

**LSU HEALTH CARE SERVICES DIVISION
BATON ROUGE, LOUISIANA**

POLICY NUMBER: 4566-20

CATEGORY: Human Resources

CONTENT: Title IX and Sexual Misconduct Policy

APPLICABILITY: This policy applies to the Health Care Services Division Administration (HCSDA) and Lallie Kemp Medical Center (LKMC) as well as any other persons, volunteers, visitors, and contractual staff associated with HCSDA and/or LKMC.

EFFECTIVE DATE: September 22, 2016

REVIEWED/REVISED: March 20, 2017
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**LSU HEALTH CARE SERVICES DIVISION
TITLE IX AND SEXUAL MISCONDUCT POLICY**

I. POLICY STATEMENT

In accordance with Title IX, LSU Presidential Memorandum No. 73 (PM-73), and other applicable law, the Health Care Services Division (HCS D) is committed to providing a learning and working environment that promotes integrity, civility, and mutual respect in an environment free of discrimination on the basis of sex and sexual misconduct which includes sexual assault, sexual harassment, sexual exploitation, domestic violence, dating violence, stalking and retaliation.

Sexual Misconduct violates an individual's fundamental rights and personal dignity and will not be tolerated. HCS D prohibits and is committed to an environment free of discrimination on the basis of sex and Sexual Misconduct. This policy affirms these principles and provides recourse for individuals whose rights have been violated.

HCS D will take prompt action to prevent prohibited conduct, discipline those who violate this policy, prevent recurrence of prohibited behavior, and effect equitable remedies.

HCS D will affirmatively promote prevention, awareness and training programs to encourage individuals to report concerns or complaints. Everyone has a responsibility to prevent and report acts of prohibited conduct. HCS D is responsible for fostering a welcome environment conducive to working and learning.

HCS D does not discriminate on the basis of race, creed, color, marital status, sexual orientation, gender identity, gender expression, religion, sex, national or ethnic origin, age, mental or physical disability, genetic information, veteran's status, or any other status or organization protected by state or federal law, in its work environment, services, programs and activities.

Note: Any reference herein to Health Care Services Division (HCS D) also applies and pertains to Lallie Kemp Medical Center (LKMC).

II. IMPLEMENTATION

This policy or any subsequent revisions are effective upon signature/date of the HCS D Chief Operations Officer.

New Hires will be assigned this policy through WILMA as part of orientation. This policy or any subsequent revisions will also be part of HCS D's mandatory annual training for active employees, student workers, and volunteers.

III. POLICY COVERAGE/SCOPE

- A. This policy applies to all persons of the HCSD including staff, students, volunteers, organizations and any other affiliate that participates in services/activities associated with HCSD.
- B. This policy covers conduct that occurs:
 - 1. In the course of HCSD's operations;
 - 2. On any HCSD owned, controlled or operated location;
 - 3. Within the bounds of the United States;
 - 4. At any HCSD sponsored event or organizational activity in the United States whether on or off campus; and/or
 - 5. Where HCSD exercised substantial control over the Respondent in the context of where or how the alleged incident occurred.
- C. Employees are responsible for their conduct/actions from hire date of employment through departure from HCSD.
- D. Employees are covered by this policy when representing HCSD (or deemed to be a representative of HCSD) whether before, during or after work hours.
- E. Anyone subjected to Sexual Misconduct is encouraged to file a complaint with the HCSD Title IX Coordinator. Any individual who has experienced Sexual Misconduct is also urged to utilize supportive measures available whether or not the person who caused the harm is a HCSD employee or affiliate.
- F. This policy is not intended to infringe on or restrict rights guaranteed by the United States Constitution including free speech under the First Amendment, due processes clauses of the Fifth and Fourteenth Amendments and the Fourth Amendment.

IV. DEFINITIONS

For the purposes of this policy, the following definitions shall apply.

- A. Actual Knowledge – Any reasonable information of Sexual Misconduct or allegations of Sexual Misconduct provided to a Title IX Coordinator, or any other Responsible Employee. Notice would also include personal observation of such conduct by any employee.
- B. Advisor – May be any person the Complainant or Respondent chooses, or appointed by HCSD should the party not select someone. The Advisor's function shall be to support and/or consult with the party during any proceeding or meeting under this policy. The Advisor may, but is not required to, be an attorney. Participation shall be limited as follows:

The Advisor may not act as a spokesperson except:

1. During a Prehearing Conference or
2. During the Hearing when conducting cross-examination of a witness.

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

- C. Coercion-The use of express or implied threats, intimidation, or physical force placing an individual in fear of immediate harm or physical injury or causes a person to engage in unwelcome sexual activity. Coercion may include administering a drug, intoxicant, or other substance with intent to impair one's ability to consent prior to engaging in sexual activity.
- D. Complainant- An individual who believes that they are the victim of Sexual Misconduct under this policy and notifies the Title IX Coordinator or a Responsible Employee of the incident.
- E. Confidential Advisor-A person trained in accordance with Louisiana law to provide confidential services to employees regarding reporting, supportive measures, rights to report to law enforcement and other information under this policy.
- F. Consent-Clear, knowing and voluntary demonstrated through mutual understandable words or actions clearly indicating willingness to engage in a specific sexual activity and any conditions on the activity. It is active, not passive, and silence, absent actions evidencing permission, is not consent. Responsibility for obtaining consent lies with the individual initiating the sexual activity.

Consent to engage in sexual activity may be withdrawn by any person at any time. Once withdrawal of consent is expressed, the sexual activity must immediately cease. Consent is automatically withdrawn by a person incapable of giving consent. A current or previous consensual intimate relationship between the parties does not itself imply consent or preclude a finding of responsibility.

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

- G. Formal Complaint-A document filed by a Complainant or signed by the Title IX Coordinator alleging Sexual Misconduct against a Respondent and requesting HCSD to investigate the allegation. At the time of filing, a Complainant must be participating in or attempting to participate in employment or activity of HCSD.

A Formal Complaint may be filed with the HCSD Title IX Coordinator

1. In person
2. By mail
3. By electronic mail
4. By phone, or
5. By submission through designated online portals.

A Formal Complaint by a Complainant must include the individual's physical or digital signature or otherwise indicate that the Complainant is the person filing the complaint. When the Title IX Coordinator signs a Formal Complaint, the Coordinator is not a Complainant or otherwise a party and must otherwise comply with duties of the position.

- H. Formal Resolution – A process by which allegations are presented to a Hearing Panel for determination as to whether a Respondent is responsible for a violation of this policy.
- I. Hearing Panel – A body assembled to hear testimony and weigh evidence resulting in a decision regarding responsibility based on the preponderance of the evidence.
- J. Incapacitation – An individual is considered to be incapacitated if, by reason of mental or physical condition, the individual is manifestly unable to make a knowing and deliberate choice to engage in sexual activity. Being drunk or intoxicated can lead to incapacitation; however, drunkenness or intoxication is not necessarily the same as incapacitation. Incapacitation is a state beyond drunkenness or intoxication. Individuals who are asleep, unresponsive or unconscious are incapacitated. Other indicators that an individual may be incapacitated include, but are not limited to, inability to communicate coherently, inability to dress/undress without assistance, inability to walk or stand without assistance, slurred speech, loss of coordination, vomiting, or inability to perform other physical or cognitive tasks without assistance.
- K. Informal Resolution – A process where by the parties voluntarily work with a professional to reach a mutually agreeable resolution of the complaint without a formal hearing.
- L. Interim Measures – Remedial measures taken to help deescalate and offer a short-term temporary resolution during the pendency of a resolution under this policy.

- M. Non-Consensual Sexual Contact – Any intentional sexual touching or attempted sexual touching, without consent.
- N. Non-Consensual Sexual Intercourse – Having or attempting to have sexual intercourse, cunnilingus, or fellatio without consent. Sexual intercourse is defined as anal or vaginal penetration by a penis, tongue, finger, or inanimate object.
- O. Notice – A report of sexual Misconduct made to the HCSD Title IX Coordinator or any Responsible Employee.
- P. Respondent – A person reported to have engaged in actions that may constitute Sexual Misconduct.
- Q. Responsible Employee – Any employee given the duty of reporting actual notice of incidents of sexual violence or any other misconduct prohibited by this policy. Responsible Employees do not include victims’ advocates, mental health counselors, or clergy.
- R. Retaliation – Any acts or attempted acts against an individual for the purpose of discouraging an individual from exercising a right or privilege under this policy or Title IX. Activities protected from retaliation include reporting Sexual Misconduct, filing a Formal Complaint, and participation in an investigation, process or Hearing, whether as a party, witness, or Advisor.
- Prohibited retaliatory acts include, but are not limited to, intimidation, threats, coercion, or discrimination. Complaints alleging retaliation may be filed according to the grievance procedures under this Policy.
- S. Sexual Discrimination – Behaviors and actions that deny or limit a person’s ability to benefit from, and/or fully participate in employment, activities, and services because of a person’s gender or perceived gender.
- T. Sexual Exploitation - Any act attempted or committed by a person for sexual gratification, financial gain, or other advancement through the abuse or exploitation of another person’s sexuality. Examples of sexual exploitation include, but are not limited to, non-consensual observation of individuals who are undressed or engaging in sexual acts, non-consensual audio or videotaping of sexual activity, prostituting another person, human trafficking, allowing others to observe a personal consensual sexual act without the knowledge or consent of all involved parties, and knowingly exposing an individual to a sexually transmitted infection without that individual’s knowledge.
- U. Sexual Harassment – Conduct on the basis of sex that satisfies one or more the following:

1. Quid Pro Quo Sexual Harassment – An employee conditioning the provision of aid, benefit or service on the Complainant’s participation in unwelcome sexual conduct; or
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 employment or activity, or
3. Sexual Assault
 - a. Sex Offenses, Forcible – Any sexual act directed against another person without the consent of the Complainant including instances where the Complainant is incapable of giving consent.
 - 1) Forcible Rape – Penetration, no matter how slight, of the vagina or anus with any body part or object or oral penetration by a sex organ of another person, without the consent of the Complainant.
 - 2) Forcible Sodomy – Oral or anal sexual intercourse with another person, forcibly and/or against that person’s will or not forcibly or against the person’s will (non-consensually) in instances where Complainant is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity.
 - 3) Sexual Assault with an Object – To use an object or instrument to penetrate, however slightly, the genital or anal opening of the body of another person, forcibly and/or against that person’s will or not forcibly or against the person’s will (non consensually) in instances where the Complainant is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity.
 - 4) Forcible Fondling – The touching or the private body parts of another person (buttocks, groin, breasts) for the purpose of sexual gratification, forcibly and/or against that person’s will (non consensually) or not forcibly or against the person’s will in stances where the Complainant is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity.
 - b. Sex Offenses, Non-forcible – non-forcible sexual intercourse
 - 1) Incest – non-forcible sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by Louisiana law

- 2) Statutory Rape – Non-forcible sexual intercourse with a person who is under the statutory age of consent of Louisiana.
- c. Sexual Assault also includes sexual battery as defined in La.R.S. 14:43.1
4. Dating Violence – Violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the Complainant. The existence of such a relationship shall be determined based on the Complainant’s statement and with consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship. For the purposes of this definition, Dating Violence includes, but is not limited to, sexual or physical abuse or threat of such abuse. Dating Violence does not include acts covered under the definition of Domestic Violence.
 5. Domestic Violence – A felony or misdemeanor crime of violence committed:
 - a. By a current or former spouse or intimate partner of the Complainant;
 - b. By a person with whom the Complainant shares a child in common;
 - c. By a person who is cohabitating with, or has cohabitated with, the Complainant as a spouse or intimate partner;
 - d. By a person similarly situated to a spouse of the Complainant under the domestic or family violence laws of Louisiana; or
 - e. By any other person against an adult or youth who is protected from that person’s acts under the domestic abuse of family violence laws of Louisiana. *To categorize an incident as Domestic Violence, the relationship between the parties must be more than people living together as roommates. The people cohabitating must be current or former spouses or have an intimate relationship.
 6. Stalking – Engaging in a course of conduct directed at a specific person that would cause a reasonable person to:
 - a. Fear for the person’s safety or the safety of others; or
 - b. Suffer substantial emotional distress.
 - c. For the purposes of this definition
 - 1) Course of conduct means two or more acts, including, but not limited to, acts in which the stalker directly, indirectly, or through third parties, by any action, method, device, or

means, follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with a person's property.

- 2) Reasonable person means a reasonable person under similar circumstances and with similar identities to the Complainant.
- 3) Substantial emotional distress means significant mental suffering or anguish that may but does not necessarily require medical or other professional treatment or counseling.
- 4) Nothing in these definitions will be interpreted in a way that violates the First Amendment rights of any individual.

V. Sexual Misconduct – A sexual act or contact of a sexual nature that occurs, regardless of personal relationship, without the consent of the other person(s), or that occurs when the person(s) is unable to give consent or whose consent is coerced or obtained in a fraudulent manner. For the purpose of this Policy, Sexual Misconduct includes, but is not limited to, sexual abuse, violence of a sexual nature, Sexual Harassment, Non-Consensual Sexual Intercourse, Sexual Exploitation, video voyeurism, or the obtaining, posting or disclosure of intimate descriptions, photos, or videos without the express consent of the persons depicted therein, as well as dating violence, domestic, violence and stalking, as well as crimes of a sexual nature as defined in Title 14 of the Louisiana Revised Statutes or at La. R.S. 44:51.

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

X. Supportive Measures – Non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the Complainant or Respondent regardless of whether a formal complaint has been filed. Such measures are designed to restore or preserve equal access to the employment environment or activity without unreasonably burdening the other party, including measures designed to protect the safety of all parties or the employment environment, or deter Sexual Misconduct. Supportive measure may include, but are not limited to;

1. Mental or physical health services;
2. Employment arrangements or adjustments;
3. Modifications of work schedule
4. Mutual restrictions on contact between the parties;
5. Leaves of absence; and/or
6. Increased security and monitoring of certain areas of a HCSD owned, controlled, or operated location.

Supportive measures shall remain as confidential to the extent that such confidentiality would not impair the ability to provide the supportive measures. The Title IX Coordinator shall bear responsibility for coordinating the effective implementation of supportive measures.

V. **TITLE IX COORDINATOR**

HCS D shall designate a Title IX Coordinator who shall be responsible for the implementation, enforcement, and coordination of its Title IX policy and procedures.

VI. **REPORTING MISCONDUCT**

Complaints of sexual discrimination which do not involve sexual misconduct or sexual assault shall be handled under any other applicable HCS D policy.

- A. HCS D strongly urges prompt reporting of any incidence of Sexual Misconduct.
- B. Complaints may be reported to:
 - 1. HCS D Title IX Coordinator,
 - 2. Human Resources Department,
 - 3. Manager/Supervisor/Department Head/Division Director, or
 - 4. Any other HCS D Responsible Employee in authoritative role
- C. Upon notice of a possible complaint, Title IX Coordinator will provide the Complainant information on reporting options, pursuing criminal charges, health care, counseling and supportive measures available.
- D. Individuals are also strongly encouraged to report the offense to on-site security, if available, or local law enforcement if they believe criminal conduct occurred (i.e. sexual assault, sexual battery, stalking, etc.).
- E. To the extent possible, the Complainant and those who receive the complaint should preserve evidence and not disturb a potential crime scene. (This includes preserving all text or email communications that may be related to the incident.)
- F. Responsible Employees who receive notice or witness incidents of Sexual Misconduct must promptly notify the HCS D Title IX Coordinator who shall be responsible for notifying the LSU Title IX Coordinator or anyone else who may be involved in the resolution process. The following is an exception to the Responsible Employee reporting requirement:
 - 1. Information disclosed at public awareness events (e.g. Take Back the Night, candlelight vigils, protests, speak outs), or other public forums in which individuals may disclose incidents of prohibited conduct as part of educating others.

G. Rights of Complainant And Respondent Following A Report

1. The Complainant shall have the discretion and right to decide whether or when to file a Formal Complaint, report to law enforcement, and determine whether to proceed with a Formal Complaint, at the individual's discretion.
2. The Respondent shall have the right to be presumed not responsible of all allegations until found responsible for the alleged conduct by a hearing panel under this policy.
3. The Complainant and Respondent have equal rights:
 - a. To be treated with dignity and respect by HCSD officials;
 - b. To take advantage of supportive measures;
4. To receive timely notice of proceedings, processes and outcomes under this policy;
5. To have an Advisor present at any meeting or hearing under this policy;
6. To refuse to engage in informal resolution of a complaint;
7. To present witnesses, including fact and expert witnesses, and any relevant evidence;
8. To be free from retaliation for reporting violations of this policy or cooperating with an investigation;
9. To be informed in writing of the outcome or resolution of the complaint, any sanctions, and the rationale for the outcome, where permissible;
10. To exercise a right of appeal as afforded in this policy.
(Refer to Section XI.)

VII. **COMPLAINT AND INVESTIGATION**

Note: Reference is also being made to HCSD Policy #4528, Investigations Policy

A. Initial Response To Reports

Upon actual knowledge of a report of Sexual Misconduct, the HCSD Title IX Coordinator will promptly contact the Complainant to discuss the following:

1. The process for filing a Formal Complaint;
2. The right to have an Advisor; and
3. The availability of supportive measures regardless of whether a Formal Complaint is filed.

B. Formal Complaint Process

1. A Complainant may file a Formal Complaint at any time. A Formal Complaint must include the following:
 - a. Facts alleging prohibited conduct under this policy;
 - b. A signature (electronic or handwritten) or other designation that the Complainant is the individual choosing to file a Formal Complaint;
 - c. Some allegation or evidence the conduct occurred at a location or event covered by this policy; and
 - d. A statement that the Complainant is an employee or other person seeking to participate in a service, program or activity of the HCSD.
2. A Formal Complaint will be reviewed by the HCSD Title IX Coordinator to determine if it meets the threshold to proceed. If all necessary components are present and the alleged conduct falls under this policy, an investigation will commence.
3. If the Formal Complaint warrants dismissal, the Complainant will be notified in writing by the HCSD Title IX Coordinator within five (5) business days of filing. Other reasons for dismissal may include:
 - a. Withdrawal by Complainant; or
 - b. At the time of complaint, the Complainant is no longer employed or an affiliate of HCSD or attempting to gain employment or become an affiliate of HCSD. If a Formal Complaint is dismissed under this policy, the same facts may form the basis for a complaint under the applicable code of conduct or other relevant policy or procedure. (i.e. non-sex or gender-based misconduct).
4. A Formal Complaint under this policy may be consolidated with other complaints when there are multiple allegations of conduct that arise out of the same facts or circumstances, such as when there are multiple Complainants or Respondents.
5. In very limited circumstances, a Title IX Coordinator may file a Formal Complaint when the Complainant decides not to do so if it is determined that the allegations present a risk of substantial harm to community member(s). This may include use of threats; use of weapons; use of violence; a continued pattern of behavior; and/or predatory behavior.

C. Notice And Investigation

1. When an investigation commences the Respondent shall be sent written notice including the following:
 - a. The specific charges alleged;
 - b. The date and location, if known, of the incident;
 - c. A summary of the allegation with reasonable specificity; and
 - d. A request to meet with the HCSD Title IX Investigator.

2. The Investigator will make every effort to conduct a thorough and prompt investigation based on the facts and circumstances of each complaint within forty-five (45) calendar days of the notice. Complex or consolidated investigations may take longer.
3. The investigation shall include meetings with the parties involved, including witness and any other parties the Investigator may deem appropriate.
 - a. The Respondent and Complainant will be given the opportunity to identify witnesses to be interviewed.
 - b. The Investigator may seek and collect, and parties may submit, any documents or other relevant information, including, but not limited to:
 - 1) Photographs
 - 2) Video or audio recordings
 - 3) Information from social media; and/or
 - 4) Screenshots or other communications
 - c. At the conclusion of the investigation, the Investigator shall prepare a draft investigative report that summarizes the investigation, and all relevant evidence obtained.
 - d. The draft report shall be sent electronically to each party and the party's Advisor, if identified.
 - e. All evidence shall be included, even that on which the HCSD does not intend to rely in reaching a determination regarding responsibility and shall include inculpatory and exculpatory evidence whether obtained from a party or other source.
4. The parties shall have fifteen (15) calendar days from the date a draft report is submitted to review and submit a written response. The Investigator will review the comments and prepare a final report.
5. The final investigative report shall include:
 - a. A timeline of events;
 - b. Facts and circumstances surrounding the complaint;
 - c. Summarize relevant evidence; and
 - d. Be sent electronically, along with all evidence, to each party and Advisor, if identified, at least fifteen (15) calendar days prior to a hearing.
6. All evidence shall be included, even that on which HCSD does not intend to rely in reaching a determination regarding responsibility and shall include inculpatory and exculpatory evidence whether obtained from a party or other source.

VIII. INTERIM MEASURES

- A. Interim measures are remedial measures taken to help de-escalate and offer a short-term temporary resolution during the pendency of a resolution.
- B. The HCSD Title IX Coordinator, or designee, may recommend interim measures such as a "no contact" order or making alternative workplace arrangements, or

suspension/leave from employment or from participating in a program or activity on an emergency basis (all within applicable rules). Interim measures may vary depending on the nature of the complaint, status of respondent or other criteria.

- C. The following procedure applies to an emergency removal or limitation:
1. The HCSD Title IX Coordinator must make a determination that the Respondent presents an immediate threat to the physical health or safety of any other individual arising from the allegations of Sexual Misconduct;
 2. Written notice must be provided to the Respondent through the institutional email address, or in person, or US mail of the reason for the interim measure;
 3. The Respondent shall have a right to notify the HCSD Title IX Coordinator in writing, of any request to challenge the suspension or limitation.
 4. The HCSD Title IX Coordinator shall provide an opportunity to meet (virtually or in person, at the discretion of the HCSD Title IX Coordinator) within five (5) calendar days of receipt of notice;
 5. Title HCSD IX Coordinator shall provide notice in writing of the decision within five (5) calendar days after the meeting via institutional email, in person, or US mail; and
 6. The interim action shall be in effect while request for review and review are pending.

IX. **INFORMAL RESOLUTION**

- A. Informal resolution is a process whereby the parties work with a professional to reach a resolution of the complaint without a formal hearing. This process is completely voluntary and requires the consent of both parties. A party may terminate the informal resolution process at any time before conclusion.
- B. The HCSD Title IX Coordinator must determine that the circumstances and parties are appropriate for informal resolution. Complaints classified as sexual assault, rape, statutory rape, incest or involving violence resulting in significant harm to others are not appropriate for informal resolution.
- C. The HCSD Title IX Coordinator shall appoint a trained individual to facilitate the process.
- D. Informal resolution will never:
1. Be required as a condition of employment or continuing employment or enjoyment of any other right;
 2. Require a waiver of right to investigation and adjudication under the Formal Resolution process; and
 3. Be offered as a process unless a Formal Complaint is filed;

E. Informal Resolution Agreements

1. If a Formal Complaint is resolved through informal resolution, a written agreement shall be issued including any terms, obligations or outcomes.
2. Agreements must have the approval of the Complainant and Respondent.
3. The agreement shall be shared electronically, in person, or US mail with the parties by the HCSD Title IX Coordinator within seven (7) calendar days of resolution.
4. Discussion and information generated during the informal resolution process are considered confidential with only those with a need to know being informed of the resolution.
5. Discussion and information generated during the informal resolution shall not be utilized or admissible in the formal resolution process.
6. No facilitator of an informal process may be called as a witness in any procedure under this policy.

X. **PROCEDURES FOR FORMAL RESOLUTION/PANEL HEARING**

A. Formal Resolution

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

B. Pre-Hearing Conference

1. A pre-hearing conference shall be coordinated by the HCSD Title IX Coordinator and chaired by a Hearing Panel Chair.
2. Parties and Advisors are encouraged, but not required, to be present.
3. This conference shall be conducted at least five (5) calendar days prior to a scheduled Hearing Panel and fourteen (14) calendar days after the investigative report is sent to the parties and Advisors, if applicable.
4. The purpose of the pre-hearing conference shall be to:
 - a. Identify the panelists and address any objections to members of the Hearing Panel;
 - b. Address evidentiary issues or questions to be posed at the hearing (i.e. numbers of witnesses, use of documents, expected length of hearing, etc.);
 - c. Ensure parties will have Advisors available to conduct cross examination and that the Advisor is familiar with the hearing process under this policy;
 - d. Provide a forum to address any questions related to the Hearing Panel process and procedures.

C. Hearing Panel

1. The Hearing Panel shall consist of one (1) chair and a minimum of two (2) other HCSD employees trained in adjudication. Care should be exercised in the selection of the Hearing Panel members to assure that all are neutral and unbiased.
2. The Hearing Panel shall afford each party an opportunity to present evidence and question opposing parties and witnesses.

D. Advisors

1. Each party is permitted to be represented by an Advisor.
2. The Advisor may be, but is not required to be, an attorney.
3. The Advisor is the only person who may conduct cross-examination on behalf of a Complainant or Respondent.
4. An Advisor will be appointed even in situations where a party elects not to participate in the Hearing.

E. Presentation Of Evidence

1. The procedure and order for presentation of evidence will be set and maintained by the Hearing Panel Chair.
2. Each party will be allowed the opportunity to present relevant evidence to the Hearing Panel.
3. The Hearing Panel Chair will allow each party to present its own relevant evidence through submission of documents and witness testimony.
4. Each witness will then be subject to cross-examination by other parties.
5. Cross-examination must be conducted directly, orally and in real time by the party's Advisor and never by a party personally.
6. Only questions relevant to determining the accuracy of the allegations or the credibility of a witness will be allowed.
7. The Hearing Panel Chair will have sole authority to determine whether evidence presented or a question in cross-examinations is relevant and whether it will be permitted. The Hearing Panel Chair must explain any decision to exclude evidence or a question as not relevant.
8. Questions or evidence about a Complainant's sexual predisposition or prior sexual behavior are not relevant, unless:
 - a. Offered to prove that someone other than the Respondent committed the conduct alleged in the complaint,
 - b. Concerns specific incidents of the Complainant's prior sexual behavior with Respondent and are offered to prove consent.
9. Only evidence submitted to cross-examination may be considered by the Hearing Panel to determine responsibility.
10. The Hearing will be recorded and the recording or transcript will be made available for the parties for review.

F. Failure To Appear/Answer

The Hearing Panel cannot draw a conclusion about the determination regarding responsibility based solely on:

1. A party's or witness's absence from the hearing or
2. Refusal to answer questions.

G. Deliberations

1. The Hearing Panel shall deliberate in closed session with only panelists present.
2. The Hearing Panel is to apply the preponderance of the evidence standard when determining responsibility.
3. In order to find a Respondent responsible under the preponderance of the evidence standard, the evidence must show that the charge is more likely supported than not.
4. Upon reaching a decision, the Hearing Panel will invite the parties and Advisors to return to hear of the Hearing Panel's finding regarding responsibility for a violation of this policy.
5. If the Respondent is found responsible, the Hearing Panel shall move to address appropriate disciplinary action or sanctions.

H. Determination - Disciplinary Action or Consequence

1. If the Respondent is found responsible, the Hearing Panel may request input from the parties to evaluate possible disciplinary action or consequence.
2. Prior conduct history of the Respondent will be considered when determining an appropriate consequence.
3. If additional information is requested, the Hearing Panel shall deliberate in closed session with only panelists present.
4. The Hearing Panel will notify the parties and Advisors of any consequence imposed.
5. The Hearing Panel will prepare and provide to the HCSD Title IX Coordinator, within seven (7) calendar days of the Hearing, a written determination which must include:
 - a. Identification of the allegations constituting Sexual Misconduct;
 - b. A description of the procedural steps taken from receipt of the Formal Complaint through determination, including any notifications to the parties, interviews with parties and witnesses, evidence gathered and hearings held;
 - c. Findings of fact supporting the determination;
 - d. Conclusions regarding the application of the policy to the facts;

- e. A statement explaining the consequence for each policy violation found “responsible”; and
 - f. Whether additional remedies designed to restore or preserve equal access will be provided by HCSD to the Complainant.
6. The HCSD Title IX Coordinator is responsible for effective implementation of any remedies/consequences and sharing of outcomes.
 7. The written determination prepared by the Hearing Panel chair shall be shared electronically, in person, or US Mail by the HCSD Title IX Coordinator with the parties and Advisors within seven (7) calendar days of receipt from the Hearing Panel.
 8. The determination regarding responsibility and consequences becomes final either:
 - a. If appealed, the date written notice is provided to the parties of the appeal result; or
 - b. If not appealed, the date on which an appeal would no longer be considered timely.

I. Possible Corrective Actions

1. Employees or Affiliates of HCSD found responsible for violating this policy may expect the range of consequences to include, but not be limited to:
 - a. Disciplinary action up to and including dismissal,
 - b. Counseling; or
 - c. Limited presence or restricted presence on HCSD premises
2. Both the Complainant and Respondent will be informed of the outcome of any corrective action or disciplinary process.
3. Violations of this policy may also be subject to individual civil or criminal liability under the state or federal law.
4. When an employee is deemed to have violated this policy, the HCSD Title IX Coordinator and/or Human Resources Department and/or applicable HCSD administrator will jointly determine the appropriate disciplinary action, or recommendation for disciplinary action in accordance with applicable laws, rules, LSU and/or HSCD policy.
5. The HCSD procedures for resolution of such complaints may be subject to review by the LSU Title IX Coordinator.

J. Witnesses

1. Necessary travel expenses of HCSD witnesses shall be paid by HCSD as provided for by travel reimbursement regulations.
2. Both parties may produce witnesses, other than employees of the HCSD. Witness fees or expenses will be borne by the party requesting the witness' appearance.

3. HCSD employees incurring overtime due to being called as a HCSD witness will be compensated in accordance with applicable rules governing overtime compensation.
4. Any HCSD employee required to testify shall not be subjected to any disciplinary action by the appointing authority because of presenting testimony, but may be held accountable for actions revealed by testimony.

XI. APPEAL/RIGHT OF APPEAL

- A. Any party may appeal a Hearing Panel determination.
- B. The following is an exclusive list of the bases for appeal:
 1. Evidence of bias by a Hearing Panel member;
 2. New evidence has become available since the Hearing Panel hearing that was not previously available with due diligence;
 3. There was a significant and prejudicial departure from the procedures and standards in this policy;
 4. The outcome was clearly erroneous based on the facts and evidence presented to the Hearing Panel; or
 5. The consequences imposed were inappropriate for the violation.
- C. Appeal Procedures
 1. Notice of Appeal must be in writing and shall be forwarded to the HCSD Title IX Coordinator within fourteen (14) calendar days of notification of the Hearing Panel decision.
 2. The Notice of Appeal shall contain the following information:
 - a. Name of the Complainant and Respondent;
 - b. Identify the ground(s) for appeal;
 - c. If appeal is based upon discovery of new information, a description/documentation of the new information and reason it was not discoverable prior to the Hearing Panel hearing.
 3. Upon receipt of the Notice of Appeal, the HCSD Title IX Coordinator, within five (5) calendar days of receipt of the Notice of Appeal, shall:
 - a. Confirm receipt of the Notice of Appeal to the appealing party;
 - b. Notify any other party of the appeal; and
 - c. Contact the LSU Title IX Coordinator
 4. The LSU Title IX Coordinator, or designee, and HCSD Title IX Coordinator shall, within fourteen (14) calendar days of notice, review the Notice of Appeal.

5. If the required elements for appeal exist, the HCSD Title IX Coordinator shall:
 - a. Appoint reviewer(s) (no more than three);
 - b. Notify the parties of identity of the reviewer(s);
 - c. Provide the parties seven (7) calendar days to challenge the reviewer(s) for conflict of interest or bias. (The LSU Title IX Coordinator, in conjunction with the HCSD Title IX Coordinator will determine if cause exists to excuse the reviewer.)
6. The HCSD Title IX Coordinator shall forward the appellate record to the reviewer.
7. The record shall include, but is not be limited to:
 - a. All evidence introduced at the hearing;
 - b. Any pre-hearing determinations from the Hearing Panel Chair;
 - c. The written findings of the Hearing Panel; and •
 - d. The recording or transcript of the formal hearing.
8. Within fourteen (14) calendar days of receipt of the appellate record, the reviewer(s) shall render a written decision including finding and rationale and forward to the HCSD Title IX Coordinator.
9. The reviewer may:
 - a. Uphold the Hearing Panel outcome; or
 - b. Modify the Hearing Panel outcome for responsibility and/or consequences; or
 - c. Overturn the Hearing Panel outcome and remand for a new hearing.
7. The LSU Title IXS Coordinator shall notify the HCSD Title IX Coordinator who shall then notify the parties and Advisors within five (5) calendar days of receipt of the decision.
8. Appeal decisions are final.
9. In the event of remand for rehearing, the subsequent Hearing Panel outcome may be appealed in accordance with the provisions herein.
10. Any appeal right exercised under this policy shall complete the process.

XII. PROHIBITION OF RETALIATION

- A. No person may intimidate, threaten, coerce or discriminate against any individual for the purpose of interfering with any right or privilege secured by Title IX or this policy or because the individual has made a report or complaint, testified, assisted or participated or refused to participate in any manner in an investigation, proceeding or hearing under this policy.

- B. Retaliation is a violation of this policy and shall constitute misconduct subject to disciplinary action herein.
- C. HCD will take steps to prevent recurrence and remedy the effects of any violation of this policy.
- D. Charging an individual with disciplinary actions outside this policy for making materially false statements in bad faith in the course of a proceeding does not constitute retaliation.
- E. A finding of responsibility against a Respondent, alone, is not sufficient to conclude that any party made a materially false statement in bad faith.

XIII. CONFIDENTIALITY

- A. All parties involved in a complaint, any investigation, and/or resolution, including witnesses, are encouraged to keep information concerning the complaint private until a final decision is rendered in order to protect both the complainant and the respondent. To the extent permitted by law, HCSD will strive to maintain the confidentiality of any individual under this policy who:
 - 1. Has made a report or complaint;
 - 2. Has been named as a perpetrator;
 - 3. Has been named as a Respondent; or
 - 4. Has been named as a witness.
- B. HCSD may be required to divulge information on a need-to-know basis in order to properly address the complaint, when there is a threat to others, pursuant to subpoena, or other court of administrative order, or as may be required by applicable law.
- C. Violations of confidentiality by any other persons involved in the resolution, investigation or administration of the complaint, including any employee or staff if identify and confirmed, may result in disciplinary or corrective action.

XIV. COOPERATION WITH LAW ENFORCEMENT

- A. HCSD will comply with law enforcement requests for cooperation and such cooperation may require HCSD to temporarily suspend the fact-finding aspect of an investigation under this policy while the law enforcement agency is in the process of gathering evidence.
- B. HCSD will promptly resume its investigation as soon as notified by law enforcement that it has completed the initial evidence gathering process.

- C. HCSD may provide up to fourteen (14) calendar days to allow for the law enforcement agency criminal process/investigation to unfold prior to resuming the fact-finding aspect of the investigation under this policy.
- D. The HCSD will implement appropriate interim steps and remedies during the law enforcement agency's investigation to provide for the safety of the parties to the case, the HCSD community, and to avoid any instance of retaliation.

XV. TITLE IX PREEMPTION

- A. To the extent a conflict exists between State or local law and Title IX, the obligation to comply with Title IX is not obviated or alleviated by any State or local law.
- B. To the extent other HCSD policies may conflict with this policy, the provisions of this policy shall supersede and govern.

XVI. TASK FORCE

HCSD may invoke a task force at any time to address Sexual Misconduct and shall include employees, staff, and affiliates as appropriate.

XVII. RECORD KEEPING

- A. Records created or received under this policy will be maintained for seven (7) years from the date each case is closed.
- B. The following shall be kept as a part of the record:
 - 1. Each investigation including any determination regarding responsibility;
 - 2. Any audio or audiovisual recording or transcript of a hearing;
 - 3. Any disciplinary consequences/sanctions imposed on the Respondent;
 - 4. Any remedies provided to the Complainant designed to restore or preserve equal access to HCSD employment, programs, or activities;
 - 5. Any appeal and result therefrom;
 - 6. Any informal resolution and result therefrom;
 - 7. All materials used to train Investigators, decision makers, and any person who facilitates an informal resolution process;
 - 8. Records of any actions, including supportive measures, taken in response to a report or Formal Complaint.

XVIII. MEMORANDUM OF UNDERSTANDING

- A. Each campus should make diligent efforts to enter into Memorandum of Understanding (MOU) with law enforcement and criminal justice agencies in the parish in accordance with Louisiana law, if applicable.
- B. In accordance with La. R.S. 17:3399.11, et seq., the MOUs should:
 - 1. Clearly delineate responsibilities;
 - 2. Establish protocols for investigation, including standard for notification and communication and measures to promote evidence preservation;

3. Include agreed upon training and requirements for the parties on issues related to sexually-oriented criminal offenses for the purpose of sharing information and coordinating training, to the extent possible;
 4. Evidence a commitment and protocols to share information; and
 5. State that local law enforcement agencies shall include information on police reports regarding status of alleged victim as a HCSD employee or affiliate.
- C. The MOUs should be updated every two (2) years. The MOU should provide for joint or shared trauma-informed training specific to assisting sexual assault survivors.

XIX. AGENCY CLIMATE SURVEY

- A. HCSD shall administer a Campus Climate Survey every three years (2022-2023, 2025-2026, etc.) to assess the knowledge, perceptions and behaviors of its employees and staff regarding Sexual Misconduct.
- B. HCSD is encouraged to supplement this survey with any additional information specific to its unique characteristics and that may assist in preventing Sexual Misconduct and administering strategies dealing with Sexual Misconduct.
- C. The Campus Climate Survey shall be submitted to the LSU Title IX Coordinator by June 1 of each year the survey is required.

XX. TRAINING, EDUCATIONAL, AND PREVENTION PROGRAMS

- A. HCSD shall regularly offer training, educational and prevention programs designed to inform employees and staff about Sexual Misconduct, PM-73 and Title IX.
- B. HCSD will maintain a list of educational programs, prevention programs, and other events designed to reduce the incidence of sexual violence in and around the workplace and within the community.
- C. Resources available – please refer to Appendix, pages 1 – 4.

XXI. EXCEPTIONS

Any exception to this policy must be approved by the HCSD Chief Operations Officer.

RESOURCES

Listed below are resources available to employees that can provide assistance regarding sexual assault, domestic violence, dating violence, and/or stalking:

Health Care Services Division Administration

HCSD Title IX Coordinator

Tamara Simien

225-354-4840

tsimie@lsuhsc.edu

5429 Airline Hwy

Baton Rouge, LA 70805

Kathy Townsend, HR Administrator

225-354-4843

ktowns@lsuhsc.edu

5429 Airline Hwy

Baton Rouge, LA 70805

Lallie Kemp Employees may also contact:

Lallie Kemp Medical Center Administrator

Rhonda Green

985-878-1330

rgreen3@lsuhsc.edu

52579 Hwy 51 South

Independence, LA 70443

Jill Lavergne, HR Director

985-878-1385

jhellm@lsuhsc.edu

52579 Hwy 51 South

Independence, LA 70443

Lallie Kemp Medical Center Emergency Dept

985- 878-1240

EMERGENCY CONTACTS

911

Baton Rouge City Police

225-389-3800

Baton Rouge Sheriff

225-389-5000

Appendix Page 2

Tangipahoa Sheriff's Office

Hammond 985-345-6150

Amite 985-748-8147

Hammond Police Dept

985-277-5700

Amite Police Dept

985-748-6169

State Wide Hotline

1-800-541-9706

The Phone (Crisis Line)

225-924-5781

24-hour crisis line

225-924-3900 or 800-437-0303

MEDICAL:

Our Lady of the Lake Regional Medical Center

7777 Hennessy Blvd.

Baton Rouge, LA 70808

225-765-6565

ololrmc.com

Baton Rouge General Bluebonnet

8585 Picardy Avenue

Baton Rouge, LA 70809

225-763-4000

brgeneral.org

Baton Rouge General Mid City

3600 Florida Blvd

Baton Rouge, LA 70806

225-387-7000

brgeneral.org

Hood Memorial Hospital

301 Walnut Street

Amite City, LA

985-748-9485

hoodmemorial.com

Appendix Page 3

North Oaks Medical Center

15790 Medical Center Dr.

Hammond, La

985-345-2700

northoaks.org

University Medical Center - New Orleans

Emergency Department

Sexual Assault Nurse Examiner (SANE)

2000 Canal St., New Orleans, LA 70112

For more information, call 504-702-4547 or 504-702-4542.

umcno.org/sane

Search for hospitals near you:

ushospitalfinder.com/hospitals-in/Louisiana

COMMUNITY RESOURCES

Louisiana Coalition Against Domestic Violence – Home Page

lcadv.org

Louisiana Coalition Against Domestic Violence – Programs and Resources

lcadv.org/programs-resources

National Resources for Sexual Assault Survivors and their Loved Ones

rainn.org/national-resources-sexual-assault-survivors-and-their-loved-ones

Iris Domestic Violence Center (Baton Rouge area)

225-389-3001

1-800-541-9706

<http://www.stopdv.org>

STAR: Sexual Trauma Awareness & Response (Baton Rouge area)

225-383-7273

brstar.org

SAFE (Tangipahoa, Livingston, St. Helena and Washington Parishes)

985-542-8384

24/Hr Crisis Line: 1-888-411-1333
safelouisiana.org

Appendix Page 4

Metropolitan Center for Women and Children (New Orleans area)

504-837-5400

1-888-411-1333

mcwcgno.org

Crescent House (Orleans Parish)

504-866-9554

ADDITIONAL RESOURCES:

Not Alone

notalone.gov

National Center for Victims of Crime

victimsofcrime.org/src

National Suicide Prevention Life Line

1-800-273-8255

Louisiana Commission on Law Enforcement and Administration of Criminal Justice

lcle.la.gov

Louisiana District Attorney's Association

ldaa.org

Louisiana Coalition Against Domestic Violence

lcadv.org

New Orleans Family Justice Center

nofjc.org

RAINN (Rape, Abuse & Incest National Network)

rainn.org

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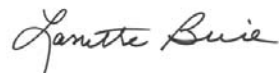
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HCSO Human Resources Director



09/25/2020

Approver:
Buie, Lanette
Chief Operations Officer



09/25/2020