preserve evidence and not disturb a potential crime scene. (This includes preserving all text or email communications that may be related to the incident).

#### **5. Supportive Measures**

Supportive measures are offered to both parties upon receipt of notice of an alleged violation of this policy. It is not required that the matter be investigated for the parties to receive supportive measures. Such measures often apply while the resolution process under this policy is pending, and such measures can continue even following the conclusion of the process. LSU will implement measures in a way that does not unreasonably burden the other party.

Supportive measures are non-disciplinary, non-punitive individualized services offered as appropriate and as reasonably available. They are offered without fee or charge to the parties to restore or preserve access to LSU's education program or activity, including measures designed to protect the safety of all parties and/or LSU's educational environment, and/or to

deter harassment, discrimination, or retaliation.

The Title IX Coordinator shall bear responsibility for coordinating the effective implementation of supportive measures. Supportive measures are maintained as confidential to the extent possible, provided confidentiality does not impair LSU's ability to provide those supportive measures. Such supportive measures may include, but are not limited to:

- a. Referral for counseling, medical, or other healthcare services;
- b. Referral to campus or local advocacy programs; Referral to campus or local law enforcement;
- c. Referral to community-based service providers
- d. Safety Planning;
- e. Implementing a no contact order, or other contact limitations;
- f. Student financial aid counseling;
- g. Relocating an on-campus student's housing to a different on-campus location;
- h. Changing an employee's work environment (e.g. reporting structure, office/workspace relocation);
- i. Transportation accommodations;
- j. Academic support, extensions of deadlines, or other course/program-related adjustments;
- k. Alternative course completion options (e.g. Remote, Online, Incompletes, Withdrawals, etc.);
- l. Referred for visa/immigration assistance;
- m. Any other actions deemed appropriate by the Title IX Coordinator.

A Title IX Coordinator may suspend a Respondent from participating in the education program or activity on an emergency basis, and a Complainant has the right to request the Respondent be barred from a class in which the Complainant is enrolled. Should such action be warranted based on threat assessment, the dean, provost, and any other appropriate individuals such as the Athletic Director shall be notified in writing and informed of the limitations as well as the predicted timeline. In all cases where the Respondent has been removed from classes or participation in activities for which a scholarship has been awarded, every effort will be made to resolve the case expeditiously. The interim action shall be in effect while request for review and review are pending.

In order to determine whether an emergency removal or limitation is warranted, a Title IX Coordinator must undertake an individualized safety and risk analysis, resulting in a determination that the Respondent presents an immediate threat to the physical health or safety of any other individual arising from the allegations. Written notice of the emergency removal will be provided to the Respondent through, at a minimum, the institutional email address. The following timeline will be adhered to:

- a. The Respondent shall have a right to notify the Title IX Coordinator in writing within three business days of any request to challenge the suspension or limitation;
- b. The Title IX Coordinator shall provide an opportunity to meet (virtually or in person, at the discretion of the Title IX Coordinator) within three business days of receipt of notice;
- c. Title IX Coordinator shall provide notice in writing of the decision within three business days after the meeting via institutional email.

## **6. Rights of Complainant and Respondent Following a Report**

The Complainant shall have the discretion and right to decide whether or when to file a Formal Complaint, report to law enforcement, and determine whether to proceed with a Formal Complaint. The Complainant also has the right to receive assistance from LSU in doing so.

The Respondent shall have the right to be presumed not responsible of all allegations until found responsible for the alleged conduct by a Hearing Panel under this policy.

The Complainant and Respondent have equal rights, including but not limited to:

- a. To be treated with dignity and respect by LSU officials;
- b. To receive a prompt, fair, and impartial process consistent with these procedures;
- c. To be offered and to receive reasonable supportive measures;
- d. To receive timely, written notice of the allegations, proceedings, processes and outcomes under this policy;
- e. To have an Advisor of their choice present at any meeting or hearing under this policy and to have that Advisor conduct cross-examination of the parties and witnesses in a hearing;
- f. To refuse to engage in informal resolution of a Formal Complaint;
- g. To present witnesses, including fact and expert witnesses, and any relevant evidence;
- h. To receive amnesty for certain student misconduct, such as drug or alcohol violations, that occurred ancillary to the complaint at hand and consistent with this policy;
- i. To not have inadmissible prior sexual history/predisposition used by the Decision-Maker;
- j. To be free from retaliation for reporting violations of this policy or cooperating with an investigation;
- k. A right to review and comment on all evidence prior to a decision being made (for Administrative Resolution and Formal Resolution);
- l. To be simultaneously informed in writing of the outcome or resolution of the complaint, any sanctions, and the rationale for the outcome,

- any appeal, or any other decision considered final;
- m. To exercise a right of appeal as afforded in this policy.

Additionally, parties participating in a Formal Resolution also have the following rights:

- a. The right to review and comment on all relevant and directly related evidence at least 10 days prior to completion of the final investigation report;
- b. The right to review and comment on the final investigation report (if applicable) at least 10 days prior to a decision;
- c. The right to be present for the entire hearing, whether in person or via video technology.

Campuses are encouraged to elaborate in a separate Victim's Rights policy.

## **B. COMPLAINT AND INVESTIGATION**

In order for an investigation into a complaint of sex- or gender-based harassment and discrimination to occur, the Complainant, or under certain circumstances the Title IX Coordinator, must file a Formal Complaint. This is a step beyond an Incident Report, which is the first notification to the Title IX office that a possible violation occurred. The Incident Report does not trigger an investigation. The Formal Complaint will be reviewed and a determination made as to whether the offense meets the criteria to be considered as a Title IX complaint. If it does, a Title IX investigation will proceed. If it does not, the allegation may be investigated under the student Code of Conduct or other employee policies. Below is a detailed explanation of the process.

### **1. Initial Response to Reports**

Upon Actual Knowledge of a report of sex- or gender-based harassment and discrimination, including Sexual Misconduct through an Incident Report, the Title IX Coordinator will promptly contact the Complainant to discuss and provide the following:

- a. The availability of supportive measures regardless of whether a Formal Complaint is filed;
- b. The process for filing a Formal Complaint as well as process for an investigation including an appeal;
- c. Complainants preference for manner of resolving the complaint and any barriers to proceeding;
- d. Information on the rights and responsibilities as a party in this matter including the right to have an Advisor of their choice;
- e. Jurisdiction of Title IX policy versus power-based violence conduct and differences between procedures;

- f. Instruct the Complainant not to destroy any potentially relevant documentation in any format;
- g. Explain the prohibition against retaliation;
- h. Provide a copy of PM 73 and any other relevant policies;
- i. The right to file a complaint with law enforcement, if the conduct alleged is criminal in nature, and to be assisted in doing so; and
- j. The legal requirement to communicate necessary non-identifiable details of the report to the campus police department for entry into the institution's daily crime log.

If the Title IX Coordinator has cause to believe that, as a result of the incident, there is reason to believe the safety of any person is in imminent danger, the Title IX Coordinator must immediately inform the Chancellor of the campus.

## **2. Formal Complaint Process**

The Formal Complaint Process commences with the filing of a Formal Complaint by a Complainant or signed by a Title IX Coordinator alleging sex- or gender-based harassment or discrimination, including Sexual Misconduct, against one or more Respondents and requesting LSU to investigate the allegation. A Formal Complaint may be filed with the Title IX Coordinator in person, by mail, electronic mail, or submission through designated online portals.

A Complainant may file a Formal Complaint with a Title IX Coordinator at any time; there is no time limitation on doing so. A Formal Complaint must be submitted by the Complainant and include the following components:

- a. Facts alleging prohibited conduct under this policy including time, date, location, name of individuals involved;
- b. A signature (electronic or handwritten) or other designation that the Complainant is the individual choosing to file a Formal Complaint;
- c. Some allegation or evidence the conduct occurred at a location or event covered by this policy; and
- d. A statement that the Complainant is a student, employee, or other person seeking to participate in a program or activity of the university.

The Title IX Coordinator will assess whether all necessary components are present in the complaint; whether the allegation, if true, would be a violation of Title IX and/or other applicable code of conduct or policies related to sex or gender discrimination; and whether the complaint falls within the Title IX jurisdiction. The Title IX Coordinator will make the decision to either begin a

Title IX investigation, dismiss the Title IX complaint but begin an investigation outside of Title IX, or dismiss the complaint as a whole.

If the Formal Complaint warrants dismissal under Title IX because it does not meet the Title IX threshold under this policy, the Complainant will be notified in writing by the Title IX Coordinator, typically within five business days of filing.

Other discretionary reasons for dismissal may include withdrawal of complaint; at the time of complaint, the Complainant is no longer participating or attempting to participate as part of the LSU community; or Respondent is no longer affiliated with LSU.

A Formal Complaint under this policy may be consolidated with other complaints when there are multiple allegations of conduct that arise out of the same facts or circumstances, such as when there are multiple Complainants or Respondents. This policy may also address any alleged misconduct (e.g. student code of conduct, employee code of conduct, etc.) that is ancillary to or concurrent with alleged violations of this policy.

In very limited circumstances, a Title IX Coordinator may file a Formal Complaint when the Complainant decides not to do so if it is determined that the allegations present a risk of substantial harm to community member(s). This may include, but is not limited to, use of threats; use of weapons; use of violence; a continued pattern of behavior; and/or predatory behavior. If the Respondent is an employee, LSU may also be required to act on alleged misconduct irrespective of a Complainant's wishes.

### **3. Advisors**

Each party is permitted to have an Advisor of their choice present with them in all meetings and proceedings under this policy. The Advisor may be, but is not required to be, an attorney. The Advisor must participate in a training session on protocol in order to serve in this role during a Hearing Panel. The Advisor may not answer questions on behalf of their advisee. They also cannot act as a spokesperson except during a Prehearing Conference or the Hearing when conducting cross-examination of a party or a witness.

Once a party shares the identity and contact email address for their Advisor, that Advisor shall be copied on correspondence from LSU on the case in accordance with the Procedures section of this policy. A party may change Advisors at any time but must provide prompt notice to the Title IX Coordinator and/or the Title IX Investigator.

### **4. Notice and Investigation**

Upon determining that an investigation is warranted under this policy, the LSU Title IX Coordinator will appoint the trained Investigator(s). Assigned investigators should not be the Title IX Coordinator or the Decision Maker. When an investigation commences the Respondent, the Complainant, and their Advisors shall be sent a detailed, written Notice of the Investigation and Allegation (NOIA) including, at a minimum, the following:

- a. As summary of the allegation with reasonable specificity;
- b. The identity of the parties (if known);
- c. The specific policies implicated;
- d. The date and location of the incident (if known);
- e. The right for the parties to have an Advisor of their choice, who may be – but is not required to be – an attorney, present for all resolution-related proceedings, and that LSU can help appoint an Advisor, if desired by the party.
- f. A statement that LSU presumes the Respondent is not responsible of all allegations until found responsible for the alleged conduct by a hearing panel under this policy;
- g. A statement that the parties may inspect and review evidence, including the investigation report, consistent with these procedures, prior to a decision being made;
- h. A statement about LSU's policy on retaliation;
- i. A statement indicating that LSU policy prohibits knowingly false statements or knowingly submitting false information during the resolution process;
- j. A request to meet with the Title IX Investigator;
- k. An indication that the resolution process complies with Title IX's Regulations contained in Section 106.45 of 20 U.S.C. 1681;
- l. The notice of investigation and allegations may be amended during the course of the investigation, and that any amendments will be promptly communicated to the parties.

The Investigator will make a good faith effort to conduct a thorough, prompt, and impartial investigation based on the facts and circumstances of each complaint within 45 days of the receipt of the Formal Complaint. This timeframe may expand or contract based on factors such as the complexity or severity of the allegation, as well as the involvement of external parties (e.g. law enforcement). Complex or consolidated investigations may take longer. The burden of proof and burden of gathering evidence is on the University, and the University will provide the Complainant and Respondent equal opportunity to present facts, expert witnesses, and other inculpatory and exculpatory evidence. The parties will not be restricted from discussing the allegations or gathering evidence.

LSU will comply with law enforcement requests for cooperation and such cooperation may require LSU to temporarily suspend the fact-finding

aspect of an investigation under this policy while the law enforcement agency is in the process of gathering evidence. LSU will promptly resume its investigation as soon as notified by law enforcement that it has completed the initial evidence gathering process. LSU may provide up to 10 business days to allow for the law enforcement agency criminal process/investigation to unfold prior to resuming the fact-finding aspect of the investigation under this policy. Police investigations and reports are not determinative of whether harassment occurred under Title IX or university policy, and therefore the University has the responsibility to respond promptly and effectively.

To maintain safety, to limit the impact of alleged misconduct, and to avoid any instance of retaliation, LSU will implement appropriate interim actions and supportive measures to the parties in the case, as well as the campus community during the law enforcement agency's investigation.

The investigation shall include meetings with the parties involved, including witnesses and any other parties the Investigator may deem appropriate. All investigation interviews will be recorded by the Investigator and no unauthorized recordings are permitted. The Respondent and Complainant will be given the opportunity to identify witnesses and request that they be interviewed. An attempt will be made to interview all available, relevant witnesses with follow-up interviews conducted as necessary.

The Investigator may seek and collect, and parties may submit, any documents or other relevant information, including, but not limited to:

- a. Photographs
- b. Emails or text messages
- c. Video or audio recordings
- d. Information from social media
- e. Screenshots or other communications

The University will not access, consider, disclose, or otherwise use records that are made or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting or assisting in their professional capacity, and which are made and maintained in connection with the provision of treatment to the party, unless the university obtains the party's voluntary, written consent to do so as part of the investigation process

At the conclusion of the investigation, the Investigator shall prepare a comprehensive draft investigative report that summarizes the investigation, and all relevant evidence obtained. The draft report shall be sent electronically to each party and the party's Advisor, if identified. All evidence

shall be included, even that on which the university does not intend to rely in reaching a determination regarding responsibility and shall include inculpatory and exculpatory evidence whether obtained from a party or other source.

The parties shall have 10 business days, from the date the draft report and the evidence are submitted to the parties, to review and submit a written response. All reasonably available evidence to be presented by the parties at the hearing must be submitted to the Investigator prior to completion of the final investigative report. The Investigator will review the comments and prepare a final report, incorporating as deemed necessary any relevant feedback.

The final investigative report shall include a description of procedural steps taken from receipt of the formal complaint up to the decision, a timeline of the alleged incident(s) and facts and circumstances surrounding the complaint. The report will fairly summarize relevant evidence, but all evidence shall be included, even that on which LSU does not intend to rely in reaching a determination regarding responsibility. This includes inculpatory and exculpatory evidence whether obtained from a party or other source. The investigative report will not make any recommendation or decision about whether a violation occurred, nor make any formal assessment of credibility. The final report will be sent electronically, along with all evidence, to each party and Advisor, if identified, and to the Decision-Maker or Hearing Panel Chair.

## **5. Resignation While a Case is Pending**

If a student permanently resigns from LSU or an employee resigns or retires from LSU while a case is pending, the Title IX Coordinator will have the discretion to continue the investigation to the extent possible. The employee also will not be eligible for rehire. In either case, LSU will, continue to address and remedy any systemic issues or concerns that contributed to the alleged violation, and provide supportive measures to the Complainant and others, as deemed necessary or appropriate by the Title IX Coordinator.

## **C. RESOLUTIONS**

This policy has three options for resolution following the filing of a Formal Complaint: Informal Resolution, Administrative Resolution, and Formal Resolution.

Informal Resolution is a voluntary process intended to provide parties the opportunity to mutually control the outcome, and is most often used in lower-level cases of sex-or gender-based harassment or discrimination. Informal Resolution can be used at any time during the resolution process.

Administrative Resolution involves a thorough and impartial investigation, a review of all evidence and the investigation report by the parties, and an impartial Decision-Maker who reviews all evidence, the investigation report, and poses written questions to the parties in writing prior to making a decision.

Formal Resolution is used for Title IX cases, as well as any case where suspension, expulsion, or termination is possible. Formal Resolution involves a thorough and impartial investigation, a review of all evidence and the investigation report by the parties, a live hearing before an impartial panel of three individuals, and a decision by those decision-makers.

The parties may also appeal any decision from the Administrative or Formal Resolution processes.

### **Resolution Process Pool**

The University will ensure there is an adequate pool of willing and trained members who are available year round to serve in the pool. Members can be faculty, administrators, staff, or students who are recruited or selected because of their ability to remain neutral and open-minded. Members of the pool will serve three-year rotating terms and must participate in bi-annual training provided by the Office of Civil Rights & Title IX. Training will ensure all pool members are equipped to serve as Hearing Panelist, Hearing Panel Chair, Appeals Reviewer, or as Advisor for the Complainant or the Respondent, but cannot serve in more than one role for a given case. The Title IX Coordinator or designee will assign roles for cases that present themselves.

#### **1. Informal Resolution**

Informal Resolution is a process whereby the parties work with a professional to reach a resolution of the complaint without a decision by a Decision-Maker or a Hearing Panel regarding whether a policy is violated. This process is completely voluntary and requires the consent of both parties. A party may terminate the informal resolution process at any time before conclusion. Informal Resolution can include approaches such as mediation, Restorative Justice, Alternative Dispute Resolution, or other agreements between the parties. Informal Resolution does not use an investigation, calling of witnesses, or a report of findings with sanctions. The parties themselves create an outcome that resolves the complaint.

The LSU Title IX Coordinator, in consultation with the applicable Title IX Campus Coordinator, must determine that the circumstances and parties are appropriate for informal resolution and shall appoint a trained individual to facilitate the process. Complaints involving violence that resulted in significant harm to others (e.g.: domestic violence, dating violence, etc.) are

not appropriate for informal resolution.

Informal Resolution will never be required as a condition of enrollment or continuing enrollment, employment or continuing employment or enjoyment of any other right; require a waiver of right to investigation and adjudication under the Formal Resolution process; nor be utilized to resolve an allegation against a Respondent employee by a student Complainant.

If a Formal Complaint is resolved through Informal Resolution, a written agreement shall be issued including any terms, obligations or outcomes. Agreements will be drafted by the informal process facilitator, and must have the approval of the Complainant and Respondent. Upon approval of both parties, the Formal Complaint shall be dismissed. The

Agreement shall be promptly shared electronically with the parties by the Title IX Coordinator.

Discussion and information generated during the Informal Resolution process are considered confidential and shall not be used or admissible in the Formal Resolution process. Institutionally-imposed sanctions are not possible as the result of the Informal Resolution process. At the discretion of the Title IX Coordinator, however, a failure of the parties to uphold certain elements of the agreement may warrant referral for discipline. No facilitator of an informal process may be called as a witness in any procedure under this policy. The results of Informal Resolution are not subject to appeal.

## **2. Administrative Resolution**

The Administrative Resolution process is the procedure by which allegations in a Formal Complaint are sex- or gender-based but do not rise to the level of requiring a Formal Hearing under Title IX, are otherwise identified as power-based violence, or for which Informal Resolution is either inappropriate or where one or both parties chose not to use Informal Resolution. The Administrative Resolution includes an investigation into the allegations and a single Decision-Maker who will determine the findings and sanctions.

The determination as to whether or not an Administrative Resolution is appropriate is made by the Title IX Coordinator, and must account not just for the nature and severity of the alleged violation, but also for the disciplinary history of the Respondent. Cases appropriate for Formal Resolution are not able to use the Administrative Resolution process unless the Respondent has accepted responsibility for all allegations.

Administrative Resolution will never be used unless a Formal Complaint is filed. The investigation for Administrative Resolution follows the procedures set forth in Section B of this policy.

a. Questioning During Administrative Resolution

At the conclusion of the investigation, but prior to dissemination of the final investigation report, the Title IX Coordinator will appoint a trained, impartial person – typically from the Resolution Process Pool or from the Administrative Law Judges from the Louisiana Department of Administrative Law – to serve as Decision-Maker in the case. The final report will then be sent to the Decision-Maker, the parties, and their Advisors. Upon receipt of the final report, the Decision-Maker will contact the parties and their Advisors and offer them the opportunity to provide a list of questions, if desired, that the party would like asked of the other party and the witnesses. These questions must be submitted within five business days following the Decision-Maker's outreach. Upon receipt of such questions, the Decision-Maker will determine the relevance of each question and ask the relevant questions of the other party and the witnesses. The Decision-Maker can also ask their own questions of the parties and the witnesses.

This questioning – both from the parties and by the Decision-Maker – is done in writing. This is not a formal, in-person hearing, rather a decision by a trained Decision-Maker.

b. Decision-Making

Once the Decision-Maker, the parties and their Advisors have received a copy of the final investigation report, the Decision-Maker will review the investigation report, as well as all relevant evidence, the parties' additional statements, and responses to the draft investigation report. The Decision-Maker will then apply the preponderance of the evidence standard when determining responsibility. In order to find a Respondent responsible under the preponderance of the evidence standard, the evidence must show that the charge is more likely supported than not. If the Respondent is found responsible, the Decision-Maker may request input from the parties to evaluate possible sanctions. The Decision-Maker may also request input from relevant LSU officials in determining the appropriate sanctions (e.g.: HR, Student Affairs, etc.). Prior conduct history of the Respondent will also be considered when determining an appropriate sanction.

The Decision-Maker will prepare and provide to the Title IX Coordinator, typically within 10 business days of receiving the final investigation report, a written determination which will include:

- a. Identification of the allegations constituting a violation of this policy;
- b. A description of the procedural steps taken from receipt of the Formal Complaint through determination, including any notifications to the parties, interviews with parties and witnesses, evidence gathered and

- hearings held;
- c. Findings of fact supporting the determination;
- d. Conclusions regarding the application of the policy to the facts;
- e. A statement explaining the sanction for each policy violation found “responsible;”
- f. Whether additional remedies designed to restore or preserve equal access will be provided by LSU to the Complainant.

The Title IX Coordinator is responsible for effective implementation of any sanctions and sharing of outcomes. Students found responsible for violating this policy may expect the range of sanctions to include, but not be limited to, warning, disciplinary probation, deferred suspension, suspension, expulsion, psychological assessment, counseling, social restrictions, limited presence on campus, and/or revocation of admission or degree. Additional sanctions may also be imposed when appropriate. Students for whom sanctions are assigned will have a notation placed on their transcript indicating they have been found responsible for violations of code of conduct. (See Appendix D)

An employee found responsible for violating this policy may expect the range of sanctions to include, but not be limited to, suspension, demotion, psychological assessment, counseling, restricted presence on campus and/or termination of employment.

Both the Complainant and Respondent will be informed in writing of the outcome of any corrective action or disciplinary process. The written determination prepared by the Decision-Maker shall be simultaneously shared electronically by the Title IX Coordinator with all parties and Advisors. With limited exceptions such as imminent risk to the safety of others, sanctions from a Formal Hearing are not implemented until the conclusion of the appeals process.

Either party can file an appeal as is described in Section D below. The determination regarding responsibility and sanctions becomes final either:

- a. If appealed, the date written notice is provided to the parties of the appeal result, or
- b. If not appealed, the date on which an appeal would no longer be considered timely.

With limited exceptions, sanctions from the Administrative Resolution process are not implemented until the conclusion of the appeals process.

### **3. Formal Resolution**

The Formal Resolution process is the procedure by which allegations in a Formal Complaint are presented in a formal PM 73 Hearing for a

determination as to whether any of the policies were violated.

The determination as to whether or not a matter rises to the level of a Formal Resolution is made by a Title IX Coordinator and must account not just for the nature and severity of the alleged violation but also for the disciplinary history of the Respondent. Formal Resolution is used where the allegation either constitutes a possible violation of Title IX (as defined in this policy), or where probable cause indicates that an allegation, if true, could reasonably result in suspension, expulsion, or termination of the Respondent.

The Investigation for Formal Resolution follows the procedures set forth in Section B of this policy.

A minimum of 10 business days must pass once the final investigative report has been disseminated before the Hearing takes place. During this time, the Title IX Coordinator will secure members and name the chair of the Hearing Panel and ensure both parties have an Advisor who will be present during the Hearing Panel. At their discretion, the Hearing Panel Chair may, for good cause, issue one delay in the hearing of no more than 10 business days.

a. Pre-Hearing Conference

A Pre-Hearing conference shall be coordinated by the Title IX Coordinator, or designee, and chaired by the Hearing Panel Chair. Parties and Advisors are encouraged, but not required, to be present. Pre-Conference hearings may be conducted in person, via video technology, or a hybrid approach depending on the wishes of the parties and the Hearing Panel Chair.

This conference shall be conducted at least two business days prior to a scheduled Hearing Panel. Pre-Hearing Conferences are not recorded.

The purpose of the pre-hearing conference shall be to:

- a. Identify the panelists and address any objections to members of the Hearing Panel;
- b. Address evidentiary issues or questions to be posed at the hearing (i.e. numbers of witnesses, use of documents, relevance of evidence, expected length of hearing, etc.);
- c. Ensure parties have Advisors available to conduct cross examination and that the Advisor is familiar with the hearing process under this policy;
- d. Provide a forum to address any questions related to the Hearing Panel process and procedures.

b. Hearing Panel

The PM 73 Hearing Panel is appointed by the Title IX Coordinator and shall consist of one chair and two other individuals trained in adjudication. Hearing Panel chairs and members are typically selected from the trained Resolution Process Pool, or from the trained group of Administrative Law Judges, but the Title IX Coordinator may go outside of that group as long as the individuals have received appropriate training. The Hearing Panel shall afford each party an opportunity to present evidence and for their Advisor to question opposing parties and witnesses.

Hearings may be conducted in person, via video technology, or a hybrid approach depending on the wishes of the parties and the Hearing Panel Chair.

c. Advisors in Hearings

Each party is permitted to have an Advisor present with them throughout the Hearing. The Advisor may not answer questions on behalf of their advisee, and their role in the hearing is limited to cross-examination and questioning of the other party and the witnesses, and to consult with their advisee throughout the Hearing as needed. If a party does not have an Advisor at the Hearing, one shall be provided by LSU at no cost, typically selected from the Resolution Process Pool. The Advisor is the only person who may conduct cross-examination on behalf of a Complainant or Respondent. An Advisor will be appointed even in situations where a party elects not to participate in the Hearing.

d. Presentation of Evidence

The following describes the Hearing process.

- 1) The Hearing Panel Chair will oversee and manage the procedure and order for presentation of evidence. The Hearing will be recorded and the recording or transcript will be made available for the parties for review. No unauthorized recordings are permitted.
- 2) At the beginning of the Hearing, the Investigator will present a summary of the final Investigation Report and the relevant evidence and will be subject to questioning by the Decision-Makers and the parties' Advisors. The Investigator will be present for the entire Hearing, but not for deliberations, and the Panel and the parties may ask clarifying questions of the Investigator throughout the hearing, as deemed appropriate by the Chair. Neither the parties (or their Advisors), nor the Decision-Makers should ask the Investigator their opinions on

credibility, recommended findings or determinations.

- 3) Once the Investigator has presented their report, relevant evidence, and been questioned by the Panel and the parties' Advisors, witnesses will provide relevant information in turn. Typically, the Complainant will present first, followed by an order determined by the Hearing Panel Chair. Absent exigent circumstances, all evidence presented by the parties must have been submitted to the Investigator prior to the hearing.
- 4) At the conclusion of each party's or witness's presentation of evidence, the members of the Hearing Panel will be allowed to ask questions, followed by cross-examination by the parties' Advisors. Cross-examination must be conducted directly, orally, and in real-time by the party's Advisor, and never by a party personally. The parties must be able to see and hear each other, as well as the witnesses while each is giving testimony and answering questions.

Only questions relevant to determining whether the applicable policies have been violated or the credibility of a witness will be allowed. The Hearing Panel Chair will have sole authority to determine whether evidence presented or a question in cross-examination is relevant and whether it will be permitted. The Hearing Panel Chair must explain any decision to exclude evidence or a question as not relevant. Questions or evidence about a Complainant's sexual predisposition or prior sexual behavior are not relevant, unless: (1) offered to prove that someone other than the Respondent committed the conduct alleged in the complaint, or (2) concern specific incidents of the Complainant's prior sexual behavior with Respondent and are offered to prove consent. Only evidence submitted to cross-examination may be considered by the Hearing Panel to determine responsibility. The parties and witnesses must be willing to submit to cross-examination, and answer all relevant questions posed by the parties' Advisors.

- 5) At the conclusion of the hearing, the parties may provide the Chair with a written, sealed impact statement for the panel to consider only during the sanctioning phase of deliberations, if the Respondent is found in violation.

e. Absence or Failure to Appear/Answer

The Hearing Panel cannot draw an inference about the determination regarding responsibility based solely on a party's or witness's absence from the hearing or refusal to answer questions.

f. Deliberations

The Hearing Panel shall deliberate in closed session with only panelists present. Deliberations are not recorded. The Hearing Panel is to apply the preponderance of the evidence standard when determining responsibility. A simple majority vote is required to determine the finding. In order to find a Respondent responsible under the preponderance of the evidence standard, the evidence must show that the charge is more likely supported than not. If the Respondent is found in violation for one or more of the allegations, the Panel will then shift to determining the appropriate sanctions.

g. Determining Sanctions

During sanctioning deliberations, the Panel may consider the previously submitted impact statements in determining the appropriate sanction. LSU's sanctioning guidelines, as well as the prior conduct history of the Respondent and any power differential between the Respondent and the Complainant will also be considered when determining an appropriate sanction along with the nature, severity, pervasiveness, and predation of the violation(s).

In cases where the Respondent is an employee, the Panel may also consult with HRM to ensure the sanction is consistent with employment-related laws, regulations, and policies.

The Hearing Panel will prepare and provide to the Title IX Coordinator, typically within five business days of the Hearing, a written Determination Letter which must include:

1. Identification of the allegations constituting violation of the sex- or gender-based harassment and discrimination policy, as well as any other concurrent or ancillary policies;
2. A description of the procedural steps taken from receipt of the Formal Complaint through determination, including any notifications to the parties, interviews with parties and witnesses, evidence gathered and hearings held;
3. Findings of fact supporting the determination;
4. Conclusions regarding the application of the policy to the facts;
5. A rationale for each finding;
6. A statement explaining the sanction for each policy violation found "responsible;"
7. Whether additional remedies designed to restore or preserve equal access will be provided by LSU to the Complainant.

The Title IX Coordinator is responsible for effective implementation of any sanctions and sharing of outcomes. The written determination prepared by the Hearing Panel chair shall be shared electronically by the Title IX Coordinator with the parties and Advisors, typically within three business days of receipt from the Hearing Panel.

The determination regarding responsibility and sanctions becomes final either:

- a. If appealed, the date written notice is provided to the parties of the appeal result, or
- b. If not appealed, the date on which an appeal would no longer be considered timely.

#### h. Possible Corrective Actions

Students found responsible for violating this policy may expect the range of sanctions to include, but not be limited to, warning, disciplinary probation, deferred suspension, suspension, expulsion, psychological assessment, counseling, social restrictions, limited presence on campus, and/or revocation of admission or degree. Additional sanctions may also be imposed when appropriate. Students for whom sanctions are assigned will have a notation placed on their transcript indicating they have been found responsible for violations of code of conduct. (See Appendix D)

An employee found responsible for violating this policy may expect the range of sanctions to include, but not be limited to, suspension, administrative leave, demotion, psychological assessment, counseling, restricted presence on campus and/or termination of employment.

Both the Complainant and Respondent will be informed in writing of the outcome of any corrective action or disciplinary process. With limited exceptions such as imminent risk to the safety of others, sanctions from a Formal Hearing are not implemented until the conclusion of the appeals process.

## **D. APPEAL**

### **1. Right of Appeal**

Any party may appeal a determination made by the Decision-Maker or the Hearing Panel. The following is an exhaustive list of the bases for appeal:

- a. The Title IX Coordinator, Investigator, Decision-Maker, or Hearing Panel members had a conflict of interest or bias for or against complainants or respondents generally or the individual Complainant

- or Respondent specifically that affected the outcome of the matter;
- b. New evidence is discovered that was not reasonably available at the time the determination regarding responsibility or dismissal was made, that could affect the outcome of the matter;
- c. Procedural irregularity that affected the outcome of the matter;
- d. The outcome was clearly erroneous based the facts and evidence presented to the Decision-Maker or the Hearing Panel;
- e. The sanctions imposed were inappropriate for both the violation and the disciplinary history of the Respondent.

## **2. Appeal Procedures**

The Appeals process is to be deferential to the Hearing Panel's decisions. The process is not a rehearing. In most cases, the appeals are confined to a review of the relevant evidence, the Investigation Report, the Hearing Panel's determination letter and the recording of the hearing. The Appeals Review is also limited to specific grounds intended to ensure the decision of the Decision-Maker or the Hearing Panel was materially fair and consistent with LSU policies.

A Notice of Appeal must be in writing and submitted to the Title IX Coordinator within 5 business days of email notification of the Decision-Maker's or the Hearing Panel's decision. The Notice of Appeal shall contain the name of the Complainant and Respondent; identify the ground(s) for appeal; and if the appeal is based upon discovery of new information, a description/documentation of the new information and reason it was not discoverable prior to the Hearing Panel hearing.

Upon receipt of the Notice of Appeal, the Title IX Coordinator, typically within two business days of receipt of the Notice of Appeal, shall confirm receipt of the Notice of Appeal to the appealing party, notify any other party of the appeal, and contact the LSU Title IX Coordinator (if appeal went to a campus coordinator). The other party of the appeal shall be provided five business days to submit a response to the appeal to the Title IX Coordinator.

The LSU Title IX Coordinator, shall promptly appoint an impartial Appeals Reviewer and provide the Appeals Reviewer(s) with the Notice of Appeal. The Appeals Reviewer will then determine if the Notice of Appeal is timely and contains required elements for appeal. If so, the Appeals Reviewer will notify the parties of their identities. The Appeals Reviewer(s) are individuals trained in their responsibilities and are typically drawn from the Resolution Process Pool. If either of the parties challenges the impartiality of a Reviewer, the LSU Title IX Coordinator, in conjunction with the respective Title IX Campus Coordinator, will determine if cause exists to excuse the reviewer. If the Notice of Appeal is not timely or does not contain the

required elements, then the Notice of Appeal is dismissed and the decision of the Hearing Panel becomes final.

The Title IX Coordinator shall promptly forward the evidence and information relied upon by the Decision-Maker or Hearing Panel, to the Appeals Reviewer. The evidence and information shall include, but is not limited to:

- a. The Notice of Appeal;
- b. All evidence introduced at the hearing, including the investigation report;
- c. Any pre-hearing determinations from the Hearing Panel Chair (if applicable);
- d. The written findings of the Decision-Maker or Hearing Panel; and
- e. The recording or transcript of the formal hearing (if applicable).

The Appeals Reviewer(s) shall render a written decision including finding and rationale and forward to the LSU Title IX Coordinator typically within 5 business days after receipt of the evidence and information. The reviewer may:

- a. Uphold the Hearing Panel outcome; or
- b. Overturn the Hearing Panel finding and sanction and remand for a new hearing; or
- c. Overturn the Hearing Panel sanction and remand for a sanctions-only hearing; or
- d. Overturn the Hearing Panel outcome and remand for a new or adjusted investigation (if the error was in the investigation), which is then subject to a new hearing; or
- e. Modify the Hearing Panel outcome for responsibility and/or sanctions.

The LSU Title IX Coordinator shall notify the respective Title IX Campus Coordinator who shall then notify the parties and Advisors, typically within two business days of receipt of the decision.

Decisions of the Appeal Reviewer are final. In the event of remand for rehearing, the subsequent Hearing Panel outcome may be appealed in accordance with the provisions herein. Otherwise, any appeal right exercised under this policy shall complete the process.

## **VI. ADDITIONAL PROVISIONS**

### **A. PREEMPTION**

To the extent a conflict exists between State or local law and Title IX, the obligation to comply with Title IX is not obviated or alleviated by any State or local law. To the extent other LSU or campus-based policies may conflict with this

policy, the provisions of this policy shall supersede and govern.

## **B. RECORD KEEPING**

Records created or received under this policy will be maintained for at least seven years from the date each case is closed. The following shall be kept as part of the record:

- Each investigation including any determination regarding responsibility, whether through the Formal or Administrative processes;
- Any audio or audiovisual recording or transcript of a hearing;
- Any disciplinary sanctions imposed on the Respondent;
- Any remedies provided to the Complainant designed to restore or preserve equal access to LSU's education program or activity;
- Any appeal and result therefrom;
- Any informal resolution and result therefrom;
- All materials used to train Title IX Coordinators, Investigators, decision-makers, and any person who facilitates an informal resolution process; and
- Records of any actions, including supportive measures, taken in response to a report or Formal Complaint. These records will also include:
  - The basis for all conclusions that the response was not deliberately indifferent;
  - Any measures designed to restore or preserve access to LSU's education program or activity; and
  - If no supportive measures were provided to the Complainant, document the reasons why such a response was not clearly unreasonable in light of the known circumstances.

LSU may be required to disclose information on a need-to-know basis in order to properly address a complaint, when there is a threat to others, pursuant to subpoena, or other court or administrative order, or as may be required by applicable law. Violations of confidentiality or privacy by any other persons involved in the resolution, investigation or administration of the complaint, including any employee, faculty, staff, or student may result in disciplinary or corrective action.

LSU will also maintain any and all records in accordance with state and federal laws.

## **C. ADMINISTRATIVE REPORTING REQUIREMENTS**

Act 472 of the 2021 Regular Session requires biannual reporting to institutional management boards and annual reporting to the Board of Regents with ultimate submission to the Louisiana Legislature. The Board of Regents Uniform Policy on Power-Based Violence requests an interim report from the System Board. Reporting form templates are available in the Board of Regents Uniform Policy. The following timeline is prescribed:

- a. Title IX Coordinator submits campus reports to the institution's Chancellor by October 10<sup>th</sup> and April 10<sup>th</sup>
- b. Chancellor submits biannual reports to the President by October 24<sup>th</sup> and April 24<sup>th</sup>
- c. President submits biannual report to the Board of Supervisors by November 7<sup>th</sup> and May 8<sup>th</sup>
- d. Board of Supervisors submits annual report to the Board of Regents by December 1<sup>st</sup> and an interim report to the Board of Regents by June 1<sup>st</sup>
- e. Board of Regents submits report to the Louisiana Legislature by January 15<sup>th</sup>

#### **D. TRANSCRIPT WITHHOLDING, NOTATION, AND COMMUNICATION**

Consistent with state law and Board of Regents policy, any student who has received a Notice of Investigation and Allegation as the Respondent in a Title IX Formal Complaint, who is being investigated for a complaint of power-based violence, or who has been found responsible for an incident of power-based violence shall have a notation placed on their transcript or have the transcript withheld during the investigative and adjudication process. This applies specifically to a student who is the subject of a power-based violence complaint and is attempting to transfer to another postsecondary institution in the state of Louisiana. There is nothing in this policy that prohibits a notated transcript from being the only transcript provided when one is requested by the student regardless of the intent of use.

The Sending Institution must notify the student that their transcript is being withheld or notated, and of the appeals process to have the hold or notation removed. The transcript will be withheld or notated until the student is either found not responsible for the allegations in the report of power-based violence or until a request to appeal the withholding or notation is successful, whichever occurs first.

During a pending investigation and adjudication, the notation placed on the transcript shall read ***“Administrative Matter Pending”*** or similar such that it triggers an inquiry regarding the notation by the Receiving Institution directed to the Sending Institution. If a final decision has been made on the case and the transferring student has been found responsible for power-based violence, the notation on the transcript shall read ***“Student Found Responsible in Violation of Code of Conduct”*** or similar such that it triggers an inquiry regarding the notation by the Receiving Institution 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.

If the student is not found responsible or if the student was initially found responsible and later evidence showed that the student was in fact not responsible, the Sending Institution must remove the notation and send an updated version of the transcript to the Receiving Institution (if known). Otherwise, the institution will determine the length of time the notation will remain on the student's transcript if the student was found responsible for an act of power-based violence. A student whose transcript has been held or notated as described above may appeal the hold or notation for good cause shown. The request shall be submitted to the Title IX Coordinator or designee of the Sending Institution. The institution shall notify the student of the decision no later than seven business days from the date the request was made.

## **VII. RESOURCES**

[Title IX of the Education Amendments of 1972](#)

[La. R.S. 14:43.1.](#)

[Title 14 of the Louisiana Revised Statutes](#)

[La. R.S. 14:403](#)

[La. R.S. 44:51](#)

[Louisiana Board of Regents Uniform Policy on Power-Based Violence](#)



*Policy Title:*  
**SOUTHERN UNIVERSITY SYSTEM UNIFORM POLICY ON  
 POWER-BASED VIOLENCE, SEXUAL MISCONDUCT AND  
 TITLE IX**

POLICY NUMBER:  
 12-001

<p><b>Responsible Unit:</b>  <i>Office of the President-Chancellor</i></p> <p><b>Responsible Official:</b>  <i>System Director of Equity Inclusion and Title IX</i></p> <p><b>Policy Classification:</b>  <i>Safety and Security Policies</i></p>	<p><b>Effective Date:</b>  <i>10/15/2021</i></p> <p><b>Last Reviewed Date:</b>  <i>10/14/2020</i></p> <p><b>Origination Date:</b>  <i>08/2015</i></p>
---	---

**I. POLICY STATEMENT AND RATIONALE**

The Southern University System (SUS) is committed to the highest quality and most impactful educational experiences for all students attending public postsecondary campuses (Campuses) in the state. The inclusion of Power-Based Violence in this uniform policy, promulgated pursuant to Act 472 of the 2021 Regular Legislative Session of the Louisiana Legislature, and sets forth processes and procedures to guide the Southern University System stakeholders in maintaining safety and protection for students and employees.

The Southern University System has established this comprehensive policy to address the reporting of power-based violence in addition to sexual misconduct and Title IX violations on all campuses, the prevention of such violence, communication between campuses regarding incidents of all the aforementioned conducts, and the provision of medical and mental health care for these alleged victims. This policy shall be effective October 15, 2021.

Upon the effective date of this Policy, all campuses shall immediately begin complying with this Policy as well as the institutional grievance procedures, once adopted, under the supervision and control of the Board of Supervisors. All policies and processes shall be posted on institutional websites as required in this Policy. Each Management Board shall ensure that its member campuses' 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. NOTICE OF NON-DISCRIMINATION**

The Southern University System forbids discriminating or harassing conduct that is based on an individual's race, color, religion, sex, ethnicity, national origin or ancestry, age, physical or mental disability, sexual orientation, gender identity, gender expression, genetic information, veteran or military status, membership in Uniformed Services, and all other categories protected by applicable state and federal laws. This commitment applies but is not limited to decisions made with respect to hiring and promotion, the administration educational programs and policies, scholarship, and loan programs, and athletic or other College administered programs. Discriminatory acts of any kind are strictly forbidden.

## **III. POLICY SCOPE AND AUDIENCE**

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). 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 applies to all members of the University community, including faculty, staff, students, volunteers, organizations, or any other affiliate that participates in activities associated with a campus within the Southern University System 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.

In this policy, "Southern University" or "University" refers to all campuses within the Southern University System to include Southern University and A&M College, Southern University Law Center, Southern University at New Orleans, Southern University at Shreveport, and Southern University Agricultural Research Extension Center, and any program or activities sponsored by or under the supervision of any of the campuses.

This policy covers conduct that occurs:

- a. During university operations
- b. On campus or any other University owned, leased, controlled, or operated location.
- c. Within the bounds of the United States.
- d. At any Southern University sponsored event or organizational activity whether on or off campus; and/or
- e. Where Southern University exercised substantial control over the respondent in the context of where or how the alleged incident occurred.

Students are responsible for their conduct from notice of admission to the University through the awarding of a degree or departure from the University. Employees are covered by this policy

when representing Southern University (or deemed to be a representative of Southern University) whether before, during or after work. This policy also applies to any person who is both a student and an employee at Southern University.

Anyone subjected to sexual misconduct is encouraged to file a complaint with the campus Title IX Office. Persons who have experienced sexual misconduct are also urged to utilize supportive measures available through the University whether the person(s) who caused the harm is a university community member. Supportive measures are available whether a formal complaint is filed.

There is no time limit for reporting allegations of sexual misconduct, however, the University strongly encourages the prompt reporting of sexual misconduct to allow the University to respond promptly and effectively. If the reported Respondent is not a member of the University community or is no longer associated with the University at the time of the report or at the time a resolution process is initiated, the University may be unable to investigate or take disciplinary action and may be required to dismiss the Formal Complaint for a lack of jurisdiction.

Combined, SUS's and Louisiana's public postsecondary education systems and their Campuses' 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.

This policy is not intended to infringe on or restrict rights guaranteed by the United States Constitution, including free speech under the First Amendment, due processes clauses of the Fifth and Fourteenth Amendments, or the Fourth Amendment.

#### **IV. POLICY COMPLIANCE**

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. As part of SUS' commitment to maintaining a community free of discrimination, and in compliance with Title IX's mandate, all campuses shall address allegations of power-based violence, including sexual harassment and sexual assault, in a timely and effective manner. Further, campuses will provide resources as needed for affected persons (Reporters, Complainants, Respondents and third parties within a Campus'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.

All campuses subject to this policy shall adopt this policy as its institutional policy in accordance with all applicable laws, this policy, and its campus policy on policies. Each campus Title IX Coordinator is the campus responsible official for implementation of this policy on the campus level.

#### **V. POLICY DEFINITIONS**

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

- A. **Actual Knowledge:** Any reasonable information of sexual misconduct or allegations of sexual misconduct provided to a Title IX Coordinator, Deputy Coordinator, or any other Responsible Official. Notice would also include personal observation of such conduct by any employee.
- B. **Advisor:** May be any person the complainant or respondent chooses or appointed by Southern University should the party not select someone. The advisor's function shall be to support and/or consult with the party during any proceeding or meeting under this policy. The advisor may, but is not required to, be an attorney.
1. Participation shall be limited as stated herein.
    - a. The advisor may not act as a spokesperson except:
    - b. During a pre-hearing conference or
    - c. During the Hearing when conducting questioning of the opposing party or witnesses.
  2. Once a party shares the identity and contact email address for their advisor, that advisor will be copied on correspondence from Southern University on the case in accordance with the procedures section of this policy. A party may change advisors at any time but must provide notice to the campus Title IX Coordinator.
- C. **Burden of Proof:** refers to who has the responsibility of showing a violation has occurred. It is always the responsibility of the University to satisfy the burden of proof. The Respondent does not have the burden to prove that a violation did not occur. Respondents may decide not to share their side of the story or may decide not to participate in an investigation or hearing. This does not shift the burden of proof away from the University and does not indicate responsibility. Additionally, Decision-Maker(s) shall not make an adverse inference against a Respondent for the Respondent's refusal to participate in an investigation or hearing, nor will Respondent's refusal to participate result in increased sanctions if the Respondent is found responsible for the violation(s).
- D. **Chancellor:** The chief executive officer of a public postsecondary education Campus.
- E. **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.
- F. **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.

- G. **Confidential Advisor:** A person designated by a Campus to provide emergency and ongoing support to students who are alleged victims of power-based violence.
- H. **Consent:** Clear, knowing, and voluntary, demonstrated through mutually understandable words or actions clearly indicating willingness to engage in a specific sexual activity, and any conditions on the activity. It is active, not passive, and silence, absent actions evidencing permission, is not consent. Responsibility for obtaining consent lies with the individual initiating the sexual activity.
1. Consent to engage in sexual activity may be withdrawn by any person at any time. Once withdrawal of consent is expressed, the sexual activity must immediately cease. Consent is automatically withdrawn by a person incapable of giving consent. A current or previous consensual intimate relationship between the parties does not itself infer consent or preclude a finding of responsibility.
  2. To give consent, a person must be of legal age. Consent cannot be obtained through coercion, fraud, or from a person who the alleged offender knows or should reasonably know is incapacitated. Use of alcohol or drugs does not diminish the responsibility to obtain consent.
- I. **Decision Maker:** An individual selected by the campus and charged with determining for an allegation of power-based violence.
- J. **Disciplinary Sanction:** The penalty imposed on an individual for violating this Policy. For Students, Disciplinary Sanctions are subject to applicable University/System policies, up to and including expulsion from the University. For Employees, Disciplinary Sanctions are subject to applicable collective bargaining agreement or University/System policies, up to and including separation from employment. For Officials or Volunteers, this may include the removal or the request for removal of the Official or Volunteer from their respective position.
- K. **Employee:** An employee is defined as: (a) An administrative officer, official, or employee of the Southern University System; (b) Anyone appointed to the Southern University Board of Supervisors; and/or (c) anyone employed by a foundation or association related to a campus or the Southern University System Management Board. The employee category does not include a student enrolled at a public postsecondary Campus unless the student works for the Campus in a position such as a teaching assistant or residential advisor.
- L. **Final Rule:** The Final Rule issued on May 19, 2020, by the U.S. Department of Education under Title IX of the Education Amendments of 1972.
- M. **Formal Complaint:** A signed document filed by a Complainant or signed by the Title IX Coordinator alleging power-based violence, retaliation, or sexual misconduct against a Respondent and requesting initiation of the process set forth in this Policy to investigate the allegation of sexual misconduct. 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 University treat their third-party Report as a Formal Complaint. At the time of filing, a

complainant must be participating in or attempting to participate in an educational program or activity of Southern University.

- N. **Hearing Officer:** Administrative Hearing Officer, Adjudicator, Hearing Officer, or Conduct Board shall mean any person or group given the authority to review and adjudicate disciplinary matters.
  
- O. **Informal Resolution:** A voluntary process that is separate and distinct from a Campus' investigation and adjudication processes that allows for the parties (i.e., Complainant and Respondent) to reach a mutually agreeable resolution.
  
- P. **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.
  
- Q. **Investigator:** The Title IX Coordinator or the individual designated by the Title IX Coordinator to perform an investigation under this Policy. The Investigator may not have a conflict of interest or bias for or against an individual party, or for or against complainants or respondents in general. The Investigator may not serve as a Decision Maker, Appeals Officer or Advisor to any Party in the same matter.
  
- R. **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.)
  
- S. **Notice of Allegations:** The written notice the Title IX Coordinator is required to provide to the Parties following receipt of a Formal Complaint. See Notice of Allegations section below.
  
- T. **Notice of Hearing:** The written notice the Director of Student Conduct and Community Standards or other designee is required to provide the Parties prior to the hearing. See Notice of Hearing section below. Notice is the written communication either by mail or E- mail correspondence that provides information to a student. Notice is conclusively presumed to be final when such communication is sent to the student by official University email, and/or mailed to the address appearing on either the student's current local address or permanent address on record with the University at the discretion of SCCS.
  
- U. **Party or Parties:** A term that refers to the Complainant and the Respondent collectively or the Complainant or Respondent individually.
  
- V. **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:

- Dating violence (R.S. 46:2151(C)).
- 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.
- 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](#)).
- Sexual assault ([R.S. 14:41, 42](#) through [43.5, 89, 89.1](#), and [106](#)).
  - Sexual Battery ([14:43.1](#))
  - Misdemeanor sexual battery ([14:43.1.1](#))
  - Second degree sexual battery ([14:43.2](#))
  - Oral sexual battery ([14:43.3](#))
  - Female genital mutilation ([14:43.4](#))
  - Intentional exposure to HIV ([14:43.5](#))
  - Crime against nature ([14:89](#))
  - Aggravated Crime against nature ([14:89.1](#))
  - Obscenity ([14:106](#))
- 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](#)).
  - Human Trafficking ([14:46.2](#))
  - Prostitution ([14:82](#))
  - Prostitution of person under 18 ([14:82.1](#))
  - Purchase of commercial sexual activity ([14:82.2](#))
  - Solicitation for prostitutes ([14:83](#))
  - Inciting prostitution ([14:83.1](#))
  - Promoting prostitution ([14:83.2](#))
  - Prostitution by massage ([14:83.3](#))
  - Sexual massages ([14:83.4](#))
  - Pandering (sexual) ([14:84](#))
  - Letting premises for prostitution ([14:85](#))
  - Enticing persons into prostitution ([14:86](#))
- 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.

- Unlawful communications ([R.S. 14:285](#)).
- Unwelcome sexual or sex- or gender-based conduct that is objectively offensive and has a discriminatory intent.

- W. **Report:** Notification of an incident of sexual misconduct to the Title IX Coordinator by any person.
- X. **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).
- Y. **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.
- Z. **Standard of Proof:** Consistent with requirements set forth in the Louisiana Code pertaining to student disciplinary due process requirements, the University will use the preponderance of the evidence standard in investigations of formal complaints alleging sexual misconduct violations under this Policy. This means that the individual(s) charged with making a finding must determine whether it is more likely than not that a violation of the Policy occurred.
- AA. **Student:** Any person: (1) seeking admission to the University through the formal University application process; (2) admitted to the University, (3) eligible to register or schedule for classes, or (4) living in University or University-affiliated residence halls even though they are not enrolled at the University. The term "Student" shall include Employees, Volunteers and Officials where the Employee, Volunteer or Official otherwise meets the enrollment criteria set forth in this definition.
- BB. **System:** A Louisiana public postsecondary management board.
- CC. **System President:** The president of a public postsecondary education system.
- DD. **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 Campus'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.

- EE. **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.
- FF. **Title IX Coordinator:** The individual designated by a public postsecondary education campus as the official for coordinating the Campus'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.
- GG. **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.
- HH. **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:
- II. **Volunteer:** A recognized volunteer or any individual who represents or acts on behalf of the university or whose actions may bind the university, regardless of whether the individual receives monetary or other compensation. For purposes of this Policy, employees, and officials of recognized affiliated entities, ROTC instructors, visiting professors and unpaid camps and conference personnel will be considered volunteers.
- JJ. **Witness:** A person who has knowledge related to specific aspects of a case and may have reported such aspects to the campus.

## VI. 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.

Each campus' Title IX Coordinator is responsible for developing and distributing 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 Campus's website.

This policy requires that for every report of an incident of power-based violence or a safety threat received the actions taken by the campus 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.

## **VII. 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 Southern University System campuses 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

Campuses 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 shall 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.

## **VIII. DETERMINATION OF APPROPRIATE PROCEDURE & PURVIEW**

The accompanying Title IX Formal Grievance Procedure covers a narrow sub-set of conduct (i.e., Title IX Conduct) that must be addressed under the formal grievance policy required by the U.S. Department of Education under the new Title IX regulations, effective August 14, 2020. When power-based violence meets the criteria specified in the Title IX regulations, the complaint must be addressed under the Title IX Formal Grievance Procedure and not under the Power-Based Violence Policy.

The U.S. Department of Education's Office for Civil Rights (OCR) enforces, among other statutes, Title IX of the Education Amendments of 1972. Title IX protects people from discrimination based on sex in education programs or activities that receive federal financial assistance.

**Title IX states:**

No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance. Title IX applies to schools, local and state educational agencies, and other institutions that receive federal financial assistance from the Department. These recipients include approximately 17,600 local school districts, over 5,000 postsecondary institutions, and charter schools, for-profit schools, libraries, and museums. Also included are vocational rehabilitation agencies and education agencies of 50 states, the District of Columbia, and territories of the United States.

### **Louisiana State Laws on Power-Based Violence states:**

Act 472 of the 2021 Legislative Session of the Louisiana Legislature set forth the mandatory establishments of processes and procedures should an incident reported, fall under the more expansive definition of Power-based violence as defined by this policy. 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. (See Section V. Policy Definitions)

Upon Actual Knowledge of a Report of alleged conduct, the Title IX Coordinator shall perform an initial assessment which includes making initial contact with the potential Complainant of the Report and offering the following information:

1. The process for filing a formal complaint;
2. The availability of supportive measures; and
3. The complainant's wishes with respect to filing a complaint or seeking supportivemeasures

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 the institution's Power-Based Violence Policy or move the complaint to Human Resources for evaluation or to the institution's Student Code of Conduct.

## **IX. REPORTING POWER-BASED VIOLENCE AND TITLE IX**

This policy provides 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).

Southern University System strongly encourages all individuals to report incidents of power-based violence even if the individual does not intend to pursue a Formal Complaint. In addition, the Campus shall take prompt action to provide Supportive Measures for the safety

and well-being of any affected person as well as the system community.

A. Reporting Incidents of Power-Based Violence

Any individual, including a third party, may make a report concerning sexual misconduct. Complainants and third parties are encouraged to report sexual misconduct as soon as possible to allow the University to respond promptly and effectively.

To make a Report, a reporting individual shall report the incident to the **Title IX Coordinator or Deputy Coordinator**. Campuses 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 slightly by campus but shall include, at a minimum;

1. in-person reporting,
2. reporting by mail, and
3. reporting via email or some other digital format.

The Title IX Coordinator (or designee) and any other University employees with authority to institute corrective measures have authority to report alleged violations of this Policy. Mandated reports to the Title IX Coordinator by Officials, Volunteers and Employees shall not automatically result in corrective measures being instituted. Individuals are encouraged to report sexual misconduct directly to the Title IX Coordinator, through the University's electronic and anonymous reporting systems or by filing a Formal Complaint.

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 a Campus's investigation and any related proceedings; or may choose to end involvement in the process.

The University's Title IX Coordinator is trained to work with individuals who report sexual misconduct and have knowledge about resources and services, both on and off campus, including the availability of Supportive Measures. If a report of misconduct discloses a serious or immediate threat to the campus community, the University will issue a timely warning to the community to protect the health or safety of the community. The timely warning will not include any identifying information about the Complainant.

**Please Note:** Title IX Coordinators are not a confidential source of support. While they will address matters reported with sensitivity and will keep your information as private as possible, confidentiality cannot be guaranteed. To speak with an individuals designated as having confidentiality, please contact campus Counseling Services.

**Please Also Note:** Making a report is different from filing a Formal Complaint. A report is defined as notification of an incident of sexual misconduct to the Title IX Coordinator by any person. A report may be accompanied by a request for

1. Supportive Measures
2. no further action
3. filing a Formal Complaint, a request to initiate an informal resolution process; and/or
4. a request to initiate an informal resolution process after filing a Formal Complaint. Filing a Formal Complaint initiates, the University's formal investigation process.

B. Online reporting

Each SUS campus provides 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. 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.

C. 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 Campus's Title IX Coordinator. (See [Section V.](#) 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 circumstance:

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 during the overhearing of 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 shall constitute a Report.

SUS 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 shall 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 shall direct the reporting party to a confidential resource. Campuses must provide a list of confidential resources in their policies.

#### D. 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 Campus 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.

#### E. Administrative Reporting

In accordance with state law, a Campus'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.

The campus' Title IX Coordinator and Chancellor are required to submit summarized reports on power-based violence and to publish those reports on the University's website.

Not later than October Tenth (10) and April Tenth (10) of each year, the Title IX Coordinator of the campus shall submit to the Chancellor a written report on the reports received in accordance with the information required in the BOR Policy.

The Title IX Coordinator of the campus shall immediately report to the Chancellor an

incident reported to the Title IX Coordinator if the Title IX Coordinator has cause to believe as a result of the incident that the safety of any person is in imminent danger.

The Chancellor of each Campus shall submit a report to the Campus's Management Board and System President within fourteen (14) days of receiving the report from the Title IX Coordinator in accordance with the BOR Policy. The report shall be posted on the Campus's website.

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 by the BOR. The report shall be published on the website of the system.

BOR shall annually submit a report to the Governor, the president of the Senate, the 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.

**Note:** *Truthfulness*

All participants in the reporting and resolution processes have the responsibility to be truthful with the information they share at all stages of the process. A report of a violation under this Policy is not considered a bad faith report merely because the evidence does not ultimately support the allegation. Individuals are prohibited from knowingly making a false report, filing a false Formal Complaint, or making misrepresentations. If an investigation results in a finding that a person has willfully filed a bad faith report, filed a false Formal Complaint, or made misrepresentations as part of the reporting or resolution process, the person may be subject to appropriate Disciplinary Sanctions under the Code of Conduct in the case of Students or other relevant University policy and collective bargaining agreements in the case of Officials, Employees or Volunteers.

F. Employee's Failure to Report or False Reporting

A Responsible Employee who is determined by the Campus'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.**

G. Student's False Reporting

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.

H. 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 Campus in which the individual is enrolled or employed for any violation of the Code of Conduct and/or other applicable

university polices reasonably related to the incident for which suspension or expulsion from the campus is not a possible punishment.

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

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

## **X. POWER-BASED VIOLENCE GRIEVANCE PROCEDURES**

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

Each system Campus shall 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. Initial Contact with Potential Complainant**

After receiving a Report of power-based violence, a Campus's Title IX Office will 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 shall also:

1. Give the potential Complainant a copy of the relevant policies;
2. Explain the process for filing a Formal Complaint with the Title IX Office;
3. Provide the potential Complainant with information regarding the rights/responsibilities as a party in this matter;
4. Explain the process for investigating and resolving a power-based violence Formal Complaint (including the available appeal procedures);
5. Explain the procedural differences based on Title IX vs power-based violence conduct;
6. Instruct the potential Complainant not to destroy any potentially relevant documentation in any format;
7. Inform the individual of the availability of Supportive Measures with or without the filing of a Formal Complaint;
8. Discuss the potential Complainant's expressed preference for manner of resolution and any barriers to proceeding (e.g., confidentiality concerns);
9. Explain the prohibition against retaliation; and
10. Communicate necessary details of the report to the campus police department for entry into the Campus's daily crime log.

### **B. 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 shall 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 shall 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 shall be designed to restore or preserve access to the Campus's education program or activity, including measures designed to protect the safety of all parties and the Campus's educational environment.

### C. Formal Complaints

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 a Campus 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 Campus 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 a Campus 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 conveys 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 a Campus's Title IX obligations to provide a safe and nondiscriminatory environment and if the Campus 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.

#### D. How to File a Formal Complaint

Individuals seeking to file a Formal Complaint may do so with the Title IX Coordinator. Formal Complaints shall 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 shall be allowed to submit 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 *shall proceed under the Title IX Formal Grievance Procedure*.

#### E. Withdrawal of Formal Complaint

Campuses shall allow for a Complainant to withdraw their Formal Complaint. If a Formal Complaint is withdrawn, the Title IX Office shall assess the information provided and proceed accordingly. Withdrawal of the Formal Complaint shall ordinarily end the Formal Complaint and resolution process. However, the Title IX Office shall 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 Campus's community. In such cases, the Complainant shall be notified immediately of the Campus's decision to proceed.

Individuals seeking to file a Formal Complaint may do so with the Title IX Coordinator. Formal Complaints shall 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 shall be allowed to submit 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 shall proceed under the Title IX Formal Grievance Procedure.

#### F. Notice to Respondent

The person alleged to have committed power-based violence is called the Respondent. The Respondent shall be notified in writing that a Formal Complaint alleging power-based violence has been filed against them. The Respondent shall be advised that they may have an Advisor 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 shall 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.

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 shall determine the appropriate sanction for the Respondent. If the Respondent disputes the allegations in the Formal Complaint, the matter will proceed to an investigation.

#### G. Investigation Process

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

The process shall begin with intake meetings conducted by the Title IX Coordinator. The investigation phase shall 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 Campus shall provide an opportunity for all parties to present written statements, identify witnesses, and submit other evidence.

Both Complainants and Respondents shall be advised of the utilization of Advisors throughout the investigation process. Parties shall 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.

#### H. Findings and Investigative Report

At the conclusion of the investigation, Investigators shall 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 shall be delivered to the Title IX Coordinator, who shall 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 shall 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 shall 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 shall address any identified factual inaccuracies or misunderstandings, as appropriate.

The final Investigative Report shall provide a summary of the Investigators' impressions, including context for the evidence collected, but shall 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 shall be provided with a copy of the final Investigative Report simultaneously.

## I. Resolution

### 1. Informal Resolution

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

The Title IX Coordinator shall make an initial decision about whether a case qualifies for an Informal Resolution. If both parties then agree to pursue that path, the Campus 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 shall oversee its implementation, the Formal Complaint shall be deemed withdrawn, and the matter shall be terminated. An appeal of the process and its result shall not be permitted. The resolution shall be considered binding, and its breach would give rise to a new Formal Complaint.

## 2. Formal Resolution

Campuses must provide for a process to resolve Formal Complaints. That process shall be delineated in their policy. Campuses shall 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.

The formal resolution process is the procedure by which allegations are presented in a formal hearing for a determination as to whether this policy was violated.

### The Investigation

The Title IX Office will designate an investigator(s) to conduct a prompt, thorough, and fair investigation. During the course of the investigation, all parties are allowed to present written statements, identify witnesses, and submit any other relevant evidence. Both parties are allowed to have advisors of their choice. However, parties need to be advised that advisors are not permitted to participate directly in resolution hearings or informal resolution conferences. The advisor 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.

### The Investigation Report

At the conclusion of the investigation, investigator(s) shall prepare a report (the "investigative report") summarizing and analyzing the relevant facts determined through the investigation with reference to any supporting documents or statements. The report shall be delivered to the Title IX Coordinator within seven (7) days of the completion of the investigation. The Title IX Coordinator will analyze the report to ensure that the investigation was prompt, impartial, thorough, and consistent with the policy.

Before the investigation report is finalized, the complainant and the respondent will be given the opportunity to review and present any edits, changes, or discrepancies to the report. All changes must be submitted to the investigator(s) within five (5) calendar days after the statement or summary was provided.

Following the five (5) day period or after any comments are submitted, the investigator(s) will address any identified factual inaccuracies or misunderstandings, as appropriate.

The final investigative report will provide a summary of the investigator's impressions, including context for the evidence collected, but shall not make a final determination as to whether a violation occurred. Both parties shall be provided with a copy of the final investigative report simultaneously.

After the final report is submitted, a hearing panel will be convened to hear the complaint. The hearing panel will consist of three (3) trained members with one member selected by the Title IX Coordinator to serve as the Chair of the hearing committee. The hearing panel will be convened no later than thirty (30) days after the final report has been submitted to both parties unless there are documented circumstances that prevent the hearing from moving forward within that time frame.

### The Hearing

The hearing panel will receive a copy of the final investigative report within seven (7) days before the hearing is to occur.

- Pre-Hearing Conference: A pre-hearing conference shall be coordinated by the campus Title IX Coordinator and chaired by a hearing panel chair. Parties and advisors are encouraged, but not required, to be present.
- This conference shall be conducted at least two business days prior to a scheduled hearing panel and 10 business days post the finalized investigative report being sent to the parties and advisors, if applicable.
- The purpose of the pre-hearing conference shall be to: (1) Identify the panelists and address any objections to members of the panel; (2) Address evidentiary issues or questions to be posed at the hearing (i.e. numbers of witnesses, use of documents, expected length of hearing, etc.); (3) Ensure parties will have advisors available to conduct cross examination and that the advisor is familiar with the hearing process under this policy; (4) Provide a forum to address any questions related to the hearing panel process and procedures.
- Hearing Panel: The panel shall consist of one chair and two other campus employees trained in adjudication. It shall afford each party an opportunity to present evidence and question opposing parties and witnesses.
- Advisors: The parties are permitted to be represented by an advisor. If a party does not have an advisor at the hearing, one shall be provided by Southern University at no cost to the party. The advisor may be, but is not required to be, an attorney. The advisor is the only person who may conduct direct or cross examination on behalf of a complainant or respondent.
- Direct and Cross Examination:
  - At the hearing, the questioning of witnesses or opposing parties must be conducted directly, orally and in real time by the party's advisor and never by a party personally.
  - Each party's advisor will be permitted to ask the other party and any witness's relevant questions and follow-up questions, including those challenging credibility.

- Only questions relevant to determining the veracity of the allegations will be allowed.
- Questions or evidence about a complainant's sexual predisposition or prior sexual behavior are not relevant, unless: (1) offered to prove that someone other than the respondent committed the conduct alleged in the complaint, (2) concern specific incidents of the complainant's prior sexual behavior with respondent and are offered to prove consent.
- The panel chair will have the sole authority to determine whether the question is relevant and whether it will be permitted. The chair must explain any decision to exclude a question as not relevant.
- Failure to Appeal/Answer: The Panel cannot draw an inference about the determination regarding responsibility based solely on: (1) A party's or witness's absence from the hearing or (2) Refusal to answer questions. However, the panel can consider any evidence even if not presented at the live hearing. This evidence can include prior interview statements, written reports, or any other relevant evidence available in the case.
- Deliberations
  - The panel shall deliberate in closed session with only panelists present.
  - The panel shall make a finding of responsible, not responsible, or insufficient evidence based on the preponderance of the evidence.
  - Upon reaching a decision, the panel will invite the parties and advisors to return to hear of the panel's finding regarding responsibility for a violation of this policy.
  - If the respondent is found in violation, the panel shall move to address sanctions.

## J. Sanctions

Each campus shall describe the range of sanctions for employees and students.

1. If the respondent is found responsible, the panel may choose to hear from the parties or ask questions of the parties in evaluating possible sanctions. Prior conduct history of the respondent will be considered in sanctioning.
2. Upon reaching a sanctioning decision, the panel will share with the parties and advisors any sanctions imposed. The panel will prepare and provide to the campus Title IX Coordinator, within five business days of the hearing, a written determination which must include;
  - Identification of the allegations constituting sexual misconduct;
  - A description of the procedural steps taken from receipt of the formal complaint through determination, including any notifications to the parties, interviews with parties and witnesses, evidence gathered, and hearings held;

- Findings of fact supporting the determination;
  - Conclusions regarding the application of the policy to the facts;
  - A statement explaining the sanction for each policy violation found "responsible";
  - Whether additional remedies designed to restore or preserve equal access will be provided by Southern University to the complainant.
3. The campus Title IX Coordinator is responsible for effective implementation of any remedies and sharing of outcomes. The written determination prepared by the panel chair shall be shared electronically by the campus Title IX Coordinator with the parties and advisors within 3 business days of receipt from the panel chair.
  4. The determination regarding responsibility and sanctions becomes final either:
    - If appealed, the date written notice is provided to the parties of the appeal result, or
    - If not appealed, the date on which an appeal would no longer be considered timely.
  5. An audio or audiovisual recording, or transcript, shall be created and available to the parties for inspection and review.

#### K. Possible Corrective Actions

1. Students found responsible for violating this policy may expect the range of sanctions to include, but not be limited to, disciplinary probation, deferred suspension, suspension, expulsion, psychological assessment, counseling, social restrictions, limited presence on campus, revocation of admission. Additional sanctions may also be imposed when appropriate.
2. An employee found responsible for violating this policy may expect the range of sanctions to include, but not be limited to, suspension, administrative leave, demotion, psychological assessment, counseling, restricted presence on campus or termination of employment.
3. Both the Complainant and Respondent will be informed of the outcome of any corrective action or disciplinary process.

### **XI. POWER-BASED VIOLENCE PROCEDURE FOR APPEALS**

Any party may appeal a hearing panel determination, a dismissal of a complaint or an emergency dismissal. Appeals shall only be raised on one or more of the following grounds:

- 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.

Written Notice of Appeal shall be forwarded to the campus Title IX Coordinator within ten business days of email notification of the hearing panel decision, any dismissal of the claim or after an emergency dismissal. The Notice of Appeal shall contain the following information:

- a. Name of the complainant and respondent;
- b. A copy of the hearing panel outcome report or any written documentation of the decision;

As to all appeals the campus shall, at a minimum:

- a. Notify the other party in writing when the appeal is filed and implement appeal procedures equally for both parties;
- b. 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;
- c. Give both parties a reasonable, equal opportunity to submit a written statement in support of or challenging the outcome;
- d. Issue a written decision describing the result of the appeal and the rationale for the result; and
- e. Provide a written decision simultaneously to both parties.

The Associate Vice Chancellor of Equity, Inclusion and Title IX on each campus or if no such person exists on the campus, the System Executive Director of Compliance and Ethics, or designee, (herein referred to as reviewer) shall, within ten business days of notice, review the Notice of Appeal and determine if grounds for appeal exist. If no grounds for appeal exist, the designee shall notify the parties and advisors and close the file. If grounds for appeal exist, the reviewer shall:

- a. Determine scope of review;
- b. Notify the parties of the scope of review; and
- c. Provide the parties five days to challenge for conflict of interest or bias. (The General Counsel, or designee in conjunction with the respective campus Title IX Coordinator will determine if cause exists to excuse the System Executive Director of Compliance and Ethics, or designee.)

The campus Title IX Coordinator shall forward the appellate record to the reviewer within five business days. The record shall include, but is not limited to:

- a. All evidence introduced at the hearing;
- b. Any pre-hearing determinations from the hearing officer;
- c. The written findings of the hearing panel; and
- d. The recording or transcript of the formal hearing.

Within ten business days of receipt of the record, reviewer shall consider the appellate record, render a written decision including finding and rationale and forward to the campus Title IX Coordinator. The reviewer may;

- a. Uphold the Hearing Panel outcome; or
- b. Modify the Hearing Panel outcome for responsibility and/or sanctions; or

- c. Overturn the Hearing Panel outcome and remand for a new hearing.

The reviewer, or designee shall notify the respective campus Title IX Coordinator who shall then notify the parties and advisors within two business days of receipt of the decision.

Appeal decisions are final. In the event of remand for rehearing, the subsequent hearing panel outcome may be appealed in accordance with the provisions herein. Any appeal right exercised under this policy shall complete the process.

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".

## **XII. TRANSCRIPT WITHHOLDING, NOTATION, AND COMMUNICATION**

In accordance with state law, the Southern University System has implemented a transcript notation and communication policy 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.

### **A. Withholding Student Transcripts**

Upon the filing of a Formal Complaint, the University shall place an administrative hold on the transcript of a student who is the subject of the Formal Complaint. For a 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 Institution from which the student seeks to transfer ("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.

The transcript hold shall be released upon the determination that the 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 this policy, whichever occurs first.

### **B. Notating Student Transcripts**

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. 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. Withholding and Notation Appeals Process

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.

### **XIII. RIGHTS OF COMPLAINANT AND RESPONDENT**

Reports and Formal Complaints are different, and any individual has a right to make a report of sexual misconduct to the University, which may be accompanied by a request for Supportive Measures. An individual also has a right to make a Formal Complaint of sexual misconduct, which is a request to initiate the University's informal resolution process or a formal disciplinary process, which includes an investigation and may proceed to a hearing.

A. Both the complaint and the respondent have EQUAL rights as defined by the

following actions:

- To be treated with dignity and respect by Southern University officials;
- To take advantage of supportive measures;
- To receive timely notice of proceedings, processes, and outcomes under this policy;
- To have an advisor present at any meeting or hearing under this policy;
- To refuse to engage in informal resolution of a complaint;
- To present witnesses, including fact and expert witnesses, and other inculpatory and exculpatory evidence;
- To receive amnesty for certain student misconduct, such as drug or alcohol violations, that occurred ancillary to the complaint at hand and consistent with this policy;
- To be free from retaliation for reporting violations of this policy or cooperating with an investigation;
- To be informed in writing of the outcome or resolution of the complaint, any sanctions, and the rationale for the outcome, where permissible;
- To exercise a right of appeal as afforded in this policy.
- To file civil actions in court or with administrative agencies.

- B. The complainant shall have the right to at all times decide if or when to file a complaint, report to law enforcement, and determine whether to proceed with a complaint, at the individual's discretion.

Prior to the conclusion of a sexual misconduct investigation, the Complainant may request to withdraw the Formal Complaint by contacting the Title IX Coordinator/designee in The Title IX Coordinator/designee will determine whether to close the case or conclude the investigation without the Complainant's continued participation.

- C. The respondent shall have the right to be presumed not responsible of all allegations until found responsible for the alleged conduct by a hearing panel under this policy. 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 shall 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 SUS'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 shall close the case if the Report does not constitute or become a Formal Complaint.

#### **XIV. MISCELLANEOUS PROVISIONS**

**A. Title IX Coordinators:** The System President has designated the System Director for Equity, Inclusion, and Title IX, who shall oversee, on all Southern University campuses, the implementation, enforcement, and coordination of Title IX policies and procedures. Each campus Chancellor shall designate, a campus Title IX Coordinator to oversee on-campus Title IX compliance for their respective campus that reports directly to the Chancellor. Campuses may appoint Deputy Title IX Coordinator(s) to assist the Title IX Campus Coordinator in their duties. A listing of campus designees must be found on the campus Title IX webpage.

The Chancellor shall also designate a Deputy Title IX Coordinator for Athletics. In consultation with the Chancellors and Athletic Directors for each campus, this individual will monitor sports equity, including offerings, participation, and scholarships on all campuses for Title IX compliance. Complaints, supportive measures, or other concerns related to issues of sexual misconduct involving student athletes or Athletics personnel (other than those involving sports equity) shall be addressed in accordance with this policy.

**B. Confidentiality:** Southern University shall maintain the confidentiality; as permitted by FERPA, required by law, or to carry out the purposes of any proceeding arising under this policy; of any individual under this policy who:

- Has made a report or complaint;
- Has been named as a perpetrator;
- Has been named as a respondent; or
- Has been named as a witness.

Southern University may be required to disclose information on a need-to-know basis in order to properly address a complaint, when there is a threat to others, pursuant to subpoena, or other court or administrative order, or as may be required by applicable law. Violations of confidentiality or privacy by any other persons involved in the resolution, investigation, or administration of the complaint, including any employee, faculty, staff, or student may result in disciplinary or corrective action.

**C. Preemption:** To the extent a conflict exists between State or local law and Title IX, the obligation to comply with Title IX is not obviated or alleviated by any State or local law. To the extent other Southern University or campus-based policies may conflict with this policy, the provisions of this policy shall supersede and govern.

- D. Task Force:** Each campus shall establish a task force to address sexual misconduct. Each task force shall invite student members to be represented through their respective student government body or other student organizations. The Task Force shall be chaired by the campus Title IX Coordinator or designee.
- E. Campus Climate Survey:** Each campus shall administer a Campus Climate Survey every three years (2022-2023, 2025-2026, etc.) to assess the knowledge, perceptions and behaviors of its students, faculty, and staff regarding sexual misconduct. Each campus is encouraged to supplement the statewide survey with additional information specific to its unique characteristics that may assist in preventing sexual misconduct and administering strategies dealing with sexual misconduct. The annual Campus Climate Survey shall be submitted to the System Director for Equity Inclusion and Title IX by **June 1** of each year the survey is required.
- F. Sex Crimes Data Report: By February Fifteenth (15)** of each year, each Campus's campus police department shall submit a report containing the information required to the System President, the Campus's Chancellor, and the Campus's Title IX Coordinator. The System Director for Equity, Inclusion, and Title IX shall ensure the report is posted on the Campus's website.
- G. Record Keeping:** Records created or received under this policy will be maintained for seven (7) years from the date each case is closed. The following shall be kept as a part of the record:
- Each investigation including any determination regarding responsibility;
  - Any audio or audiovisual recording or transcript of a hearing;
  - Any disciplinary sanctions imposed on the respondent;
  - Any remedies provided to the complainant designed to restore or preserve equal access to Southern University's education program or activity;
  - Any appeal and result therefrom;
  - Any informal resolution and result therefrom;
  - All materials used to train campus Title IX Coordinators, investigators, decision-makers, and any person who facilitates an informal resolution process; and
  - Records of any actions, including supportive measures, taken in response to a report or formal complaint.

## **XV. MEMORANDUM OF UNDERSTANDING**

Southern University System and law enforcement and criminal justice agencies located within the parish of each campuses, 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 Campus. This MOU must be signed by all parties and shall include:

- A. Delineation and sharing protocols of investigative responsibilities;
- B. Protocols for investigations, including standards for notification and communication and measures to promote evidence preservation;
- C. 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;
- D. 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
- E. 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 a Campus.

Each executed MOU shall be reviewed annually by each Campus'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 Campus and a law enforcement agency.

## **XVI. POLICY RELATED INFORMATION**

### ***A. United States Department of Education, Office of Civil Rights:***

- *Title IX Regulations Addressing Sexual Harassment (Unofficial Copy)*  
<https://www2.ed.gov/about/offices/list/ocr/docs/titleix-regs-unofficial.pdf>
- *Title IX: Fact Sheet: Final Title IX Regulations*  
<https://www2.ed.gov/about/offices/list/ocr/docs/titleix-fact-sheet.pdf>
- *Title IX: Summary of Major Provisions of the Department of Education's Title IX Final Rule* <https://www2.ed.gov/about/offices/list/ocr/docs/titleix-summary.pdf>
- *Title IX: Summary of Major Provisions of the Department of Education's Title IX Final Rule and Comparison to the NPRM*  
<https://www2.ed.gov/about/offices/list/ocr/docs/titleix-comparison.pdf>
- *Title IX Regulations Addressing Sexual Harassment (Length: 01:11:29) 05/06/2020*  
<https://www.youtube.com/watch?v=TdfT5R8ibm4&feature=youtu.be>

### ***B. Louisiana Board of Regents' Uniform Policy on Power-Based Violence:***

- [https://regents.la.gov/wp-content/uploads/2021/08/BOR-POLICY-ON-POWER-BASED-VIOLENCE\\_-1.pdf](https://regents.la.gov/wp-content/uploads/2021/08/BOR-POLICY-ON-POWER-BASED-VIOLENCE_-1.pdf)

## **XVII. POLICY HISTORY AND REVIEW CYCLE**

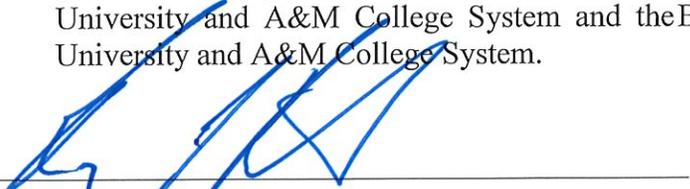
This is an existing policy that has been modified pursuant to federal guidance and regulations. This policy was created in August 2015, amended on August 14, 2020, and October 15, 2021. This policy is subject to a five-year policy review cycle or as needed by legislative or regulatory changes.

## **XVIII. POLICY URL(s)**

- *Southern University System Uniform Title IX policies and procedures*  
<http://www.sus.edu/page/su-board-policies>
- *Southern University and A&M College Title IX website (include SUAREC & SULAB)*  
<http://www.subr.edu/subhome/64>
- *Southern University Law Center Title IX website*  
<http://www.sulc.edu/page/title-ix-policies-procedures>
- *Southern University at New Orleans Title IX website*  
<http://www.suno.edu/page/title-ix>
- *Southern University at Shreveport Title IX website*  
<http://www.susla.edu/page/title-ix>

## **XIX. POLICY APPROVAL**

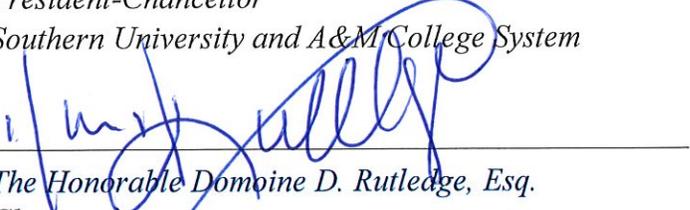
The effective date of this policy October 15, 2021, pursuant to federal and state guidelines and pending final approval of the President-Chancellor of the Southern University and A&M College System and the Board of Supervisors of the Southern University and A&M College System.



*Ray L. Belton, Ph.D.*  
*President-Chancellor*  
*Southern University and A&M College System*

*10/22/21*

*Effective Date of Policy*



*The Honorable Domoine D. Rutledge, Esq.*  
*Chairman*  
*Southern University System Board of Supervisors*

*10/22/21*

*Effective Date of Policy*

**Policy Number: S-II.XXI**

University of Louisiana System

**Title: SEXUAL MISCONDUCT  
/POWER-BASED VIOLENCE**

**Effective Date: October 15, 2021**

**Cancellation: April 1, 2021**

**Chapter: Students**

**Policy and Procedures Memorandum**

**I. INTRODUCTION and POLICY STATEMENT**

The University of Louisiana System (UL System) is committed to ensuring the highest ethical conduct of the members of its community by promoting a safe learning and working environment. To that end, the Policy prohibits sexual misconduct, power-based violence, and any form of sex discrimination, as defined herein. All UL System member institutions shall prohibit sexual misconduct and shall be committed to providing a learning, working, and living environment that promotes integrity, civility, and mutual respect in an environment free from sexual misconduct as provided in Title IX and other applicable laws. All institutions shall implement policies, procedures, practices, and educational programs to prevent acts of sexual misconduct and power-based violence in compliance with this Policy and shall take prompt and appropriate action to investigate and effectively discipline those accused of such conduct in a manner consistent with the law and due process. All institutions shall provide support and assistance to complainants of sexual misconduct and shall report instances of sexual misconduct in accordance with law. Institutions must strive to create and maintain safe learning, working, and living environments for all individuals who participate in the institutions' activities and programs, including online instruction. Any non-confidential report of sexual misconduct as defined herein must be investigated, addressed, and resolved by each institution under its respective policy and procedures in accordance with all applicable federal and state laws and regulations and this Policy. Each institution's policy must comply with applicable federal and state laws and regulations, this Policy and the Board of Regents Uniform Policy on Power-Based Violence and Sexual Misconduct.

The institutional policy must be displayed prominently at all times in an easily accessible manner on its website. The institutional policy shall thereafter be annually provided to all Title IX Coordinators, campus law enforcement officers, security personnel, and officials with authority to institute corrective measures. Further, the institutional policy shall be presented at student orientation and at student awareness and prevention trainings and made broadly available at each campus.

## **II. NOTICE OF NONDISCRIMINATION**

Each UL System 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 institutions' 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, institutions 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.

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 the institution's community), and will not tolerate retaliation against any person who reports or participates in the investigation of alleged power-based violence, sexual misconduct, or sex/gender discrimination.

## **III. SCOPE**

### **1. SCOPE**

This Uniform Policy (Policy) serves to implement 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 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 B.)

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 Title IX grievance procedures, 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.

This policy and Board of Regents Uniform Sexual Misconduct/Power-Based Violence policy along with the 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.

## **2. OVERVIEW OF POLICY**

Institutions will address all reports of power-based violence and sexual misconduct 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").

## **IV. SAFETY EDUCATION**

The administration of each Institution, in consultation with campus or local law enforcement agencies, shall develop and distribute information to students regarding sexual misconduct, 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.

## **V. 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.

## **VI. REPORTING SEXUAL MISCONDUCT/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 sexual misconduct or 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 SEXUAL MISCONDUCT AND 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.

## 1. ONLINE REPORTING

Institutions shall provide an online reporting system to collect anonymous disclosures of incidents of sexual misconduct, 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/President, 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 President 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. **President:** The President 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 sexual misconduct 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 sexual misconduct and 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.

## **VII. TRANSCRIPT WITHHOLDING, NOTATION AND 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 sexual misconduct or 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**” 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**” 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).

When deciding whether or not to admit a student with a notation regarding a sexual misconduct or power-based violence incident, the Receiving UL System member institution should collaborate with the Title IX Office and Student Conduct Office. Furthermore, the Receiving Institution should honor the disposition of host institution.

**Refer to ULS Policy Number: S-II.I.B.-1 for additional requirements governing transcript notation.**

### **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 sexual misconduct or 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.

## **VIII. 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.

## **IX. IDENTIFIED BEST PRACTICES BY BOARD OF REGENTS**

UL System institutions shall adopt best practices as practicable when prescribed by Board of Regents. See identified Board of Regents best practices in the appendix section of this policy.

## **X. 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.

### **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 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 shall identify and update the required number Confidential Advisors consistent with the BOR's determination.

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.

## **XI. 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.

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 (10th) and October Tenth (10th) 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. If institutions do not comply with this section, 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.

## **C. SEX CRIME DATA REPORT**

By February Fifteenth (15th) 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 President/Chancellor, and the Institution's Title IX Coordinator.

The President of each institution shall ensure the report is posted on the Institution's website.

## **XII. 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/President, 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.

### **XIII. CAMPUS SEXUAL MISCONDUCT/POWER-BASED VIOLENCE POLICIES**

Each Institution shall institute policies incorporating the policies and best practices, where practical, and as prescribed by the 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)

### **XIV. 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.

## **XV. 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/President:** 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 sexual misconduct and 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(s)** – individual(s) who is/are effectively the decider of Title IX cases: They render a determination based on the preponderance of the evidence, that is, whether it is more likely than not that the Respondent violated the Policy as alleged findings. Decision Makers or the hearing coordinator monitor the questioning and cross-examination process and identify irrelevant questions.

**Domestic abuse definition in Louisiana law:** Includes, but is not limited to, physical or sexual abuse and any offense against the person as defined in the Criminal Code of Louisiana, except negligent injury and defamation, committed by one family or household member against another. La. RS 46:2132(3)

**Employee:** An employee is defined as:

- An administrative officer, official, or employee of a public postsecondary education board or Institution.
- Anyone appointed to a public postsecondary education board or Institution.
- Anyone employed by or through a public postsecondary education board or Institution.
- 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.

**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.

**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.

**Institution:** A public postsecondary education institution.

**Investigators:** Individuals designated by the Title IX Coordinator to conduct an investigation of alleged sexual misconduct or power-based violence. The Investigators will be trained individuals who objectively collect and examine 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:** All institutional employees are mandatory reporters, with the exception of confidential advisors and those employees deemed exempt by their institution. A mandatory reporter is an individual who is obligated by law to report any knowledge they may have of any Title IX violations or 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 (<http://legis.la.gov/legis/Law.aspx?d=100568>).
- 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.

**Retaliation:** Acts or attempted acts for the purpose of interfering with any report, investigation, or proceeding under this Policy, or as retribution or revenge against anyone who has reported Sexual Misconduct or Relationship Violence or who has participated (or is expected to participate) in any manner in an investigation, or proceeding under this Policy. Prohibited retaliatory acts include, but are not limited to, intimidation, threats, coercion, or discrimination. Title IX prohibits Retaliation. For purposes of this Policy, an attempt requires a substantial step towards committing a violation.

**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).

**Victim** - an individual who, after all due investigation and/or adjudication, has been found to be the target of sexual harassment.

## **B. BEST PRACTICES AS IDENTIFIED BY BOARD OF REGENTS**

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.

---

*Policy References:*

Title IX of the 1972 Education Amendments; Title 20 U.S.C. Sections 1681-1688  
The Jeanne Clery Disclosure of Campus Security Policy and Campus Crime  
Statistics Act (Clery Act) as amended; 20 U.S.C. § 1092(f)  
Section 304 of the Violence against Women Reauthorization Act of 2013  
(VAWA); PL113-4 (March 7, 2013) Louisiana Revised Statutes, Titles 14 and 46  
La. R.S. 17:1805(H); 40:2405.8(A); (C)(1)  
La. R.S. 17:3351  
Louisiana Campus Accountability and Safety Act, La. R.S. 17:2299.11 et seq.  
La. Executive Order No. BJ 2014-14  
Louisiana Board of Regents Uniform Policy on Power-Based Violence and Sexual  
Misconduct (“Policy”)

*Review Process:*

Legal Counsel  
System President

*Distribution:*

University Presidents

**APPENDIX H Board of Regents Statewide Power-Based Violence Data Report  
2021-2022 Academic Year, Fall Semester<sup>1</sup>  
June 29, 2021 - October 31st, 2021**

<b>Confidential Advisors and Responsible Employees<sup>2</sup></b>	<b>Total</b>
<ul style="list-style-type: none"> <li>a. Number of Responsible Employees</li> <li>b. Number of Confidential Advisors <i>(BOR established minimum of 137)</i></li> </ul>	
<p><b>Annual Training</b> <i>(please include number and percentage)<sup>3</sup></i></p> <ul style="list-style-type: none"> <li>a. Completion rate of System/Campus Leadership</li> <li>b. Completion rate of Public Postsecondary Board Members</li> <li>c. Completion rate of Confidential Advisors</li> <li>d. Completion rate of Responsible Employees <i>(training required by Fall 2022)</i></li> </ul>	
<p><b>Responsible Employee Reporting<sup>4</sup></b></p> <ul style="list-style-type: none"> <li>a. Number of employees who made false reports               <ul style="list-style-type: none"> <li>i. Number of employees terminated</li> </ul> </li> <li>b. Number of employees who made false reports               <ul style="list-style-type: none"> <li>i. Number of employees terminated</li> </ul> </li> </ul>	
<p><b>Power-Based Violence Formal Complaints<sup>5</sup></b></p> <ul style="list-style-type: none"> <li>a. Formal Complaints received</li> <li>b. Formal Complaints resulting in occurrence of power-based violence</li> <li>c. Formal Complaints resulting in discipline or corrective action               <ul style="list-style-type: none"> <li>Type of discipline or corrective action taken                   <ul style="list-style-type: none"> <li>i. Suspension</li> <li>ii. Expulsion</li> </ul> </li> </ul> </li> </ul>	
<p><b>Retaliation<sup>6</sup></b></p> <ul style="list-style-type: none"> <li>a. Reports of retaliation received</li> <li>b. Investigations</li> <li>c. Findings               <ul style="list-style-type: none"> <li>i. Retaliation occurred</li> <li>ii. Retaliation did not occur</li> </ul> </li> </ul>	

<sup>1</sup> 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 for 2021-2022 Academic Year, Fall Semester only. Beginning with AY 2022-2023, Fall Semester reporting will have an effective date of August 1st.

<sup>2</sup> In accordance with Act 472, the System's report shall include the number of Responsible Employees (i.e., employees and Confidential Advisors) for the system.

<sup>3</sup> In accordance with Act 472, the System's report shall include the number and percentage of Responsible Employees and Confidential Advisors who have completed annual training.

<sup>4</sup> 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.

<sup>5</sup> In accordance with Act 472, the System's report shall include (1) the number of Formal Complaints of power-based violence received by a system, (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 2<sup>nd</sup> form*).

<sup>6</sup> In accordance with Act 472, the System's report shall include information about retaliation which includes the number of reports of retaliation, and any findings of any investigations or reports of retaliation.

\* Denotes participants exceeded the number of invited system/campus leadership.

**BOR Statewide Power-Based Violence Data Report: 2021-2022 Academic Year, Fall Semester**  
**Reporting Dates: June 29, 2021 - October 31, 2021**

Institution	Date Formal Complaint Filed [1]	Status of Formal Complaint [2]	Basis for Complaint [3]	Disposition [4]	Disciplinary Status [5]	Gender of Complainant [6]	Gender of Respondent [7]
Louisiana Delta Community College	10/5/2021	Investigation ongoing	Sexual Harrasment	Ongoing	Ongoing	Female	Male
Louisiana Delta Community College	10/6/2021	Investigation ongoing	Sexual Harrasment	Ongoing	Ongoing	Female	Male
South Louisiana Community College	9/25/2021	Formal Complaint Filed	Sexual Harrasment	Dismissed under Title IX; adjudicating under Employee Policy 6.011	TBD	Female	Male
LSU A&M	9/27/2021	Open	Hostile Environment			Female	Male
LSU A&M	9/22/2021	Open	Hostile Environment			Male	Male
LSU A&M	9/29/2021	Open	Hostile Environment			Female	Male
LSUA	N/A						
LSUE	N/A						
LSUS	N/A						
Health Science New Orleans	N/A						
Health Science Shreveport	N/A						
AgCenter	8/24/2021	Closed	Sexual Harrasment	Dismissed	N/A	Female	Male
AgCenter	9/6/2021	Closed	Sexual Harrasment	Dismissed	N/A	Female	Male
Pennington	N/A						
HCSD	N/A						
SULC	10/29/2021	Closed	Harassment/Assault	Referred to System	N/A	Female	Male
SUBR	9/13/2021	Dismissed	Racial Discrimination	Referred to Academic Affairs	N/A	Female	Male
SUBR	10/25/2021	Dismissed	Racial Discrimination	Referred to Academic Affairs	N/A	Female	Male
SUBR	9/8/2021	Dismissed	Retaliation	Referred to Human Resources	N/A	Female	Male
SUBR	9/28/2021	Under Investigation	Sexual Assault	Title IX Investigation	N/A	Female	Male
SUBR	9/28/2021	Dismissed	Violence	Referred to Student Conduct	N/A	Female	Male
SUBR	10/28/2021	Dismissed	Bullying	Referred to Academic Affairs	N/A	Male	Female
	7/8/2021	Case Resolved	Harassment Student	Respondent found guilty	1. Conduct probation for one year 2. Letter of apology to complainant	Female	Male
McNeese State University	10/7/2021	Case Resolved	Inappropriate Sexual Contact	Resondent accepted responsibility	1. Campus community service 2. Conduct probation for one year 3. Letter of apology to complainant 4. No-contact order	Female	Male
McNeese State University							
University of Louisiana at Lafayette	8/25/2021	Informal Resolution	Cyberstalking	N/A	N/A	Female	Male
University of Louisiana at Lafayette	8/31/2021	Informal Resolution	Sexual Battery	N/A	N/A	Female	Male
University of Louisiana at Monroe	9/10/2021	Under Investigation	Sexual Harrasment	Pending	Pending	Female	Male

[1] 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.

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

[3] Type of power-based violence or retaliation alleged.

[4] Disposition of any disciplinary processes arising from the Formal Complaints.

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

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

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



# Louisiana's

## Community & Technical Colleges

Pursuant to Act 472 of the 2021 Regular Legislative Session of the Louisiana Legislature, the Louisiana Board of Regents (BOR) implemented the Uniform Policy on Power-Based Violence and Sexual Misconduct effective August 10, 2021. This policy requires annual training for each of its Responsible Employees starting no later than the beginning of the 2022-23 academic year. Per the policy, the BOR will develop this training no later than January 1, 2022.

While awaiting the availability of the formal training course, the Louisiana Community and Technical College System (LCTCS) Board office and its member colleges sent a team of 109 employees to a virtual BOR training on August 17 and August 18, 2021. This included 93 staff members across member colleges in a variety of Title IX/Power-Based Violence compliance roles and all 16<sup>1</sup> (100%) LCTCS Board members, who either attended or later viewed the required August 17 BOR training. This was just the beginning of the training and compliance process that will reach full development at the beginning of 2022. Once the formal training course(s) have been released by the BOR, all Responsible Employees will be trained annually in compliance with state law and institutional policy.

Additionally, 96.9% (63/65) Confidential Advisors completed required BOR training by October 8, 2021. The remaining two (2) Confidential Advisors are on Family and Medical Leave and will complete the training upon their return. The Board of Regents has recommended a ratio of 1 Confidential Advisor to every 1,500 students (1:1500). LCTCS far exceeds this requirement. We have implemented a minimum of 2 Confidential Advisors, even with the established ratio requires only 1. Using the 1:1500 ratio, LCTCS would be required to have thirty (30) Confidential Advisors across the System, but LCTCS maintains a pool of sixty-five (65) Confidential Advisors currently.

The LCTCS Board approved the new System policy on Power-Based Violence and Sexual Misconduct (Policy 9.001) and Policy 9.002, Title IX Grievance Procedures, on October 20, 2021. Member colleges are currently finalizing their college policies, and LCTCS will forward all college policies to the BOR no later than December 15, 2021.

---

<sup>1</sup> The LCTCS Board consisted of 16 Board Members at the time of training.

## Form B3 – System Data Report 2021-2022 Academic Year, Fall Semester<sup>1</sup>

Louisiana Community and Technical College System

<b>Confidential Advisors and Responsible Employees<sup>2</sup></b>	<b>Total</b>
a. Number of Responsible Employees	4,588
b. Number of Confidential Advisors	65
<b>Annual Training (please include number and percentage)<sup>3</sup></b>	
a. Completion rate of Responsible Employees	109 (2.4%)
b. Completion rate of Confidential Advisors	63 (96.9%)
<b>Responsible Employee Reporting<sup>4</sup></b>	
a. Number of employees who made false reports	0
i. Number of employees terminated	0
b. Number of employees who made false reports	0
i. Number of employees terminated	0
<b>Power-Based Violence Formal Complaints<sup>5</sup></b>	
a. Formal Complaints received	3
b. Formal Complaints resulting in occurrence of power-based violence	2
c. Formal Complaints resulting in discipline or corrective action	TBD
Type of discipline or corrective action taken	
i. Suspension	TBD
ii. Expulsion	TBD
<b>Retaliation<sup>6</sup></b>	
a. Reports of retaliation received	1
b. Investigations	1
c. Findings	
i. Retaliation occurred	X
ii. Retaliation did not occur	

<sup>1</sup> 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 for 2021-2022 Academic Year, Fall Semester only. Beginning with AY 2022-2023, Fall Semester reporting will have an effective date of August 1st.

<sup>2</sup> In accordance with Act 472, the System's report shall include the number of Responsible Employees (i.e., employees) and Confidential Advisors for the system.

<sup>3</sup> In accordance with Act 472, the System's report shall include the number and percentage of Responsible Employees and Confidential Advisors who have completed annual training.

<sup>4</sup> 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.

<sup>5</sup> In accordance with Act 472, the System's report shall include (1) the number of Formal Complaints of power-based violence received by a system, (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 2<sup>nd</sup> form*).

<sup>6</sup> In accordance with Act 472, the System's report shall include information about retaliation which includes the number of reports of retaliation, and any findings of any investigations or reports of retaliation.





Office of Civil Rights & Title IX

From: William F Tate IV  
LSU President

To: Rémy Starns, Chair  
LSU Board of Supervisors

Re: Power-Based Violence Biannual Report

Date: October 28, 2021

Act 472 of the 2021 Regular Legislative Session of the Louisiana Legislature outlines a biannual reporting requirement for institutions of higher education detailing incidents of power-based violence reported on their campuses. This reporting requirement ensures that every level of leadership between the campus and the Legislature has an opportunity to see and respond to the data. The reporting deadlines for 2021 are as follows:

October 10*	Report transmitted from Title IX Coordinator to Chancellor
October 24	Report transmitted from Chancellor to President
<b>November 7</b>	<b>Report transmitted from President to Board of Supervisors</b>
December 1	Report transmitted from Board of Supervisors to Board of Regents
January 15, 2022	Report transmitted from Board of Regents to Louisiana Legislature

*\*Extension to October 14 granted due to Hurricane Ida*

This report, inclusive of attachments, is an aggregated report based on data submitted by the chancellors from their respective campuses.

The B3 spreadsheet provides information on reporting and the consequences. Title IX Coordinators were asked to provide the information on the spreadsheet within the date range of June 29, 2021 (date Act 472 went into effect) to September 30, 2021 (Future Biannual Reports will be completed from April to September and then from October to March). There were three cases from LSU A&M in which a Formal Complaint was filed during the time period. All three of them are currently under investigation so there are no findings yet to report. There were two Formal Complaints filed with the AgCenter during the time period and both were closed because of lack of jurisdiction. No other campus had a Formal Complaint filed between June 29 and September 30.

The B3 System Reporting Form presents information on annual training and a high-level look at reporting.<sup>1</sup> The first four rows can be interpreted as follows:

1. Responsible Employees (REs) are all employees on the campus minus the number of Confidential Advisors (CAs). (REs + CAs = total employees on a campus.) Responsible Employees are Mandatory Reporters.
2. REs who completed the Annual Training are all REs who attended the August 18<sup>th</sup> workshop on Power-Based Violence hosted by the Board of Regents **OR** any RE who watched the videos of the workshop. This was a small number for each campus. In future reports, the BOR will provide training that will be mandated for all employees in public post-secondary education. We will need to report the number of our REs who completed the training. This year just socialized us to the process.
3. Confidential Advisors are those employees on the campus who have been designated as confidential and therefore not a Mandatory Reporter. The Board of Regents has indicated that, at minimum, we should have one CA per every 1,500 students. All campuses meet that goal.
4. Confidential Advisors must participate in training put on by the Board of Regents. As of the submission of this report, all but one CA has completed the training.

The rest of the form provides specific information on false reports, formal complaints, and retaliation complaints.

<sup>1</sup> Data for the B3 Form are an aggregate from B2 Forms submitted by each chancellor. Those data by campus can be found in the attached Campus Data table.

**Form B3 – System Data Report**

2021-2022 Academic Year, Fall Semester

Institution	Date Formal Complaint Filed [1]	Status of Formal Complaint [2]	Basis for Complaint [3]	Disposition [4]	Disciplinary Status [5]	Gender of Complainant [6]	Gender of Respondent [7]
LSU A&M	2021-09-27	Open	Hostile Environment			Woman	Man
LSU A&M	2021-09-22	Open	Hostile Environment			Man	Man
LSU A&M	2021-09-29	Open	Hostile Environment			Woman	Man
LSUA	N/A						
LSUE	N/A						
LSUS	N/A						
Health Science New Orleans	N/A						
Health Science Shreveport	N/A						
AgCenter	2021-08-24	Closed	Sexual Harassment	Dismissed	N/A	Woman	Man
AgCenter	2021-09-06	Closed	Sexual Harassment	Dismissed	N/A	Woman	Man
Pennington	N/A						
HCSA	N/A						

[1] 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.

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

[3] Type of power-based violence or retaliation alleged.

[4] Disposition of any disciplinary processes arising from the Formal Complaints.

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

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

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

## Form B3 – System Data Report 2021-2022 Academic Year, Fall Semester<sup>1</sup>

LSU

<b>Confidential Advisors and Responsible Employees<sup>2</sup></b>	<b>Total</b>
a. Number of Responsible Employees	18,081
b. Number of Confidential Advisors	52
<b>Annual Training</b> (please include number and percentage) <sup>3</sup>	
a. Completion rate of Responsible Employees	42 (.02%)
b. Completion rate of Confidential Advisors	51 (98%)
<b>Responsible Employee Reporting<sup>4</sup></b>	
a. Number of employees who made false reports	0
i. Number of employees terminated	N/A
b. Number of employees who made false reports	0
i. Number of employees terminated	N/A
<b>Power-Based Violence Formal Complaints<sup>5</sup></b>	
a. Formal Complaints received	5
b. Formal Complaints resulting in occurrence of power-based violence	3 IP; 2 out of jurisdiction
c. Formal Complaints resulting in discipline or corrective action	3 IP; 2 out of jurisdiction
Type of discipline or corrective action taken	
i. Suspension	N/A
ii. Expulsion	N/A
<b>Retaliation<sup>6</sup></b>	
a. Reports of retaliation received	0
b. Investigations	N/A
c. Findings	
i. Retaliation occurred	N/A
ii. Retaliation did not occur	N/A

<sup>1</sup> 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 for 2021-2022 Academic Year, Fall Semester only. Beginning with AY 2022-2023, Fall Semester reporting will have an effective date of August 1st.

<sup>2</sup> In accordance with Act 472, the System's report shall include the number of Responsible Employees (i.e., employees) and Confidential Advisors for the system.

<sup>3</sup> In accordance with Act 472, the System's report shall include the number and percentage of Responsible Employees and Confidential Advisors who have completed annual training.

<sup>4</sup> 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.

<sup>5</sup> In accordance with Act 472, the System's report shall include (1) the number of Formal Complaints of power-based violence received by a system, (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 2<sup>nd</sup> form).

<sup>6</sup> In accordance with Act 472, the System's report shall include information about retaliation which includes the number of reports of retaliation, and any findings of any investigations or reports of retaliation.

Data from Form B2 on Board of Regents Chancellor's Report for all LSU campuses.

	LSU A&M	LSUA	LSUE	LSUS	HSC NO	HSC S	AgCenter	PBRC	HCSD	Total
Responsible Employees	9,066	366	256	326	3,676	2,508	956	486	441	18,081
Completion Annual Training*	6 (.06%)	5 (1.3%)	4 (1.56%)	12 (3.6%)	6 (.2%)	5 (.2%)	1 (.01%)	1 (.2%)	2 (.5%)	42 (.2%)
Confidential Advisors	24	3	3	7	4	7	2	1	1	52
Completion Annual Training	24 (100%)	3 (100%)	2 (.67%)	7 (100%)	4 (100%)	7 (100%)	2 (100%)	1 (100%)	1 (100%)	51 (98%)
False Reports	0	0	0	0	0	0	0	0	0	0
Formal Complaints of PBV	3	0	0	0	0	0	2	0	0	5
Found Responsible	IP	0	0	0	0	0	0	0	0	0
Resulting in Corrective Action	IP	0	0	0	0	0	0	0	0	0
Retaliation Reports	0	0	0	0	0	0	0	0	0	0

\*Note: Data points are defined by the BOR as number of Responsible Employees who completed the August 18, 2021 training session put on by the BOR or watched videos of the same. This year it was intended by the BOR that this would be a small number of people. Most campuses report nearly 90% completion rates on their campus mandatory training for the prevention of sexual assault during 2020.

## APPENDIX K

December 7, 2021



SOUTHERN UNIVERSITY AND A&M COLLEGE

EQUITY, INCLUSION,  
& TITLE IX

Allison Smith, Ph.D.  
Senior Program Administrator  
Louisiana Board of Regents  
Baton Rouge, LA 70802  
Email: [allison.smith@laregents.edu](mailto:allison.smith@laregents.edu)

Mode of Delivery: Electronic Mail

Re: Southern University System Power-Based Violence Reporting Data Narrative

Dear Dr. Smith,

Institutions 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 Southern University System remains committed to maintaining a diverse, equitable, inclusive, and safe educational and work environment for all its stakeholders. The State of Louisiana approved the Uniform Policy on Power-Based Violence for college and universities statewide on August 10, 2021. Heretofore, the Southern University System has begun to take the actions necessary to ensure this significant component of legislation is prescribed in the biannual data reports, newly adopted Power-Based Violence, Sexual Misconduct, and Title IX policy and the Title IX Grievance Procedural Manual.

In the matters of meeting the training requirements, training for Responsible Employees has not yet been developed by the Board of Regents (which has until January 1, 2022, to develop it) and the deadline for Responsible Employees to be trained is the beginning of the 2022-2023 Academic Year. To align with state mandates and nationally recognized best practices, President-Chancellor Belton has declared that ALL campus employees are considered Responsible Employees (Mandatory reporters) unless they have been designated and trained by the Office of Title IX to assume other roles in protecting students (e.g., Confidential Advisors). We will include this information in each campus' newly developed training mandates for all employees and extend training and certification options to students.

### Office Address:

J. S. Clark Administration Bldg.  
3<sup>rd</sup> Floor, Room 327  
Baton Rouge, LA 70813

 +1 225-771-4955

 [titleix@subr.edu](mailto:titleix@subr.edu)

 [www.subr.edu](http://www.subr.edu)

The BOR's sessions will be introduced and scheduled during both Faculty Convocation and New Student Orientation for each campus with a 100% completion goal by the end of the first quarter of the year. While this will ensure compliance with the new state laws, the Southern University System will continue to offer both virtual and in-person informational and training sessions to educate our campus communities. Each campus has taken the initiative to begin programming and disseminating information regarding the newly adopted SUS Uniform Policy on Power-Based Violence, Sexual Misconduct, and Title IX. Please see the attached reported on verified completion rates throughout the system of the training provided by each campus. We have also had a 100% completion rate of training by the Board of Regents for the designated Confidential Advisors for each campus.

Sincerely,

*Allison C. Smith, Ph.D.*

System Director and Associate Vice Chancellor  
Equity, Inclusion, & Title IX  
Southern University System

# Form B3 – System Data Report 2021-2022 Academic Year, Fall Semester<sup>1</sup>

Southern University System

<b>Confidential Advisors and Responsible Employees<sup>2</sup></b>	<b>Total</b>
a. Number of Responsible Employees	2034
b. Number of Confidential Advisors	18
<b>Annual Training</b> <i>(please include number and percentage)</i> <sup>3</sup>	
a. Completion rate of Responsible Employees	997 (49%)
b. Completion rate of Confidential Advisors	18 (100%)
<b>Responsible Employee Reporting<sup>4</sup></b>	
a. Number of employees who made false reports	0
i. Number of employees terminated	0
b. Number of employees who made false reports	0
i. Number of employees terminated	0
<b>Power-Based Violence Formal Complaints<sup>5</sup></b>	
a. Formal Complaints received	6
b. Formal Complaints resulting in occurrence of power-based violence	N/A
c. Formal Complaints resulting in discipline or corrective action	N/A
Type of discipline or corrective action taken	
i. Suspension	N/A
ii. Expulsion	N/A
<b>Retaliation<sup>6</sup></b>	
a. Reports of retaliation received	2
b. Investigations	2
c. Findings	0
i. Retaliation occurred	0
ii. Retaliation did not occur	2

<sup>1</sup> 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 for 2021-2022 Academic Year, Fall Semester only. Beginning with AY 2022-2023, Fall Semester reporting will have an effective date of August 1st.

<sup>2</sup> In accordance with Act 472, the System's report shall include the number of Responsible Employees (i.e., employees) and Confidential Advisors for the system.

<sup>3</sup> In accordance with Act 472, the System's report shall include the number and percentage of Responsible Employees and Confidential Advisors who have completed annual training.

<sup>4</sup> 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.

<sup>5</sup> In accordance with Act 472, the System's report shall include (1) the number of Formal Complaints of power-based violence received by a system, (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 2<sup>nd</sup> form*).

<sup>6</sup> In accordance with Act 472, the System's report shall include information about retaliation which includes the number of reports of retaliation, and any findings of any investigations or reports of retaliation.





Claiborne Building | 1201 North Third Street | Suite 7-300 | Baton Rouge, LA 70802  
P 225.342.6950 | F 225.342.6473  
[www.ULSystem.edu](http://www.ULSystem.edu)

Per Act 472 of the 2021 Regular Legislative Session of the Louisiana Legislature and the Louisiana Board of Regents (BOR) Uniform Policy on Power-Based Violence and Sexual Misconduct, annual training is required for each of its Responsible Employees. All responsible employees are required to complete the training by the beginning of the 2022-2023 academic year. The required mandatory employee training provided by Board of Regents will be available on January 1, 2022.

The University of Louisiana System President's Data Report reflects the number of responsible employees from the System's member institutions who attended the informational presentation provided by the Board of Regents on August 18, 2021. The presentation provided by the Board of Regents was limited to a team of eight employees per campus. Upon the availability of the Board of Regents responsible employee training, all UL System institutions' responsible employees will complete the training. Also, all responsible employees are required to complete the 2021 Preventing Sexual Harassment Training as required for state employees. Further, UL System Title IX Coordinators are providing training to their respective stakeholders regarding recent power-based violence legislation and associated policies and practices.

## Form B3 – System Data Report 2021-2022 Academic Year, Fall Semester<sup>1</sup>

University of Louisiana System

<b>Confidential Advisors and Responsible Employees<sup>2</sup></b>	<b>Total</b>
a. Number of Responsible Employees	11,253
b. Number of Confidential Advisors	63
<b>Annual Training</b> <i>(please include number and percentage)</i> <sup>3</sup>	
a. Completion rate of Responsible Employees	77 (.006)
b. Completion rate of Confidential Advisors	56 (88.9)
<b>Responsible Employee Reporting<sup>4</sup></b>	
a. Number of employees who made false reports	0
i. Number of employees terminated	0
b. Number of employees who made false reports	0
i. Number of employees terminated	0
<b>Power-Based Violence Formal Complaints<sup>5</sup></b>	
a. Formal Complaints received	5
b. Formal Complaints resulting in finding of power-based violence	1
c. Formal Complaints resulting in discipline or corrective action	2
Type of discipline or corrective action taken	
i. Suspension	0
ii. Expulsion	0
<b>Retaliation<sup>6</sup></b>	
a. Reports of retaliation received	0
b. Investigations	0
c. Findings	0
i. Retaliation occurred	0
ii. Retaliation did not occur	0

<sup>1</sup> 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 for 2021-2022 Academic Year, Fall Semester only. Beginning with AY 2022-2023, Fall Semester reporting will have an effective date of August 1st.

<sup>2</sup> In accordance with Act 472, the System's report shall include the number of Responsible Employees (i.e., employees) and Confidential Advisors for the system.

<sup>3</sup> In accordance with Act 472, the System's report shall include the number and percentage of Responsible Employees and Confidential Advisors who have completed annual training.

<sup>4</sup> 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.

<sup>5</sup> In accordance with Act 472, the System's report shall include (1) the number of Formal Complaints of power-based violence received by a system, (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 2<sup>nd</sup> form*).

<sup>6</sup> In accordance with Act 472, the System's report shall include information about retaliation which includes the number of reports of retaliation, and any findings of any investigations or reports of retaliation.



SENATE BILL NO. 232

BY SENATORS BARROW, ABRAHAM, ALLAIN, BERNARD, BOUDREAUX, BOUIE, CARTER, CATHEY, CLOUD, CONNICK, CORTEZ, FIELDS, FOIL, HEWITT, JACKSON, LUNEAU, MCMATH, MILLIGAN, FRED MILLS, ROBERT MILLS, MIZELL, MORRIS, PEACOCK, PETERSON, POPE, PRICE, REESE, SMITH, TALBOT, WARD AND WOMACK AND REPRESENTATIVES BRYANT, CARPENTER, CARRIER, ROBBY CARTER, WILFORD CARTER, COX, DUPLESSIS, EDMONSTON, FONTENOT, FREEMAN, FREIBERG, GAROFALO, HILFERTY, HUGHES, JAMES, JEFFERSON, JENKINS, TRAVIS JOHNSON, LANDRY, LYONS, MARCELLE, MOORE, NEWELL, PIERRE, RISER, SCHLEGEL, SELDERS, THOMPSON, WHITE AND WILLARD

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

1 AN ACT

2 To amend and reenact R.S. 39:100.101(D) and enact R.S. 17:3399.13(4) and 3399.18,  
3 relative to power-based violence on college and university campuses; to create the  
4 Power-Based Violence Review Panel; to provide for membership, duties, and  
5 functions; and to provide for related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. R.S. 17:3399.13(4) and 3399.18 are hereby enacted to read as follows:

8 §3399.13. Definitions

9 For the purposes of this Part, the following terms shall have the following  
10 meanings unless the context clearly indicates otherwise:

11 \* \* \*

12 **(4) "Power-based violence" means any form of interpersonal violence**  
13 **intended to control or intimidate another person through the assertion of power**  
14 **over them and shall include, at a minimum, the following:**

15 **(a) Dating violence (R.S. 46:2151(C)).**

16 **(b) Domestic abuse and family violence (R.S. 46:2121.1(2) and 2132(3)).**

17 **For the purposes of this Part, domestic abuse shall also include any act or threat**  
18 **to act that is intended to coerce, control, punish, intimidate, or exact revenge on**  
19 **the other party, for the purpose of preventing the victim from reporting to law**  
20 **enforcement or requesting medical assistance or emergency victim services, or**  
21 **for the purpose of depriving the victim of the means or ability to resist the abuse**

1 or escape the relationship.

2 (c) Nonconsensual observation of another person's sexuality without the  
 3 other person's consent, including voyeurism (R.S. 14:283.1), video voyeurism  
 4 (R.S. 14:283), nonconsensual disclosure of a private image (R.S. 14:283.2), and  
 5 peeping tom activities (R.S. 14:284).

6 (d) Sexual assault (R.S. 14:41, 42 through 43.5, 89, 89.1, and 106).

7 (e) "Sexual exploitation" which means an act attempted or committed  
 8 by a person for sexual gratification, financial gain, or other advancement  
 9 through the abuse of another person's sexuality including prostituting another  
 10 person (R.S. 14:46.2 and 82 through 86).

11 (f) "Sexual harassment" which means unwelcome sexual advances,  
 12 requests for sexual favors, and other verbal, physical, or inappropriate conduct  
 13 of a sexual nature when the conduct explicitly or implicitly affects an  
 14 individual's employment or education, unreasonably interferes with an  
 15 individual's work or educational performance, or creates an intimidating,  
 16 hostile, or offensive work or educational environment and has no legitimate  
 17 relationship to the subject matter of a course or academic research.

18 (g) Stalking (R.S. 14:40.2) and cyberstalking (R.S. 14:40.3).

19 (h) Unlawful communications (R.S. 14:285).

20 (i) Unwelcome sexual or sex- or gender-based conduct that is objectively  
 21 offensive, has a discriminatory intent, and lacks a bona fide academic purpose.

22 \* \* \*

23 §3399.18. Louisiana Power-Based Violence Review Panel

24 A. The Louisiana Power-Based Violence Review Panel is hereby created  
 25 under the jurisdiction of the Board of Regents.

26 B. The panel shall be composed of the following members:

27 (1) The president of the Louisiana Senate or his designee.

28 (2) The speaker of the Louisiana House of Representatives or his  
 29 designee.

30 (3) The chair of the Louisiana Senate Select Committee on Women and

1 Children or his designee.

2 (4) The chair of the Louisiana House Select Committee on Women and  
3 Children or his designee.

4 (5) The attorney general or his designee.

5 (6) The commissioner of higher education or his designee.

6 (7) The president of each public postsecondary education management  
7 system or his designee.

8 (8) A student representative from each of the postsecondary management  
9 boards appointed by the respective board's president.

10 (9) The superintendent of the Louisiana State Police or his designee.

11 (10) The president of the Louisiana Association of Chiefs of Police or his  
12 designee.

13 (11) A member of the Domestic Violence Prevention Commission  
14 appointed by the secretary of the Department of Children and Family Services.

15 (12) A licensed social worker with experience related to power-based  
16 violence appointed by the president of the Board of Directors of the Louisiana  
17 Chapter, National Association of Social Workers.

18 (13) A licensed psychologist with experience related to power-based  
19 violence, appointed by the chair of the Louisiana State Board of Examiners of  
20 Psychologists.

21 (14) The executive director of the Louisiana Foundation Against Sexual  
22 Assault or his designee.

23 (15) The president of Sexual Trauma Awareness and Response or his  
24 designee.

25 (16) The governor or his designee.

26 (17) A Title IX coordinator representing a public postsecondary  
27 education system. The Title IX coordinator shall serve for one year, and the  
28 membership shall rotate between the higher education systems in the following  
29 order: the Louisiana State University System, the Southern University System,  
30 the University of Louisiana System, and the Louisiana Community and

1 Technical College System. Each coordinator shall be appointed by his system  
2 president.

3 C. Members shall serve without compensation, except for per diem or  
4 reimbursement of expenses to which they may be entitled as members of the  
5 constituent organizations.

6 D. A majority of the total membership shall constitute a quorum of the  
7 panel, and any official action taken by the panel shall require an affirmative  
8 vote of the majority of the quorum present and voting.

9 E. The commissioner of higher education shall call an organizational  
10 meeting of the panel by August 15, 2021. The panel shall elect a chairman, and  
11 any other officers deemed necessary, from among the membership.

12 F. The panel shall meet at least two times per year up to a maximum of  
13 four times per year, and may meet at other times upon the call of the chair or  
14 as provided by panel rules.

15 G. The panel may adopt rules of procedures for its operation.

16 H. The Board of Regents shall provide staff support to the panel.

17 I. The panel shall:

18 (1) Evaluate policies and practices of institutions of public postsecondary  
19 education, public postsecondary education management boards, and the Board  
20 of Regents regarding reporting, investigating, and adjudicating power-based  
21 violence by and against students and recommend revisions to improve such  
22 policies and practices.

23 (2) Advise and assist institutions of public postsecondary education,  
24 public postsecondary education management boards, and the Board of Regents  
25 in coordinating procedures to provide power-based violence prevention  
26 programs.

27 (3) Serve as an advisory agency to the legislature, the governor, the  
28 Board of Regents, and the public postsecondary education management boards  
29 regarding power-based violence.

30 J. To the extent permitted by and in accordance with the Public Records

