

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

**Procedure for Policy SLCC-SS-217**

**I. INTRODUCTION**

South Louisiana Community College (SLCC) is committed to the highest quality and most impactful educational experiences for all students. 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 and procedure 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 SLCC.

This procedure on Power-Based Violence, promulgated pursuant to Act 472 of the 2021 Regular Legislative Session of the Louisiana Legislature, sets forth processes and procedures to guide member college stakeholders in maintaining safety and protection for students and employees. Power-based violence is defined as any form of interpersonal violence intended to control or intimidate another person through the assertion of power over the person. It includes but is more expansive than sexual misconduct and Title IX misconduct (See definition in [Appendix A](#)).

All policies and procedures shall be posted on the college website. SLCC shall ensure that its procedures comply with applicable federal and state laws and regulations and must be amended to reflect any changes to federal and state laws and regulations. SLCC will review, evaluate, and make any revisions or amendments to applicable power-based violence procedures on an ongoing and as-needed basis.

**II. SCOPE**

This procedure which is mandated by state law, outlines and identifies best practices that address both Title IX Conduct and power-based violence which includes sexual misconduct.

The following is intended to inform and guide those 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 conduct that occurs both on and off campus.

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

The accompanying Title IX Formal Grievance Procedure covers a narrower sub-set of conduct (i.e., Title IX Conduct) that must be addressed under a defined formal grievance process as required by the U.S. Department of Education under new Title IX Regulations, effective August 14, 2020. When power-based violence meets the criteria specified in the Title IX Regulations, it must be addressed under the Title IX Formal Grievance Procedure, and not this overarching Power-Based Violence Procedure, 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. A SLCC faculty or staff member/employee conditioning the provision of an aid, benefit, or service on an individual's participation in unwelcome sexual conduct (Quid Pro Quo)
2. Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to education programs or activities; or
3. Sexual assault, dating violence, domestic violence, or stalking. (See defined terms in [Appendix A.](#))

The Title IX Grievance Procedure applies to SLCC's education program activity, which is defined by the Title IX Regulations to include locations, events, or circumstances in which SLCC 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 SLCC. Under the Title IX Regulations, the Title IX Grievance Procedure does not apply to any education program or activity that does not occur in the United States (§106.44(a)).

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

Combined, SLCC policies and procedures are intended to ensure that all students and employees impacted by an incident or Formal Complaint of power-based violence receive appropriate support and fair treatment, and that allegations of power-based violence are handled in a prompt, thorough and equitable manner.

### **III. SAFETY EDUCATION**

A healthy and prevention-minded campus culture allows students to learn to the best of their abilities on a safe and nurturing campus. Robust education and training programs for both students and employees are the cornerstone of these efforts and essential to building a culture in which sexual misconduct is rare and both Complainants and Respondents are well supported. Prevention depends on clear and well-communicated guidelines, underpinned by regular education on understanding of

sexual misconduct and power-based violence, positive versus harassing behaviors, tools for reporting harassment and adjudicating disputes, and sanctions for violations.

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

The information shall include the following:

1. Instruction on how to identify and prevent power-based violence and how to detect potential threats to school safety exhibited online, including on any social media platforms
2. How to report incidents of power-based violence, crimes on campus, violations of the student code of conduct, and possible threats to campus safety (i.e. through online Maxient Incident Reporting Forms/links); and
3. Where to find reports regarding campus safety.

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

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

1. 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.
2. 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.

This procedure requires that for every report of an incident of power-based violence or a safety threat received, the actions taken by SLCC and the campus law enforcement agency or security officers be documented. SLCC will refer incident reports to law enforcement in accordance with the most current Memorandum of Understanding.

#### **IV. RETALIATION PROHIBITION**

Retaliation is expressly prohibited at SLCC. 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.

SLCC expressly prohibits retaliation against anyone who: 1) in good faith reports what they believe is power-based violence, 2) cooperates with an investigation or proceeding under this procedure, or 3) opposes conduct that they believe to violate this procedure. However, an individual who reports an incident of power-based violence or participates in an investigation or proceeding and who 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 procedure and may be subject to disciplinary action

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

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

## V. REPORTING POWER-BASED VIOLENCE

**Anyone** can report an incident of power-based violence (to include Sexual Misconduct and Title IX Conduct).

A Report can be made by any individual who has:

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

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

### A. REPORTING INCIDENTS OF POWER-BASED VIOLENCE

To make a Report, a reporting individual should report the incident to the **Title IX Coordinator or Deputy Coordinator. Reports may also be made to any Responsible Employee, including Human Resources staff. Responsible Employees must send all reports of alleged Power-Based Violence to the appropriate Title IX Coordinator for SLCC.** The contact information for SLCC Title IX Coordinator

as well as methods for reporting power-based violence can be found on the college Title IX website. Reporting methods shall include, at a minimum, in-person reporting, reporting by mail, reporting via email, and reporting through an online reporting platform (i.e. Maxient Incident Reporting Forms).

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

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

### ONLINE REPORTING

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

### **B. MANDATORY REPORTING FOR EMPLOYEES**

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

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

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

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

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

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

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

### **C. CONFIDENTIAL AND ANONYMOUS REPORTING**

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

1. A person employed by or under contract with SLCC to which the report is made, if the disclosure is necessary to conduct the investigation of the report or any related hearings
2. A law enforcement officer as necessary to conduct a criminal investigation of the report
3. A person alleged to have perpetrated the incident, to the extent required by law; or
4. A potential witness to the incident as necessary to conduct an investigation of the report.

**Note:** Consistent with FERPA's prohibition on re-disclosure of confidential information, any person who receives another person's confidential information solely as a result of participation in any investigation or proceeding under this procedure 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 procedure.

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

### **D. ADMINISTRATIVE REPORTING**

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

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

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

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

2. **Chancellor:** The Chancellor of SLCC shall submit a report to the LCTCS and System President within **fourteen (14) days** of receiving the report from the Title IX Coordinator in accordance with the information required in [Appendix B](#). The report shall be posted on SLCC's website.
3. **System President:** The System President shall submit a system-wide summary report within **fourteen (14) days** of receiving the reports from the Chancellors to the LCTCS Board of Supervisors in accordance with the information required in [Appendix B](#). The report shall be published on the website of the system.
4. **System Management Board:** The LCTCS shall send an annual system-wide summary report to BOR by **December Thirty-First (31)** in accordance with the information required in [Appendix B](#). BOR shall post the report on its website.
5. **Board of Regents:** BOR shall annually submit a report to the Governor, the president of the Senate, the speaker of the House of Representatives, and the Senate and House Education Committees by **January Fifteenth (15)** which shall include the statewide information. The report shall also include any recommendations for legislation. The report shall be published on BOR's website.

#### **E. EMPLOYEE'S FAILURE TO REPORT OR FALSE REPORTING**

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

#### **F. STUDENT'S FALSE REPORTING**

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

#### **G. IMMUNITIES AND AMNESTY**

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

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

Any student who reports, in good faith, power-based violence to SLCC shall not be sanctioned by SLCC for a nonviolent student conduct violation, such as underage drinking, that is revealed in the course of making such a report.

## VI. TRANSCRIPT NOTATION & COMMUNICATION

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

Any student who is the subject of a power-based violence Formal Complaint and who attempts to transfer to another institution, the Institution from which the student seeks to transfer ("Sending Institution") shall 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 be notated.

The Sending Institution shall notify the student that their transcript has been notated, and of the appeals process to have the notation removed. The transcript's notation remains on the transferring student's transcript until SLCC 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 transcript notation pursuant to Part B of this Section, whichever occurs first.

### A. NOTATION

Upon the filing of a Formal Complaint, SLCC *shall* place a notation on the transcript of a student attempting to transfer to another institution. For any student who is the subject of a power-based violence Formal Complaint that also constitutes sexual harassment under Title IX, SLCC shall commence an investigation and place a notation on the student's transcript.

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

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 SLCC.

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, SLCC will determine how long the notation will remain on the student's transcript.

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

## **B. TRANSCRIPT NOTATION APPEALS**

An SLCC student whose transcript has been notated as described above may request 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, SLCC must send an updated version of the student's transcript.

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

## **C. APPLICABILITY**

State law requires that all Louisiana public postsecondary institutions implement this Transcript Notation, and Communication procedure. Nothing in this procedure shall prohibit or prevent a Sending Institution from notating the transcript of a student who is the subject of a power-based violence Formal Complaint, or who has been found responsible for power-based violence, when such student seeks to transfer to a non-public postsecondary or out-of-state institution. SLCC recognizes an obligation to ensure investigation and adjudication of all complaints of power-based violence, regardless of the type or location of the postsecondary institution where they occur.

## **VII. VICTIMS' RIGHTS**

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

See [Appendix D](#).

## **VIII. IDENTIFIED BEST PRACTICES**

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

**The form of the investigation may vary depending on whether the alleged conduct falls within the scope of power-based violence/sexual misconduct or Title IX Conduct.** If the alleged power-based violence satisfies the USDOE’s definition of Title IX sexual harassment (i.e., Title IX Conduct), the Title IX Coordinator should ensure investigation and adjudication of the allegation pursuant to the Title IX Formal Grievance Procedure. However, if the alleged conduct does not satisfy the USDOE’s definition of Title IX Sexual Harassment, the Title IX Coordinator will refer to the part of this procedure that addresses best practices, outlined in the Sections below.

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

#### **A. INITIAL STEPS & DETERMINATION OF APPROPRIATE PROCEDURES**

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

#### **B. INITIAL CONTACT WITH POTENTIAL COMPLAINANT**

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

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

1. Give the potential Complainant a copy of the relevant procedures
2. Explain the process for filing a Formal Complaint with the Title IX Office
3. Provide the potential Complainant with information regarding the rights/responsibilities as a party in this matter
4. Explain the process for investigating and resolving a power-based violence Formal Complaint (including the available appeal procedures)
5. Explain the procedural differences based on Title IX vs power-based violence conduct

6. Instruct the potential Complainant not to destroy any potentially relevant documentation in any format
7. Inform the individual of the availability of Supportive Measures with or without the filing of a Formal Complaint
8. Discuss the potential Complainant's expressed preference for manner of resolution and any barriers to proceeding (e.g., confidentiality concerns)
9. Explain the prohibition against retaliation; and
10. Communicate necessary details of the report to the campus police department for entry into the Institution's daily crime log.

### **C. SUPPORTIVE MEASURES**

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

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

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

### **D. FILING A FORMAL COMPLAINT**

If a potential Complainant wishes to pursue an incident of power-based violence beyond simply reporting it, they may file a Formal Complaint. The filing of a Formal Complaint means that the individual is asking SLCC 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 SLCC will treat it as such.

Similarly, the fact that the Title IX Coordinator converts a Report to a Formal Complaint does not make the Title IX Coordinator a Complainant. However, the Title IX Coordinator reserves the right to initiate a Formal Complaint in order to meet SLCC's Title IX obligations to provide a safe and nondiscriminatory environment and if SLCC 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 procedure or the Title IX Formal Grievance Procedure.

#### 1. HOW TO FILE A FORMAL COMPLAINT

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

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

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

#### 2. WITHDRAWAL OF FORMAL COMPLAINT

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

### E. POWER-BASED VIOLENCE GRIEVANCE PROCEDURE

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

SLCC will 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.

*For non-Title IX conduct cases involving SLCC employees, SLCC will follow the following procedures to resolve Power-Based Violence Grievances: LCTCS Policies [6.011](#) Harassment, Discrimination, and Retaliation; [6.014](#) Discipline for All Employees; and [6.015](#) Grievance for All Employees.*

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

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

### **F. INVESTIGATION PROCESS**

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

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

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

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

### **G. FINDINGS & INVESTIGATIVE REPORT**

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

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

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

## **H. RESOLUTION**

### **1. INFORMAL RESOLUTION**

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

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

## 2. FORMAL RESOLUTION

If the Title IX Coordinator, upon receipt and review of the Investigator's complaint agrees that a violation of Power-Based Violence has occurred, will file a WRITTEN NOTICE to the Respondent and copied to the Complainant. The Written Notice shall include the charges filed against the Respondent and include a date, time, and place of the formal hearing. In addition, the Title IX Coordinator will include a copy of all relevant policies and procedures to be followed for the hearing and appeal. If the Respondent does not appear at the hearing, and does not make any efforts to change the date and time of the hearing, then the hearing shall proceed without the Respondent present and a determination by the Adjudicator shall still be reached.

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

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

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

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

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

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

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

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

#### **A. DETERMINATION REGARDING RESPONSIBILITY**

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

- a. Identification of the allegations potentially constituting sexual harassment
- b. A description of the procedural steps taken from receipt of the Formal Complaint through the determination, including any notifications to the parties, interviews with parties and witnesses, site visits, methods used to gather other evidence, and hearings held
- c. Findings of fact supporting the determination
- d. Conclusions regarding the application of the institution's procedure to the facts
- e. A statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility, any sanctions the institution will impose on the Respondent, and whether remedies designed to restore or preserve equal access to the education program or activity will be provided to the Complainant; and
- f. Procedures and permissible bases for parties to appeal.

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

#### **I. SANCTIONS**

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

- The nature, severity of, and circumstances surrounding the violation(s)
- The Respondent's disciplinary history
- Previous allegations or allegations involving similar conduct



- The need for sanctions/responsive actions to bring an end to the discrimination, harassment, and/or retaliation
- The need for sanctions/responsive actions to prevent the future recurrence of discrimination, harassment, and/or retaliation
- The need to remedy the effects of the discrimination, harassment, and/or retaliation on the Complainant and the community
- The impact on the parties
- Any other information deemed relevant by the Decision-maker(s)

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

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

## 1. STUDENT SANCTIONS EXAMPLES

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

- *Warning:* A formal statement that the conduct was unacceptable and a warning that further violation of any SLCC policies, procedure, or directive will result in more severe sanctions/responsive actions.
- *Required Counseling:* A mandate to meet with and engage in either SLCC-sponsored or external counseling to better comprehend the misconduct and its effects.
- *Probation:* A written reprimand for violation of SLCC procedure, providing for more severe disciplinary sanctions in the event that the student or organization is found in violation of any SLCC procedure, or directive within a specified period of time. Terms of the probation will be articulated and may include denial of specified social privileges, exclusion from co-curricular activities, exclusion from designated areas of campus, no-contact orders, and/or other measures deemed appropriate.
- *Suspension:* Termination of student status for a definite period of time not to exceed two years and/or until specific criteria are met. Students who return from suspension are automatically placed on probation through the remainder of their tenure as a student at SLCC.
- *Expulsion:* Permanent termination of student status and revocation of rights to be on campus for any reason or to attend SLCC-sponsored events. This sanction will

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

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

be noted permanently as a Conduct Expulsion on the student's official transcript, subject to any applicable expungement policies.

- *Withholding Diploma*: SLCC may withhold a student's diploma for a specified period of time and/or deny a student participation in commencement activities as a sanction if the student is found responsible for an alleged violation.
- *Revocation of Degree*: SLCC reserves the right to revoke a degree previously awarded from SLCC for fraud, misrepresentation, and/or other violation of SLCC policies, procedures, or directives in obtaining the degree, or for other serious violations committed by a student prior to graduation.
- *Organizational Sanctions*: Deactivation, loss of recognition, loss of some or all privileges (including SLCC registrations) for a specified period of time.
- *Other Actions*: In addition to or in place of the above sanctions, SLCC may assign any other sanctions as deemed appropriate.

## 2. EMPLOYEE SANCTIONS EXAMPLES

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

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

## J. GRIEVANCE PROCEDURE APPEALS

SLCC provides an appeal process that is equally available to both+ parties and includes the procedures and permissible basis for the Complainant and Respondent to appeal.

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

- a procedural irregularity that affected the outcome of the matter

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

As to all appeals SLCC should, at a minimum:

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

## **IX. TRAINING**

### **A. RESPONSIBLE EMPLOYEES**

SLCC shall require annual training for each of its (i) Responsible Employees; (ii) individuals who are involved in implementing SLCC's student grievance procedures, including each individual responsible for resolving Formal Complaints of reported power-based violence or power-based violence procedure violations; (iii) Title IX Coordinator(s); and (iv) employees who have responsibility for interviewing any alleged victims of power-based violence. SLCC shall ensure that the individuals and employees receive the training described in this Subsection no later than the beginning of the 2022-2023 academic year.

The BOR, in coordination with the attorney general and in consultation with state or local victim services organizations, shall develop the annual training program required in this Section.

### **B. CONFIDENTIAL ADVISORS**

SLCC 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 SLCC from partnering with national, state, or local victim services organizations to serve as Confidential Advisors or in other confidential roles.

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

SLCC Title IX website shall provide the contact information for obtaining a Confidential Advisor.

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

1. The rights of the alleged victim under federal and state law and the policies of SLCC
2. The alleged victim’s reporting options, including the option to notify SLCC, the option to notify local law enforcement, and any other reporting options
3. If reasonably known, the potential consequences of those reporting options
4. The process of investigation and disciplinary proceedings of SLCC
5. The process of investigation and adjudication of the criminal justice system
6. The limited jurisdiction, scope, and available sanctions of SLCC student disciplinary proceeding, and that it should not be considered a substitute for the criminal justice process
7. Potential reasonable accommodations that SLCC may provide to an alleged victim; and
8. The name and location of the nearest medical facility where an alleged victim may have a rape kit administered by an individual trained in sexual assault forensic medical examination and evidence collection, and information on transportation options and available reimbursement for a visit to such a facility.

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

The Confidential Advisor shall:

1. Be authorized by SLCC to liaise with appropriate staff at SLCC to arrange reasonable accommodations through SLCC to allow the alleged victim to change living arrangements or class schedules, obtain accessibility services, or arrange other accommodations
2. Be authorized to accompany the alleged victim, when requested to do so by the alleged victim, to interviews and other proceedings of a campus investigation and SLCC disciplinary proceedings

3. Advise the alleged victim of, and provide written information regarding, both the alleged victim's rights and SLCC's responsibilities regarding orders of protection, no-contact orders, restraining orders, or similar lawful orders issued by a court of competent jurisdiction or by SLCC
4. Not be obligated to report crimes to SLCC or law enforcement in a way that identifies an alleged victim or an accused individual, unless otherwise required to do so by law; and
5. To the extent authorized under law, provide confidential services to students. Any requests for accommodations made by a Confidential Advisor, as provided in this Section, shall not trigger an investigation by SLCC.

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

## **X. DATA PUBLICATION(S)**

### **A. POWER-BASED VIOLENCE CLIMATE SURVEY**

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

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

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

BOR shall:

1. Develop the survey in consultation with the LCTCS and its member colleges and in accordance with national best practices
2. Work with LCTCS and its member colleges in researching and selecting the best method of developing and administering the survey
3. Consult with victims' advocacy groups and student leaders who represent a variety of student organizations and affiliations, including student government associations, academic associations, faith-based groups, cultural groups, and fraternities and sororities, when meeting the requirements of this Section
4. Submit a written report on survey results to the House Committee on Education, Senate Committee on Education, and the Governor not later than forty-five (45) days prior to the convening of the next Regular Session of the Legislature following the administration of the

- survey. The report shall summarize results from each public postsecondary education Institution and the state as a whole; and
5. Publish the survey results on BOR's website and in any other location or venue BOR considers necessary or appropriate.

SLCC must:

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

## **B. CAMPUS SECURITY REPORT**

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

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

As a best practice, SLCC may 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 SLCC's website.

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

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

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

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

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

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

## **XI. MEMORANDA OF UNDERSTANDING**

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

Each MOU shall include the following:

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

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

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

## **XII. CAMPUS POWER-BASED VIOLENCE PROCEDURES**

SLCC shall institute procedures and best practices prescribed by LCTCS regarding the prevention and reporting of incidents of power-based violence committed by or against students of SLCC.

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

1. **Confidential Advisors** (See Section about [Confidential Advisors](#))
2. **Website** (See Section about [Website Compliance](#))
3. **Online Reporting** (See Section about [Online Reporting](#))
4. **Amnesty Policy** (See Section about [Immunities and Amnesty](#))

5. **Training** (See Section about [Training](#))
6. **Inter-campus Transfer Policy** (See Section about [Transcript Notation](#))
7. **Victims' Rights Policy** (See Section about [Victims' Rights Policy](#))

### **XIII. WEBSITE COMPLIANCE**

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

1. Contact information for obtaining a Confidential Advisor
2. Reporting options for alleged victims of power-based violence
3. The process of investigation and disciplinary proceedings of SLCC
4. The process of investigation and adjudication of the criminal justice system
5. Potential reasonable accommodations that SLCC may provide to an alleged victim
6. 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
7. The name and location of the nearest medical facility where an individual may have a rape kit administered by an individual trained in sexual assault forensic medical examination and evidence collection, and information on transportation options and available reimbursement for a visit to such facility
8. Each current memorandum of understanding between SLCC and local law enforcement and criminal justice agency located within the parish of the campus(es) (12:15-13:5); and
9. Data publications as specified in [Section XII](#) of this procedure.



**XIV. APPENDICES**

**A. DEFINITIONS**

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

**Advisor:** In a Title IX conduct case or other power-based violence case involving a student, a person chosen by a party or appointed by the Institution to accompany the party to meetings related to the resolution process, to advise the party on that process, and to conduct cross-examination for the party at the hearing, if any.

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

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

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

**Confidential Advisor:** In a Title IX conduct case or other power-based violence case involving a student, a person designated by an Institution to provide emergency and ongoing support to students who are alleged victims of power-based violence.

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

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

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

- i. An administrative officer, official, or employee of a public postsecondary education board or Institution.
- ii. Anyone appointed to a public postsecondary education board or Institution.
- iii. Anyone employed by or through a public postsecondary education board or Institution.
- iv. Anyone employed by a foundation or association related to a System Management Board or Institution.

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

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

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

**Institution/Member College:** A public postsecondary education institution.

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

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

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

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

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

- a. Dating violence ([R.S. 46:2151\(C\)](#)).
- b. Domestic abuse and family violence ([R.S. 46:2121.1\(2\)](#) and [2132\(3\)](#)). For the purpose of this Part, domestic abuse shall also include any act or threat to act that is intended to coerce, control, punish, intimidate, or exact revenge on the other party, for the purpose of preventing the victim from reporting to law enforcement or requesting medical assistance or emergency victim services, or for the purpose of depriving the victim of the means or ability to resist the abuse or escape the relationship.
- c. Nonconsensual observation of another person's sexuality without the other person's consent, including voyeurism ([R.S. 14:283.1](#)), video voyeurism ([R.S. 14:283](#)), nonconsensual disclosure of a private image ([R.S. 14:283.2](#)), and peeping tom activities ([R.S. 14:284](#)).
- d. Sexual assault ([R.S. 14:41](#), [42](#) through [43.5](#), [89](#), [89.1](#), and [106](#)).
  - i. Sexual Battery ([14:43.1](#))
  - ii. Misdemeanor sexual battery ([14:43.1.1](#))
  - iii. Second degree sexual battery ([14:43.2](#))
  - iv. Oral sexual battery ([14:43.3](#))
  - v. Female genital mutilation ([14:43.4](#))
  - vi. Intentional exposure to HIV ([14:43.5](#))
  - vii. Crime against nature ([14:89](#))
  - viii. Aggravated Crime against nature ([14:89.1](#))
  - ix. Obscenity ([14:106](#))
- e. Sexual exploitation means an act attempted or committed by a person for sexual gratification, financial gain, or other advancement through the abuse of another person's sexuality including prostituting another person ([R.S. 14:46.2](#) and [82](#) through [86](#)).
  - i. Human trafficking ([14:46.2](#))
  - ii. Prostitution ([14:82](#))
  - iii. Prostitution of person under 18 ([14:82.1](#))
  - iv. Purchase of commercial sexual activity ([14:82.2](#))
  - v. Solicitation for prostitutes ([14:83](#))
  - vi. Inciting prostitution ([14:83.1](#))
  - vii. Promoting prostitution ([14:83.2](#))
  - viii. Prostitution by massage ([14:83.3](#))
  - ix. Sexual massages ([14:83.4](#))
  - x. Pandering (sexual) ([14:84](#))
  - xi. Letting premises for prostitution ([14:85](#))

- xii. Enticing persons into prostitution ([14:86](#))
- f. Sexual harassment means unwelcome sexual advances, requests for sexual favors, and other verbal, physical, or inappropriate conduct of a sexual nature when the conduct explicitly or implicitly affects an individual's employment or education, unreasonably interferes with an individual's work or educational performance, or creates an intimidating, hostile, or offensive work or educational environment and has no legitimate relationship to the subject matter of a course or academic research.
- g. Stalking ([R.S. 14:40.2](#)) and cyberstalking ([R.S. 14:40.3](#)).
- h. Unlawful communications ([R.S. 14:285](#)).
- i. Unwelcome sexual or sex- or gender-based conduct that is objectively offensive and has a discriminatory intent.

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

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

**System:** A Louisiana public postsecondary management board.

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

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

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

**Title IX Grievance Procedure:** A process for addressing and resolving a "Formal Complaint" that satisfies requirements set forth in 34 C.F.R. §106.30. See LCTCS Policy 9.002 Title IX Grievance Procedure for key terms.

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

- A. An employee of the Institution conditioning the provision of an aid, benefit, or service of the recipient on an individual's participation in unwelcome sexual conduct

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

**B. ADMINISTRATIVE REPORTING FORMS**

- 1. Title IX Coordinator (Form B1)

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

- 2. Chancellor (Form B2)

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

- 3. System President (Form B3)

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

- 4. System Board (Form B3)

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

- 5. BOR

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

**Draft Form B1 – Title IX Coordinator’s Data Report  
2021-2022 Academic Year, Fall Semester<sup>3</sup>**

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

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

<sup>4</sup> As required by Act 472, Title IX Coordinators are to track and report to the chancellor the investigation status of power-based violence reports and the disposition of reports. For your convenience we have included two columns where Title IX Coordinators may account from the information required in the Acts as it relates to administrative reporting requirements for Title IX Coordinators.

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

<sup>6</sup> Information about Formal Complaints is specifically required to be included in the Chancellor’s report. For convenience, BOR Recommends the Title IX Coordinators’ reporting in the third column serve as the basis of information to be included in the Chancellor’s report, so effectively Title IX Coordinators can copy and paste their reports regarding Formal Complaints into the Chancellor’s report.

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

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

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

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

<sup>11</sup> Although not required by law, for data collection purposes BOR requests information pertaining to the gender of both the Complainant and Respondent.

**Draft Form B2 – Chancellor’s Data Report  
2021-2022 Academic Year, Fall Semester<sup>12</sup>**

<b>Confidential Advisors and Responsible Employees<sup>13</sup></b>	<b>Total</b>
a. Number of Responsible Employees	00
b. Number of Confidential Advisors	00
<b>Annual Training (please include number and percentage)<sup>14</sup></b>	
a. Completion rate of Responsible Employees	0 (0%)
b. Completion rate of Confidential Advisors	0 (0%)
<b>Responsible Employee Reporting<sup>15</sup></b>	
a. Number of employees who made false reports	
i. Number of employees terminated	
b. Number of employees who failed to report	
ii. Number of employees terminated	
<b>Power-Based Violence Formal Complaints<sup>16</sup></b>	
a. Formal Complaints received	00
b. Formal Complaints resulting in occurrence of power-based violence	00
c. Formal Complaints resulting in discipline or corrective action	00
Type of discipline or corrective action taken	
i. For example: Suspension or Expulsion	00

<sup>12</sup> June 29, 2021 is the effective date of the state statute for purposes of complying with the Title IX Coordinator reporting requirements under Act 472.

<sup>13</sup> In accordance with Act 472, the Chancellor’s report shall include the number of Responsible Employees (i.e., employees) and Confidential Advisors for the institution.

<sup>14</sup> In accordance with Act 472, the Chancellor’s report shall include the number and percentage of Responsible Employees and Confidential Advisors who have completed annual training.

<sup>15</sup> Although this section is not required by Act 472, for data collection purposes BOR requests statistics regarding a responsible employees’ failure to comply with reporting requirements.

<sup>16</sup> In accordance with Act 472, the Chancellor’s report shall include (1) the number of Formal Complaints of power-based violence received by an institution, (2) the number of Formal Complaints which resulted in a finding that power-based violence violations occurred, (3) the number of Formal Complaints in which the finding of power-based violations resulted in discipline or corrective action, (4) the type of discipline or corrective action taken, and (5) the amount of time it took to resolve each Formal Complaint (see 2<sup>nd</sup> form)

	00
<b>Retaliation<sup>17</sup></b>	
a. Reports of retaliation received	00
b. Investigations	00
c. Findings	00
i. Retaliation occurred	00
ii. Retaliation did not occur	00

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<sup>17</sup> In accordance with Act 472, the Chancellor’s report shall include information about retaliation which include the number of reports of retaliation, and any findings of any investigations or reports of retaliation.



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

<b>Date Formal Complaint Filed<sup>18</sup></b>	<b>Status of Formal Complaint<sup>19</sup></b>	<b>Basis for Charge<sup>20</sup></b>	<b>Disposition<sup>21</sup></b>	<b>Disciplinary Status<sup>22</sup></b>	<b>Gender of Complainant<sup>23</sup></b>	<b>Gender of Respondent</b>

<sup>18</sup> Information about Formal Complaints is specifically required to be included in the Chancellor’s report. For convenience, BOR Recommends the Title IX Coordinators’ reporting in the third column serve as the basis of information to be included in the Chancellor’s report, so effectively Title IX Coordinators can copy and paste their reports regarding Formal Complaints into the Chancellor’s report.

<sup>19</sup> Status of investigation as it pertains to Formal Complaints filed for an accusation of power-based violence or retaliation.

<sup>20</sup> Type of power-based violence or retaliation alleged.

<sup>21</sup> Disposition of any disciplinary processes arising from the Formal Complaints.

<sup>22</sup> Institution should indicate where they are in the disciplinary status and also note if there was a sanction imposed and what sanction was imposed.

<sup>23</sup> Although not required by law, for data collection purposes BOR requests information pertaining to the gender of both the Complainant and Respondent.


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

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

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

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

**C. DATA PUBLICATION FORMS**

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

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

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

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

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

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

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



- Receiving an incomplete in, or a withdrawal from, a class (may be retroactive)
  - Transferring class sections
  - Temporary withdrawal/leave of absence (may be retroactive)
  - Campus safety escorts
  - Alternative course completion options.
- The right to have the LCTCS or its colleges maintain such actions for as long as necessary and for supportive measures to remain private, provided privacy does not impair the LCTCS or its colleges' ability to provide the supportive measures.
  - The right to receive sufficiently advanced, written notice of any meeting or interview involving the other party, when possible.
  - The right to ask the Investigator(s) and Decision-maker(s) to identify and question relevant witnesses, including expert witnesses.
  - The right to provide the Investigator(s)/Decision-maker(s) with a list of questions that, if deemed relevant by the Investigator(s)/Chair, may be asked of any party or witness.
  - The right not to have irrelevant prior sexual history or character admitted as evidence.
  - The right to know the relevant and directly related evidence obtained and to respond to that evidence.
  - The right to fair opportunity to provide the Investigator(s) with their account of the alleged misconduct and have that account be on the record.
  - The right to receive a copy of the investigation report, including all factual, procedure, and/or credibility analyses performed, and all relevant and directly related evidence available and used to produce the investigation report, subject to the privacy limitations imposed by state and federal law, prior to the hearing, and the right to have at least ten (10) business days to review the report prior to the hearing.
  - The right to respond to the investigation report, including comments providing any additional relevant evidence after the opportunity to review the investigation report, and to have that response on the record.
  - The right to be informed of the names of all witnesses whose information will be used to make a finding, in advance of that finding, when relevant.
  - The right to regular updates on the status of the investigation and/or resolution.
  - The right to have reports of alleged Procedure violations addressed by Investigators, Title IX Coordinators, and Decision-maker(s) who have received relevant annual training.
  - The right to a Hearing Panel that is not single-sex in its composition, if a panel is used.
  - The right to preservation of privacy, to the extent possible and permitted by law.
  - The right to meetings, interviews, and/or hearings that are closed to the public.
  - The right to petition that any LCTCS or its college representative in the process be recused on the basis of disqualifying bias and/or conflict of interest.
  - The right to have an Advisor of their choice to accompany and assist the party in all meetings and/or interviews associated with the resolution process.
  - The right to the use of the appropriate standard of evidence, preponderance of the evidence, to make a finding after an objective evaluation of all relevant evidence.
  - The right to be present, including presence via remote technology, during all testimony given and evidence presented during any formal grievance hearing.
  - The right to have an impact statement considered by the Decision-maker(s) following a determination of responsibility for any allegation, but prior to sanctioning.

- The right to be promptly informed in a written Notice of Outcome letter of the finding(s) and sanction(s) of the resolution process and a detailed rationale therefor (including an explanation of how credibility was assessed), delivered simultaneously (without undue delay) to the parties.
- The right to be informed in writing of when a decision by the LCTCS or its colleges is considered final and any changes to the sanction(s) that occur before the decision is finalized.
- The right to be informed of the opportunity to appeal the finding(s) and sanction(s) of the resolution process, and the procedures for doing so in accordance with the standards for appeal established by the LCTCS or its colleges.
- The right to a fundamentally fair resolution as defined in these procedures.