

University of Louisiana System

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

**Effective Date: August 1, 2022**

**Cancellation: October 15, 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**

Not later than the beginning of each fall semester, 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.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 powerbased 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 whose employment is contingent upon enrollment as a student, 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.

**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