



POLICY TITLE
POWER-BASED VIOLENCE/SEXUAL MISCONDUCT

POLICY NUMBER
12-001

Responsible Unit: <i>System Office for Compliance</i>	Effective Date: <i>08/19/2023</i>
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I. POLICY STATEMENT AND RATIONALE

The Southern University System (System) is committed to the highest quality and most impactful educational experiences for all students in its institutions. 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 the System and its institutions.

Additionally, the System is committed to ensuring all students are guaranteed their due process rights as guaranteed by the U.S. Constitution, the Louisiana Constitution, and the Student Due Process and Protection Act.

This Policy on Power-Based Violence/Sexual Misconduct, promulgated pursuant to Act 472 of the 2021 Regular Legislative Session of the Louisiana Legislature, sets forth processes and procedures to guide the stakeholders of the System and its institutions 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 defined terms in Policy Definitions.)

Upon the effective date of this Policy, all institutions of the System shall immediately begin

complying with this Policy. This Policy and all related processes shall be posted on the website of each institution of the System.

The Board of Supervisors of the Southern University System prohibits discrimination on the basis of sex in any of its institutions. This Policy applies to all institutions of the System in accordance with federal and state law, including Act 472 of the 2021 Legislative Session of the Louisiana Legislature (Act 472), as amended, Title IX of the Education Amendments of 1972 (Title IX), 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 misconduct (see Title IX Formal Grievance Procedure, Policy Number 6-002). The Title IX Formal Grievance Procedure (Policy Number 6-002) shall supplement this Policy. All institutions of the System shall implement this Policy and related procedures, practices, and educational programs to prevent, respond to, and redress incidents involving acts of power-based violence including sexual misconduct and Title IX misconduct. This Policy is designed to help the institutions of the System 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 System's strong commitment to promoting an environment that is free from power-based violence, which includes sexual misconduct and Title IX misconduct.

The System Office for Compliance may develop supplementary procedures to further support the implementation of this Policy among the institutions of the System. However, this Policy establishes various mandatory obligations with which all supplementary procedures must comply.

Inquiries about the application of this Policy should be directed to the respective Title IX Coordinator for each institution of the System. The Title IX Coordinator's contact information shall be available on each Institution's Title IX website. Each Institution 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.

II. NOTICE OF NON-DISCRIMINATION

The following Notice of Non-Discrimination must be distributed to all students, employees, applicants for admission and employment, and other relevant individuals. The notice must be prominently displayed on the website of each institution of the System 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 provisions of Title VII of the Civil Rights Act of 1964 (Title VII), Title IX of the Education Amendments of 1972 (Title IX), Section 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 of the Southern University System shall not discriminate against individuals on the basis of their race, sex, sexual orientation, gender identity, gender expression, religion, color, nation or ethnic origin, age, disability, military service, covered veteran's status, or genetic information in its administration of education policies, programs, or activities; admission 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 of the Southern University System shall address allegations of power-based violence and sexual misconduct, including sexual harassment and sexual assault, in a timely and effective manner. Further, institutions of the Southern University System 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 or sex/gender discrimination.

III. POLICY SCOPE AND AUDIENCE

This Policy serves as the System'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 misconduct and power-based violence, which includes sexual misconduct.

This Policy is intended 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 of the Southern University System 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 Policy Definitions.)

The Title IX Formal Grievance Procedure (Policy Number 6-002) cover a narrower sub-set of misconduct (i.e., Title IX misconduct) 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 Grievances Procedures, and not this overarching Power-Based Violence/Sexual Misconduct 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 Policy Definitions.)

The Title IX Formal Grievance Procedure (Policy Number 6-002) 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 Formal Grievance Procedure do 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 Formal Grievance Procedure (Policy Number 6-002), 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 its related 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.

IV. POLICY COMPLIANCE

The System and its institutions are subject to this Policy and all related procedures. Each Institution’s Title IX Coordinator is the responsible official for implementation of this policy on the institutional level.

V. POLICY DEFINITION

1. **Advisor:** In a Title IX misconduct 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.

2. **Chancellor:** The chief executive officer of a public postsecondary education Institution.
3. **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.
4. **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.
5. **Confidential Advisor:** In a Title IX misconduct 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.
6. **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.
7. **Decision Maker:** An individual or group of individuals selected by the Institution and charged with determining responsibility for an allegation of power-based violence.
8. **Employee:** An employee is defined as:
 - a. An administrative officer, official, or employee of the System or its institutions;
 - b. Anyone appointed to the Board of Supervisors of the Southern University System;
 - c. Anyone employed by or through the System or its institutions; or
 - d. Anyone employed by a foundation or association related to the System or its institutions.

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.

9. **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 University 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 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 Formal Grievance Procedure (Policy Number 6-002).

10. **Fully Participate:** includes the opportunity to make opening and closing statements, to examine and cross-examine witnesses, and to provide the Complainant or the Respondent with support, guidance, and advice.
11. **Institution:** The Southern University System or its institutions.
12. **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.
13. **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.
14. **Investigators:** Individuals designated by the System Director for Compliance or the Title IX Coordinator to conduct an investigation of alleged 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 document them for review. The Investigators will be neutral and will not have a conflict of interest or bias against the Complainant or the Respondent, or Complainants and Respondents generally.
15. **Mandatory Reporter:** An individual who is obligated by law to report any knowledge they may have of power-based violence. For the purposes of this Policy, mandatory reporters include Responsible Employees. (See definition of Responsible Employee.)
16. **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.
17. **President:** The president of the Southern University System.
18. **Respondent:** An individual who has been accused in a Report or Formal Complaint of misconduct that could constitute power-based violence prohibited under this Policy (or, under the Title IX Formal Grievance Procedure (Policy Number 6-002), an individual alleged to be the perpetrator of conduct that could constitute sexual harassment under Title IX).
19. **Responsible Employee:** An employee who receives a direct statement regarding or witnesses an incident of power-based violence. Responsible Employee does 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.
20. **System:** The Southern University System/Southern University and A&M College System.
21. **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.
22. **Title IX Coordinator:** The individual designated by the System Director for Compliance or the 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.
23. **Title IX Formal Grievance Procedure:** A process for addressing and resolving a "Formal Complaint" that satisfies requirements set forth in 34 C.F.R. §106.30. See System Policy Number 6-002, Title IX Formal Grievance Procedure.
24. **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 Formal Grievance Procedure (Policy Number 6-002), 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 Institution 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).

VI. POLICY IMPLEMENTATION PROCEDURES

1. 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 System policy, each Institution's Title IX Coordinator 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:

- A. 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;
- B. 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
- C. 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:

- A. 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.

- B. 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.

2. 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 System 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 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, under the student code of conduct or the disciplinary procedures set forth by Human Resources, 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.

3. REPORTING POWER-BASED VIOLENCE

Anyone can report an incident of power-based violence (to include sexual misconduct and Title IX misconduct).

A Report can be made by any individual who has:

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

All individuals are strongly encouraged 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.

Every report of an incident of power-based violence or a safety threat received shall be documented along with the actions taken by the Institution and the Institution's law enforcement agency. These threats shall be immediately forwarded to the respective campus law enforcement agency upon receipt.

i. REPORTING PROCEDURE

To make a Report, a reporting individual should report the incident to the Title IX 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.

Reports may be made in-person, mail, email, or through an online reporting platform (i.e., Maxient Incident Reporting Forms).

The name and contact information for each Institution's Title IX Coordinator is located on its website.

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 (Policy Number 6-002), 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

Each Institution has an online reporting system (i.e., Maxient) to collect anonymous disclosures of incidents of power-based violence and crimes and to track patterns of power-based violence and crimes on campus. The online system shall 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.

ii. 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 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 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 Coordinator 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.

The System 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 shall direct the reporting party to a confidential resource. Each Institution's list of confidential resources is on their websites.

iii. 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:

- A. 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;
- B. A law enforcement officer as necessary to conduct a criminal investigation of the Report;
- C. A person alleged to have perpetrated the incident, to the extent required by law; or
- D. 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.)

iv. ADMINISTRATIVE REPORTING

In accordance with state law, an Institution's Title IX Coordinator, the Institution's Chancellor, the President, and the System 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 and the System Director for Compliance a written report on the Reports received in accordance with the information required by the Board of Regents and La. R.S. 17:3399.13.1. The Title IX Coordinator of an Institution shall immediately report to the Chancellor and the System Director for Compliance 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.
- B. **Chancellor:** The Chancellor of each Institution shall submit a report to the Board of Supervisors, President, and System Director for Compliance within fourteen (14) days of receiving the report from the Title IX Coordinator in accordance with the information required by the Board of Regents and La. R.S. 17:3399.13.1. The Title IX Coordinator shall ensure the Chancellor's report is posted on the Institution's website.
- C. **President:** The President shall submit a system-wide summary report within fourteen (14) days of receiving the reports from the Chancellors to the Board of Supervisors in accordance with the information required by the Board of Regents and La. R.S. 17:3399.13.1. The System Director for Compliance shall ensure the President's report shall be published on the System's website.

D. **System:** The System shall annually send an annual system-wide summary report to the Board of Regents by December Thirty-First (31) in accordance with the information required by the Board of Regents and La. R.S. 17:3399.13.1. The System Director for Compliance shall ensure the System's report is sent to the Board of Regents.

v. EMPLOYEE'S FAILURE TO REPORT OR FALSE REPORTING

A Responsible Employee who is determined by the disciplinary procedures set forth by Human Resources 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.

vi. 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 under the code of student conduct for a potential violation of this Policy and may be subject to disciplinary action.

vii. 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 code of conduct 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 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, which is revealed in the course of making such a report.

4. 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 misconduct.

In addition to compliance with federal and state laws and regulations, the System 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.

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.

The Complainant and the Respondent shall have the right to an Advisor, who at the Complainant or the Respondent's expense, may be an attorney or a non-attorney advocate who may fully participate during any stage of this power-based violence grievance procedure.

i. INITIAL STEPS & DETERMINATION OF APPROPRIATE PROCEDURES

Once the Title IX Coordinator learns of any Report of alleged power-based violence or sex/gender discrimination, the Title IX Coordinator should perform an initial assessment prior to moving forward with an investigation (if one is required/requested) to determine the proper procedure in which the power-based violence matter should be handled.

If the alleged violence satisfies the USDOE's definition of Title IX sexual harassment (Title IX misconduct), the Title IX Coordinator should ensure investigation and adjudication of the allegation pursuant to the Title IX Formal Grievance Procedure (Policy Number 6-002).

Non-Title IX misconduct cases involving employees as Respondents shall be transferred to and handled by Human Resources pursuant to the System's Discrimination, Harassment, Sexual Harassment, and Sexual Violence Policy. Human Resources shall provide the Title IX Coordinator with the information required to satisfy the reporting requirements mandated by La. R.S. 17:3399.13.1.

a. INITIAL CONTACT WITH POTENTIAL COMPLAINANT

As soon as is practicable (but no later than five working days following actual notice), the Title IX Coordinator shall contact the potential Complainant and schedule an initial meeting. The Complainant will be notified that they are entitled to have an Advisor accompany them to any meeting or interview related to the power-based violence process. At the initial meeting, the Title IX Coordinator will:

- 1) Give the potential Complainant a copy of the relevant policies;
- 2) Provide the Complainant with a copy of the Student Due Process and Protection Act;
- 3) Explain the process for filing a Formal Complaint with the Title IX Coordinator;
- 4) Provide the potential Complainant with information regarding the rights/responsibilities as a party in this matter;
- 5) Explain the process for investigating and resolving a power-based violence Formal Complaint (including the available appeal procedures);
- 6) Explain the procedural differences based on Title IX v. power-based violence conduct;
- 7) Instruct the potential Complainant not to destroy any potentially

- relevant documentation in any format;
- 8) Inform the individual of the availability of Supportive Measures with or without the filing of a Formal Complaint;
 - 9) Discuss the potential Complainant's expressed preference for manner of resolution and any barriers to proceeding (e.g., confidentiality concerns);
 - 10) Explain the prohibition against retaliation;
 - 11) Explain the options for reporting to law enforcement authorities (whether on campus or local police);
 - 12) Discuss the formal and informal resolution process;
 - 13) Inform the Complainant that they have the right to utilize a Confidential Advisor or any other Advisor of their choosing throughout the process;
 - 14) Request additional information regarding the reported incident; and
 - 15) Communicate necessary details of the Report to the campus police department for entry into the Institution'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 shall contact the Complainant to discuss the availability of Supportive Measures with or without the filing of a Formal Complaint 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 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 Institution's education program or activity, including measures designed to protect the safety of all parties and the Institution's educational environment.

If supportive measures are issued that have a negative effect on the Respondent, who is a student, and a Formal Complaint is filed, the Title IX Coordinator must issue written notice explaining the reasons for enacting the measures to the Respondent within seventy-two hours of the supportive measures being issued or a Formal Complaint is filed, whichever is later. Within seven business days of the written notice, unless otherwise waived by the Respondent, a supportive measures hearing must be conducted to determine whether there is substantial evidence that the Respondent poses a risk to the physical safety of the Complainant or a member of the campus community and that the supportive

measure is appropriate to mitigate that risk. The Title IX Coordinator must send a supportive measures hearing notice to the Complainant and the Respondent.

The supportive measures hearing is heard by the Decision Maker in the same manner in which resolution hearings are conducted. At the conclusion of the supportive measures hearing, the supportive measures that have a negative effect on the Respondent are either UPHeld, DENIED, or MODIFIED. In the event that any supportive measures are MODIFIED, any original measures can be lessened; however, the measures cannot be increased. The Title IX Coordinator shall send the Complainant and the Respondent a written notice of decision of the supportive measures hearing within twenty-hour (24) hours of the supportive measures hearing.

A Respondent's waiver of the right to a supportive measures hearing shall not constitute an admission of guilt or waiver of any additional rights.

c. 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 the Complainant.

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

Similarly, the fact that the Title IX Coordinator converts a Report to a Formal Complaint does not make the Title IX Coordinator the 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 (Policy Number 6-002).

a. 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, 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 (i.e., Maxient Incident Reporting Form), or in person, whereby the individual can file a Formal Complaint by meeting with the Title IX Coordinator to provide a verbal description of the power-based violence which the Title IX Coordinator will use to draft a written document that the individual will review, verify, and sign to constitute a Formal Complaint.

Note: If the Formal Complaint filed satisfies the requirements of a Title IX Formal Complaint as defined by 34 CFR §106.30, the Title IX Coordinator shall proceed under the Title IX Formal Grievance Procedure (Policy Number 6-002).

b. WITHDRAWAL OF FORMAL COMPLAINT

Institutions shall allow a Complainant to withdraw their Formal Complaint. If a Formal Complaint is withdrawn, the Title IX Coordinator 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 Institution's community. In such cases, the Complainant shall be notified immediately of the Institution's decision to proceed.

ii. 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 Advisor accompany them to any meeting or interview related to the investigation and resolution process.

Within seven (7) days of receiving notice of the Formal Complaint, the Respondent should arrange to meet with the Title IX Coordinator to review the Formal Complaint. The Title IX Coordinator 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 Coordinator, 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 Decision Maker 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.

iii. INVESTIGATION PROCESS

The Institution shall designate Investigators specifically trained in power-based violence investigations to conduct a prompt, thorough, and fair investigation. Assigned Investigators shall not be 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 Institution 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.

viii. FINDINGS & INVESTIGATIVE REPORT

At the conclusion of the investigation, Investigators shall prepare a report (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 Coordinator 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 receipt of any comments submitted, or after the five-day comment period has lapsed without comment, the Investigator 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 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.

ix. RESOLUTION

a. 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. Institutions 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 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 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.

b. FORMAL RESOLUTION

The Decision Maker is typically a hearing panel of three (3) trained members. However, the System Director for Compliance may approve a deviation.

The Title IX Coordinator or Investigator shall not be a Decision Maker.

The Title IX Coordinator shall select a chair for the hearing panel.

A resolution hearing shall be convened no earlier than ten (10) days and no later than thirty (30) days after the final report has been submitted to both parties unless there are documented circumstances approved by the System Director for Compliance.

The Decision Maker shall receive a copy of the final Investigative Report at least seven (7) days before the resolution hearing.

The Title IX Coordinator shall send notice of the resolution hearing to the Complainant and Respondent. The date of the resolution hearing shall be no less than seven (7) business days from receipt of the notice of the resolution hearing by the Complainant and Respondent.

The resolution hearing may be conducted in-person or remotely.

The parties will have the right to written notice of allegations, the right to an Advisor, and the right to submit, cross-examine, and challenge the evidence and witnesses at the resolution hearing.

Complainants will not have to come face-to-face with the Respondent during a hearing and will not have to answer questions posed personally by the Respondent. An Advisor will ask the Complainant questions on the Respondent's behalf, likewise an advisor will ask the Respondent questions on the Complainant's behalf. 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.

Institutions will provide "rape shield" protections and ensure that Complainants are not required to divulge any medical, psychological, or similar privileged records.

The parties are entitled to be accompanied to the resolution hearing by an Advisor or support person of their choice provided the involvement of such Advisor or support person does not result in the postponement or delay of the resolution hearing.

The Decision Maker shall deliberate in a closed session. The Decision Maker shall make a finding of responsible or not responsible. In making a determination of responsibility, the Decision Maker shall use the preponderance of the evidence standard.

If the Decision Maker makes a finding of responsibility, there should also be a determination of sanctions.

The Decision Maker shall issue written findings to the Title IX Coordinator with any sanctions, if applicable, within fourteen (14) days of the resolution hearing.

The Title IX Coordinator shall notify the Complainant and Respondent simultaneously of the written findings and any sanctions, if applicable, within two (2) business days of receiving the written findings from the Decision Maker.

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.

c. SANCTIONS

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

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

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. Within 24 hours of the outcome of any appeal or the expiration of the window of appeal without an appeal being requested, the later of the two, the Title IX Coordinator shall notify Student Affairs of the Respondent's sanctions for implementation, monitoring, and execution.

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.

The following are the usual sanctions that may be imposed upon a Respondent found Responsible of power-based violence:

- 1) **Community Service:** An assigned number of hours of service to an on or off-campus organization.
- 2) **Eviction from Facilities:** Removal from resident facilities or other campus facilities as designated in the written notification. Fees will not be refunded to a student who is evicted from residence facilities.
- 3) **Expulsion:** Permanent termination of student status and revocation of right to be on campus for any reason or to attend the System or its institutions' sponsored events. This sanction will be noted permanently as a Conduct Expulsion on the student's official transcript. An expelled student may not apply for (re)admission to any institution in the System.
- 4) **Mandatory Withdrawal:** Forced removal from an academic course in which an offense occurred without credit for the course. Forced removal from a campus club/organization, University Royal Court, or position of student leadership.
- 5) **Probation:** A written reprimand for violation of institutional policy, providing for more severe disciplinary sanctions in the event that the Respondent is found in violation of any institutional policy, procedure, or directive within a specific 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, or other measures deemed appropriate.

- 6) **Required Counseling:** A mandate to meet with an engage in either the System or its institutions' sponsored or external counseling to better comprehend the misconduct and its effects.
- 7) **Suspension:** Termination of student status for a definite period of time not to exceed two years 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 the System or its institutions.
- 8) **Warning:** A formal statement that the conduct was unacceptable and a warning that further violation of any of the System or its institutions' policies, procedures, or directives will result in more severe sanctions/responsive actions.

x. GRIEVANCE PROCEDURE APPEALS

Appeals should 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; or
- c. The decision reached was not supported by a preponderance of evidence.

The Complainant or the Respondent may appeal a finding from the Decision Maker. A written notice of appeal outlining the reasons for appeal shall be filed with the Title IX Coordinator within ten (10) days after receiving the written findings and any sanctions, if applicable, from the Title IX Coordinator.

Upon receiving a written notice of appeal, the Title IX Coordinator shall provide a copy to the other party giving the other party five (5) days to provide a written response to the appeal. After the lapse of the response time, the Title IX Coordinator shall forward the appeal, appellate response, and case file to appellate adjudicator for adjudication of the appeal.

The appellate adjudicator shall be the System Director for Compliance or his or her designee. The appellate adjudicator may GRANT THE APPEAL or DENY THE APPEAL. If the appeal is granted, the appellate adjudicator may ORDER A NEW HEARING or REDUCE or MODIFY THE SANCTIONS.

Upon receipt of the appeal, appellate response, and case file, the appellate adjudicator shall have fourteen (14) days to issue a written decision with rationale to Title IX Coordinator. Upon receipt of the written decision from the appellate adjudicator, the Title IX Coordinator shall notify the Complainant and Respondent simultaneously of the written decision within two (2) business days.

If the appeal results in the reversal of a decision or a lessening of the sanction, the Institution shall reimburse the student for any tuition and fees paid for the period of

suspension, including a deferred suspension, or expulsion which had not been previously refunded, if applicable.

In the event that a New Hearing is ordered, the appellate Decision Maker shall not have been part of the initial resolution hearing decision. The notice of the New Hearing shall be sent by the Title IX Coordinator and comply with the requirements of the resolution hearing.

It should be noted that all previous and new information regarding the power-based violence matter may be used during the New Hearing. New sanctions, which may be lesser or greater than the original sanctions, may be imposed by the appellate Decision Maker if the Respondent is found responsible. The appellate decision is the final authority on the matter.

5. TRANSCRIPT WITHHOLDING, NOTATION, & COMMUNICATION

In accordance with state law, the System has implemented the following uniform transcript notation and communication procedures 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.

For any student who is the subject of a power-based violence Formal Complaint and who attempts to transfer to another postsecondary 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 Section VI.5.iii (Transcript Withholding and Notation Appeals), whichever occurs first.

i. WITHHOLDING STUDENT TRANSCRIPTS

Upon the filing of a Formal Complaint, the Sending 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.

ii. NOTATING STUDENT TRANSCRIPTS

Upon the filing of a Formal Complaint, the Institution may place a notation on the transcript of a student attempting to transfer to another postsecondary 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 withhold the transcript.

For a transferring student who 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 maintain the notation 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).

iii. 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 System Director for Compliance for his or her designee. The System Director for Compliance his or her designee shall notify the requesting student of his or her decision no later than seven (7) business days from the date that the appeal request is made. Decisions made by the System Director for Compliance or his or her designee are final.

iv. APPLICABILITY

State law requires that all Louisiana public postsecondary institutions implement these transcript notation and communication procedures. Nothing in these procedures 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 a power-based violence, when such student seeks to transfer to a non-public postsecondary or out-of-state institution. The System recognizes an obligation to ensure investigation and adjudication of all complainants of power-based violence, regardless of the type or location of the postsecondary institution where they occur.

6. VICTIMS' RIGHTS POLICY

State law requires that Institutions 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.

Prior to the resolution of any Formal Complaint or criminal proceeding, a victim may petition the Title IX Coordinator 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. The petition shall be in writing and contain the reasons for the barring. The Title IX Coordinator shall provide a copy of the petition to the perpetrator, who shall have seventy-two (72) hours to issue a rebuttal to the petition to the Title IX Coordinator. The Title IX Coordinator shall issue a decision to the parties within seven (7) days of receipt of the petition. Either party may appeal to the System Director for Compliance or his or her designee within forty-eight (48) hours of receiving the decision from the Title IX Coordinator. The decisions of the System Director for Compliance or his or her designee are final.

7. STATEMENT OF THE RIGHTS OF THE PARTIES

- i. The rights to an equitable investigation and resolution of all credible allegations of prohibited harassment or discrimination made in good faith to the System or its Institutions' officials.
- ii. 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.
- iii. 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.
 - iv. The right to be informed in advance of any public release of information regarding the allegation(s) or underlying incidents, whenever possible.
 - v. The right not to have any personally identifiable information released to the public without consent provided, except to the extent permitted by law.
 - vi. The right to be treated with respect by the System and its college officials.
 - vii. The right to have the System or its institutions' policies and procedures followed without material deviation.
 - viii. The right not to be pressured to mediate or otherwise informally resolve any reported misconduct involving violence, including sexual violence.
 - ix. The right not to be discouraged by the System or its institutions' officials from reporting sexual misconduct or discrimination to both on-campus and off-campus authorities.
 - x. The right to be informed by the System and its institutions' officials of options to notify proper law enforcement authorities, including on-campus and local police, and the option(s) to be assisted by the System or its institutions' authorities in notifying such authorities, if the party so chooses. This also includes the right not to be pressured to report, as well.
 - xi. The right to have allegations of violations of this Policy responded to promptly with sensitivity by the System or its institutions' law enforcement or other System officials.
 - xii. 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.
 - xiii. The right to be informed of available assistance in changing academic, living, or working situations after an alleged incident of discrimination, harassment, 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:
 - a. Relocating an on-campus student's housing to a different on-campus location,
 - b. Assistance from the System or its institutions' staff in completing the relocation,
 - c. Changing an employee's work environment (e.g., reporting structure, office/workplace relocation),
 - d. Transportation accommodations,
 - e. Visa/immigration assistance,
 - f. Arranging to dissolve a housing contract and a pro-rated refund,
 - g. Exam, paper, or assignment rescheduling or adjustment,
 - h. Receiving an incomplete in, or a withdrawal from, a class (may be retroactive),
 - i. Transferring class sections,
 - j. Temporary withdrawal/leave of absence (may be retroactive),
 - k. Campus safety escorts, or
 - l. Alternative course completion options.

- xiv. The right to have the System or its institutions maintain such actions for as long as necessary and for support to remain private, provided privacy does not impair the System or its institutions' ability to provide the supportive measures.
- xv. The right to receive sufficiently advanced, written notice of any meeting or interview, when possible.
- xvi. The right to ask the Investigator(s)/Decision Maker(s) to identify and question relevant witnesses, including expert witnesses.
- xvii. 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.
- xviii. The right not to have irrelevant prior sexual history or character admitted as evidence.
- xix. 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.
- xx. The right to receive a copy of the investigation report, including all factual, policy, and 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.
- xxi. The right to respond to the Investigative Report, including comments providing any additional relevant evidence after the opportunity to review the Investigative Report, and to have the response on the record.
- xxii. 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.
- xxiii. The right to regular updates on the status of the investigation and resolution.
- xxiv. 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.
- xxv. The right to a Hearing Panel that is not single sex in its composition, if a panel is used.
- xxvi. The right to preservation of privacy, to the extent possible and permitted by law.
- xxvii. The right to meetings, interviews, and hearings that are closed to the public.
- xxviii. The right to petition that any System or its institutions' representative in the process be recused on the basis of disqualifying bias or conflict of interest.
- xxix. The right to have an Advisor of their choice to accompany and assist the party in all meetings and interviews associated with the resolution process.
- xxx. The right to the use of the appropriate standard of evidence, preponderance of evidence, to make a finding after an objective evaluation of all relevant evidence.
- xxxi. The right to be present, including presence via remote technology, during all testimony given and evidence presented during any formal grievance hearing.
- xxxii. 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.
- xxxiii. The right to be informed in writing of when a decision by the System of its institutions is considered final and any changes to the sanction(s) that occur before the decision is finalized.
- xxxiv. 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 System or its institutions.

xxxv. The right to a fundamentally fair resolution as defined in these procedures.

8. TRAINING

i. EMPLOYEES

Each Institution shall require annual training for each of its (i) employees; (ii) individuals who are involved in implementing the Institution's student grievance procedures, including each individual responsible for resolving Formal Complaints of power-based violence or power-based violence policy violations; (iii) Title IX Coordinators; and (iv) employees who have responsibility for interview any alleged victims of power-based violence.

The Title IX Coordinator shall ensure compliance with the training.

ii. 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 developed by the Attorney General in collaboration with the Board of Regents.

Each Institution's website shall provide 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:

- a. The rights of the alleged victim under federal and state law and the policies of the Institution;
- b. 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.
- c. If reasonably known, the potential consequences of those reporting options;
- d. The process of investigation and disciplinary proceedings of the Institution;
- e. The process of investigation and adjudication of the criminal justice system;
- f. 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;

- g. Potential reasonable accommodations that the Institution may provide to an alleged victim; and
- h. 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 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:

- a. 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;
- b. 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;
- c. 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;
- d. 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
- e. 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, which number shall be determined by the Board of Regents.

Each Institution that enrolls fewer than five thousand students may partner with another Institution in the 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.

The Title IX Coordinator shall ensure compliance with this Section.

iii. SEXUAL HARASSMENT

Pursuant to La. R.S. 42:343, each employee shall receive a minimum of one hour of education and training on preventing sexual harassment during each full calendar year of the employee's public employment. Additionally, supervisors and any persons

designated by the System to accept or investigate a complaint of sexual harassment shall receive an additional education and training.

The education and training required pursuant to this Section may be received either in person or via the internet through training and education materials approved by the System Director for Compliance.

The Title IX Coordinator shall ensure compliance with this section and maintain records of the compliance of each employee with the mandatory training requirement.

The Title IX Coordinator shall compile an annual report by January Tenth (10) of each year for the previous calendar year of the Institution's number and percentage of employees who have completed the training requirements, the number of sexual harassment complaints received by the Institution, the number of complaints which resulted in a finding that sexual harassment occurred, the number of complaints in which the finding of sexual harassment occurred, the number of complaints in which the finding of sexual harassment resulted in discipline or corrective action, and the amount of time it took to resolve each complaint. This report shall be submitted to the System Director for Compliance by January Fifteenth (15).

The System Director for Compliance shall compile an annual report by February First (1) of each year for the previous calendar year of the System's number and percentage of employees who have completed the training requirements, the number of sexual harassment complaints received by the System, the number of complaints which resulted in a finding that sexual harassment occurred, the number of complaints in which the finding of sexual harassment occurred, the number of complaints in which the finding of sexual harassment resulted in discipline or corrective action, and the amount of time it took to resolve each complaint. This report shall be submitted to the Division of Administration by February Fifteenth (15).

9. DATA PUBLICATIONS

i. POWER-BASED VIOLENCE CLIMATE SURVEY

Each Institution shall administer an anonymous power-based violence climate survey to its students. If an Institution administers other surveys with regard to campus safety, the power-based violence climate 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 the power-based violence climate 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:

- a. Administer a survey during the 2022-2023 academic year and every third year thereafter.
- b. Report survey results to the System and the Board of Supervisors.
- c. Publish the survey results in a prominent, easy to access location on the Institution's website.

The System Director for Compliance in conjunction with the Title IX Coordinator shall be responsible for compliance with this section.

ii. CAMPUS SECURITY REPORT

In accordance with La. R.S. 17:3399.19, each Institution shall publish on its website a semiannual security report to contain updated campus security 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).

The System 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.

Pursuant to La. R.S. 17:3399.19(B)(1), Institutions that fail to comply with this section shall not be authorized by the State Bond Commission to incur any debt that is subject to the commission's approval for a period of two years following notification by the Board of Regents to the House Committee on Education, the Senate Committee on Education, and the State Bond Commission of the Institutions' failure.

The Title IX Coordinator shall ensure compliance with this section.

iii. SEX CRIME DATA REPORT

Each Institution's police department shall submit a sex crime data report to the Louisiana Commission on Law Enforcement and the Administration of Criminal Justice, the President, the Chancellor, the System Director for Compliance, and the Title IX Coordinator by February Fifteenth (15) of year.

The sex crime data report shall include the information required pursuant to La. R.S. 15:624.

The Title IX Coordinator shall ensure the sex crime data report is posted to the Institution's website.

iv. CLERY ACT REPORTING

Each Institution's police department must comply with the reporting requirements of the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act, 20 U.S.C. §1092 (Clery Act).

The Clery Act reporting is due every October First (1).

10. MEMORANDA OF UNDERSTANDING

Each Institution must enter into a memorandum of understanding as required by La. R.S. 17:3399.14. Said memoranda of understanding shall be reviewed annually.

The Title IX Coordinator shall ensure compliance with this section.

11. WEBSITE COMPLIANCE

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

- i. Contact information for obtaining a Confidential Advisor;
- ii. Reporting options for alleged victims of power-based violence;
- iii. The process of investigation and disciplinary proceedings of the Institution;
- iv. The process of investigation and adjudication of the criminal justice system;
- v. Potential reasonable accommodations that the Institution may provide to an alleged victim;
- vi. 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;
- vii. The name and location of the nearest medical facility where an individual may have a rap 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;
- viii. Each current memorandum of understanding entered into by the Institution pursuant to La. R.S. 17:3399.14; and
- ix. Data publications as specified in Section VI.9 of this Policy.

12. MISCELLANEOUS PROVISIONS

i. CONFLICTS OF INTEREST

Any conflicts of interest regarding the Title IX Coordinator, Investigator, Decision Maker, etc. shall be resolved by the System Director for Compliance or his or her designee. Any conflicts of interest regarding the System Director for Compliance shall be resolved by the General Counsel or his or her designee.

ii. RECORD-KEEPING

Records created or received under this Policy shall be maintained for seven (7) years

from the date of final closure of each matter.

VI. POLICY RELATED INFORMATION

- Louisiana Campus Accountability and Safety Act (La. R.S. 17:3399.11, et seq.)
- Louisiana Student Due Process and Protection Act (La. R.S. 17:3394)
- La. R.S. 15:624
- La. R.S. 42:343 and 344
- Title VII of the Civil Rights Act of 1964
- Title IX of the 1972 Education Amendments
- Section 304 of the Violence Against Women Reauthorization Act of 2013
- Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act, 20 U.S.C. §1092 (Clery Act)

VII. POLICY HISTORY AND REVIEW CYCLE

The System Office for Compliance in conjunction with the Title IX Coordinators for each institution of the Southern University System will be charged with implementing this Policy.

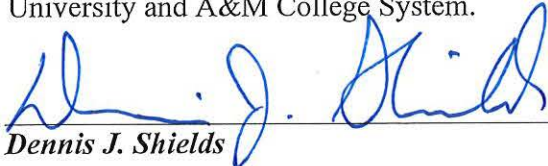
This Policy replaces any current System or Institution's power-based violence and is subject to a five-year policy review cycle.

VIII. POLICY URL

The information regarding the Power-Based Violence/Sexual Misconduct Policy will be posted to the System Board's website under Board Policies at www.sus.edu and on each of the Institution's websites.

IX. POLICY APPROVAL

The effective date of this Policy is determined by the approval date 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.



Dennis J. Shields

President-Chancellor, Southern University and A&M College System

8/19/23

Effective Date of Policy



The Honorable Myron K. Lawson

Chair – Southern University System Board of Supervisors

8/19/23

Effective Date of Policy