

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

POLICY NUMBER: 4566-22

CATEGORY: Human Resources

CONTENT: Prohibiting Power-based Violence and Sexual- and Gender-based Harassment and Discrimination, and Sexual Misconduct

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

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**LSU HEALTH CARE SERVICES DIVISION
PROHIBITING POWER-BASED VIOLENCE, SEXUAL- AND GENDER-BASED
HARASSMENT AND DISCRIMINATION, AND SEXUAL MISCONDUCT POLICY**

I. POLICY STATEMENT

In accordance with LSU Presidential Memorandum No. 73 (PM-73), Act 472 of the 2021 Regular Legislative Session, the Board of Regents (BOR) Uniform Policy on Power-Based Violence/Sexual Misconduct, and other applicable laws, the Health Care Services Division (HCSD) is committed to creating an environment that promotes inclusion, 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.

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

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

HCSD 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. HCSD employees, who have knowledge of sex- and gender-based harassment and discrimination, including sexual misconduct, must file a report with the Title IX Coordinator. Any employee who is required to report instances of power-based trauma and fails to promptly make the report without good cause or with the intent to harm or deceive, or knowingly makes a report that is false, shall be terminated. HCSD is responsible for fostering a welcoming environment conducive to working and learning.

HCSD 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 protected by state or federal law, in its work environment, services, programs and activities.

Note: Any reference herein to Health Care Services Division (HCSD) 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 HCSD 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 HCSD'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. Where the Complainant is an HCSD employee acting within their job responsibilities;
 - 3. On any HCSD owned, controlled or operated location;
 - 4. Within the bounds of the United States;
 - 5. At any HCSD sponsored event or organizational activity in the United States whether on or off campus; and/or
 - 6. 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 Power-based violence, sex- and gender-based harassment and discrimination, and sexual misconduct is encouraged to file a complaint with the HCSD Title IX Coordinator. Any individual who has experienced Power-based violence, sex- and gender-based harassment and discrimination, and 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. Supportive measures are available whether or not a Formal Complaint is filed.
- 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.

- G. Sex- or gender-based harassment and discrimination have broad jurisdiction that include all Title IX allegations, but also many more allegations that involve possible sex- or gender-based harassment or discrimination that do not rise to the level of a Title IX violation. If the sex- or gender-based harassment or discrimination does not meet Title IX jurisdictional requirements, then the allegation is “dismissed” as a Title IX case. The case still may be considered for possible investigation and resolution under this policy or the applicable employee code of conduct, HCSD policies, or other relevant policies and/or laws. (i.e. non-sex or gender-based misconduct). Such cases include, but are not limited to:
1. Sex- or gender-based harassment or discrimination that does not meet the required definitions under Title IX
 2. Off campus or online conduct, social media or other electronic media/communication where:
 - a. HCSD deems off campus sexual misconduct effectively deprives someone access to HCSD employment.
 - b. The Title IX Coordinator, in their discretion, exercises jurisdiction, such as when the Sexual Misconduct may affect the safety or well-being of employees at all HCSD locations.
 3. Instances of power-based violence that are independent of sexual misconduct.

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

- D. 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 incapacitate prior to engaging in sexual activity.
- E. Complainant- An individual who is alleged to be the victim of conduct that could constitute power-based violence, or sex or gender-based harassment or discrimination under this policy.
- F. Confidential Advisor/Supporter-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.
- G. Confidential Resource – Those deemed confidential by law or professional ethics, or individuals explicitly selected, trained, and designated by HCSD to provide confidential support to employees for concerns arising under this policy. Confidential Resources may also help facilitate supportive measures and assist with reporting to Title IX Coordinator and/or law enforcement, if desired by the Complainant.
- H. Consent-Clear, knowing and voluntary permission 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 as long as the withdrawal is reasonably and clearly communicated. Once withdrawal of consent is expressed, the sexual activity must immediately cease. Consent is automatically withdrawn by a person, who during the activity, becomes incapacitated. A current or previous consensual intimate relationship

between the parties does not itself imply consent or preclude a finding of responsibility.

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

- I. Dating Violence - Violence, when on the basis of sex or gender, committed by person who is or has been in a social relationship of a romantic or intimate with the Complainant. The existence of such a relationship shall be determined on the Complainant's statement and with consideration of the length of the relationship, the type of relationship and the frequency of interaction between 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 abuse. Dating Violence does not include acts covered under the definition of Violence.
- J. Decision-Maker - A trained individual who reviews all relevant and directly including the investigation report and makes a decision regarding responsibility based on a preponderance of the evidence as well as any applicable sanctions. A Decision-Maker is used during the Administrative Resolution Process.
- K. Determination Letter - A letter provided by the Hearing Panel to the parties and their Advisors at the conclusion of the Formal Resolution Process. This letter summarizes the allegations and applicable policies, the investigation, and the findings and sanctions of the panel.
- L. Domestic Violence - A felony or misdemeanor crime of violence, when on the basis of sex or gender, committed by a current or former spouse or intimate partner of the Complainant; a person with whom the Complainant shares a child in common; a person who is cohabitating with, or has cohabitated with, the Complainant as a spouse or intimate partner; a person similarly situated to a spouse of the Complainant under the domestic or family violence laws of Louisiana; or by any other person against an adult or youth who is protected from that person's acts under the domestic abuse or family violence laws of Louisiana.

*To categorize an incident as Domestic Violence, the relationship between the parties must be more than people living together as roommates. The people cohabitating must be current or former spouses or have an intimate relationship.
- M. Formal Complaint - A document filed by a Complainant or signed by the Title IX Coordinator alleging sex- or gender-based harassment or discrimination (including Sexual Misconduct) against one or more Respondents, and requesting an investigation of the allegation by HCSD or LSU, whichever is applicable.
 - 1. A Formal Complaint may be filed with the HCSD Title IX Coordinator

- a. In person
 - b. By mail
 - c. By electronic mail
 - d. By phone
2. 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.
- N. Formal Resolution – A process by which allegations, and evidence, are presented in a live hearing to a Hearing Panel for determination as to whether a Respondent is responsible for a violation of this policy.
- O. Hearing Panel – A body of three (3) trained individuals assembled to hear testimony and weigh evidence resulting in a decision regarding responsibility based on the preponderance of the evidence.
- P. Hostile Environment Harassment - Unwelcome conduct, determined by a reasonable person, to be so severe, pervasive, and objectively offensive, that it effectively denies a person equal access to an education or employment-related programs, activities, and services.
- Q. 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.
- R. Incident Report - Initial report alleging sex- or gender-based harassment or discrimination. An Incident Report does not, by itself, trigger an investigation.
- S. Informal Resolution – A process where by the parties voluntarily work with a professional to reach a mutually agreeable resolution of the complaint.
- T. Interim Measures – Remedial measures taken to help deescalate and offer a short-term temporary resolution during the pendency of a resolution under this policy.
- U. Intimidation - Implied threats or acts that cause an unreasonable fear of harm in another.

- V. Mandatory Reporter - Any employee given the duty of reporting actual notice of incidents of sexual violence or any other misconduct prohibited by this policy. All HCSD employees are considered Mandatory Reporters (also referred to as “responsible employees”) with a few notable exceptions; Employees do not include victims’ advocates, mental health counselors, or clergy.

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

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

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

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

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

- BB. 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.

- CC. Retaliation – Any acts against an individual for the purpose of interfering with or discouraging an individual from exercising a right or privilege under this policy. Activities protected from retaliation include reporting or opposing sex- or gender-based harassment and discrimination; filing a Formal Complaint; and participation in an investigation, process or Hearing, whether as a party, witness, Hearing Panel member, appeals officer, or Advisor.

Prohibited retaliatory acts include, but are not limited to, intimidation, threats, coercion, or discrimination. Complaints alleging retaliation may be filed according to the grievance procedures under this Policy.

DD. Sanction – For purposes of the HCSD policy, a sanction for an employee is defined as a corrective action and/or disciplinary action in accordance with LA State Civil Service rules and regulations and the LSU Policies. For non-employees, a sanction is defined as cancellation of services and/or affiliation with a vendor, contractor, or volunteer.

EE. Sex- and Gender- Discrimination – Behaviors and actions that deny or limit a person’s ability to benefit from, and/or fully participate in the education or employment-related programs, activities, and services because of a person’s gender or perceived gender.

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

GG. Sexual Harassment – Conduct on the basis of sex that satisfies one or more the following:

1. Quid Pro Quo Sexual Harassment;
2. Hostile Environment Harassment;
3. Retaliation

HH. Sexual Assault - Sexual contact or penetration without consent

1. 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.
 - a. 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.
 - b. 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.
 - c. 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.
- d. Forcible Fondling – The touching of the private body parts of another person (buttocks, groin, breasts) for the purpose of sexual gratification, forcibly and/or against that person’s will (non-consensually) or not forcibly or against the person’s will in stances where the Complainant is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity.
2. Sex Offenses, Non-forcible – non-forcible sexual intercourse
 - a. Incest – non-forcible sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by Louisiana law
 - b. Statutory Rape – Non-forcible sexual intercourse with a person who is under the statutory age of consent of Louisiana.
 3. Sexual Assault also includes sexual battery as defined in La.R.S. 14:43.1
- II. Sexual Misconduct - A sexual act or contact of a sexual nature that occurs, regardless of personal relationship, without the consent of the other person(s), or that occurs when the person(s) is unable to give consent or whose consent is coerced or obtained in a fraudulent manner. Examples include but are not limited to threatening or causing physical harm; extreme verbal, emotional, or psychological abuse; or other conduct which threatens or endangers the health or safety of any person. For the purpose of this Policy, Sexual Misconduct includes, but is not limited to, sexual abuse, violence of a sexual nature, Sexual Harassment, Sexual Assault, Sexual Exploitation, as well as Dating Violence, Domestic Violence and Stalking when on the basis of sex or gender, as well as crimes of a sexual nature as defined in Title 14 of the Louisiana Revised Statutes or at La. R.S. 44:51.
- JJ. 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.
- KK. Sexual Orientation Discrimination - Behaviors and actions that deny or limit a person’s ability to benefit from, and/or fully participate in the educational or employment-related programs, activities, and services because of a person’s actual or perceived sexual orientation.
- LL. Stalking – Engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for the person’s safety or the safety of others or suffer substantial emotional distress. For the purposes of this definition:
1. Course of conduct means two (2) 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.

MM. Support Measures/Resources - Supportive measures/resources are non-disciplinary, non-punitive individualized services offered as appropriate and as reasonably available. They are designed to protect the safety of all parties and/or HCSD's work environment, and/or to deter harassment, discrimination, or retaliation. (Refer to Appendix for list of Support Measures/Resources)

The Title IX Coordinator shall be responsible for coordinating, identifying, and providing a list of available resources/support measures. Supportive measures are maintained as confidential to the extent possible, provided confidentiality does not impair HCSD's ability to provide recommendations for those supportive measures. Such supportive measures may include, but are not limited to:

1. Available referrals for counseling, medical, or other healthcare services;
2. Available referrals to local advocacy programs;
3. Referral to local law enforcement;
4. Available referrals to community-based service providers
5. Modification of work schedule
6. Implementing a no contact order, or other contact limitations;
7. Changing an employee's work environment (e.g. reporting structure, office/workspace relocation);
8. Leaves of absence in accordance with applicable rules and HCSD policies
9. Increased security and monitoring of certain areas of a HCSD owned, controlled, or operated location
10. Any other actions deemed appropriate by the Title IX Coordinator.

NN. Title IX of the Education Amendments of 1972 – Comprehensive federal law that prohibits discrimination on the basis of sex in any federally funded education program or activity. The principal objective of Title IX is to avoid the use of federal money to support sex discrimination in education programs and to provide individual citizens effective protection against those practices. Title IX applies, with a few specific exceptions, to all aspect of federally funded education programs or activities. In addition to traditional educational institutions such as colleges, universities, and elementary and secondary schools, Title IX also applies to any education or training program operated by a recipient of federal financial assistance or that are funded by other federal agencies.

OO. Title IX Coordinator - Individual designated by the HCSD to be responsible for responding to complaints of possible sex- or gender-based harassment or discrimination and to coordinate appropriate responses to such complaints.

V. **ADDRESSING ALLEGATIONS OF SEX- OR GENDER-BASED HARASSMENT AND DISCRIMINATION, POWER-BASED VIOLENCE AND SEXUAL MISCONDUCT**

Addressing allegations of sex- or gender-based harassment and discrimination is a necessarily detailed process committed to a fair and impartial resolution. In the sections below, the process is largely outlined in chronological order of reporting, supportive measures, investigating, options for resolution, and appeal. The LSU Title IX Coordinator will aid in administering the process and serve as a consultant on cases involving Power-Based Violence and Sexual Misconduct on all LSU campuses, to include HCSD.

VI. **AMNESTY**

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

VII. **RETALIATION**

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

VIII. **LSU TITLE IX COORDINATOR AND HCSD TITLE IX COORDINATOR**

The LSU Title IX Coordinator is the Title IX Campus Coordinator for the LSU A&M campus and is responsible for administering the PM-73 and Board of Regents policies at all LSU locations, to include HCSD.

- A. The LSU Title IX Coordinator can be contacted at:
 LSU Title IX Coordinator
 118 Himes Hall
 Baton Rouge, LA 70803
titleix@lsu.edu
 Phone: 225-578-9000
 Fax: 225-578-442
- B. HCS D Title IX Coordinator - Serves as responder to complaints of power-based violence and Sexual Misconduct and is responsible for managing intake, providing supportive measures, convening Hearing Panels, and implementing sanctions. The HCS D Coordinator works closely with the LSU Title IX Coordinator throughout any investigation and resolution processes.
- The HCS D Title IX Coordinator can be contacted at:
 HCS D Title IX Coordinator
 5429 Airline Hwy
 Baton Rouge, LA 70805
lsuhotline@lsu-hsc.edu
 Phone: 225-354-4843
 Fax: 225-354-4851

IX. REPORTING MISCONDUCT

- A. Mandatory Reporting
 All employees, with few exceptions, are **required** to report instances of sex- or gender-based harassment and discrimination, including Sexual Misconduct and Power-Based Violence (e.g. sexual assault, staking, dating violence, domestic violence, sexual exploitation, retaliation, etc.) for which they are not the Complainant, but of which they are aware. An employee who fails to promptly make the report without good cause, with the intent to harm or deceive, or knowingly makes a report that is false, **shall be terminated** in accordance with HCS D's disciplinary procedures, LA State Civil Service rules, and/or LSU Policy.
1. Reports must be made to the Title IX Coordinator. Incident Reports must include the following information if known:
 - a. Identity of the alleged Complainant;
 - b. Identity of the alleged perpetrator;
 - c. Type of power-based violence, sexual misconduct or retaliation alleged to have been committed;
 - d. Any other information about witnesses, location, date, and time that the incident occurred; and
 - e. Any other relevant information
 2. Reports to the Title IX Coordinator can be made in person, via phone, or email.

3. In the event the incident is a safety threat to the individual or the work environment, the report may be shared with law enforcement as appropriate.
 4. Anyone subjected to any type of power-based violence and sexual misconduct is encouraged to file a complaint. Any individual who has experienced any form of power-based violence or sexual misconduct is also urged to utilize supportive measures available on the HCSD Administration/Lallie Kemp Hospital websites. Supportive measures are available whether or not a Formal Complaint is filed.
- B. Limited Exceptions
1. There are limited exceptions to the reporting requirement. These exceptions represent HCSD's commitment to providing victims and survivors of trauma related to power-based violence and sexual misconduct with confidential support and resources needed to address their needs.
 2. Employees who do not have to report power-based violence or sexual misconduct trauma to the Title IX Coordinator are:
 - a. Mental health counselors acting within the scope of their licensure at the time of the report;
 - b. Staff providing services through a psychological services or other HIPAA protected center acting with the scope of their licensure at the time of the report; and
 - c. Clergy acting with the scope of their credentials at the time of the report.
 3. The following are exceptions to the Mandatory Reporter reporting requirement:
 - a. Information disclosed at public awareness events (e.g.: Take Back the Night, candlelight vigils, protests, speak outs), or other public forums in which individuals may disclose incidents of prohibited conduct as part of educating others; or
 - b. Disclosure is made indirectly, as in overhearing a conversation.
 - c. In such cases, employees are encouraged to report the matter to the Title IX Coordinator and may be provided with supportive measures.
- C. Confidentiality
- Unless waived in writing by the Complainant, the identity of the Complainant is confidential and not subject to disclosure. The following exceptions apply:
1. Identified to someone employed by HCSD to investigate
 2. Identified to a law enforcement officer if necessary to conduct a criminal investigation into the allegations of the report
 3. Identified to the alleged perpetrator of the incident to the extent required by law; or
 4. Identified to a potential witness to the incident in order to conduct an investigation into the allegations of the report

- D. Initial Contact with Complainant
1. Upon notice of a possible complaint through an Incident Report, the Title IX Coordinator will provide the Complainant information on, and assistance with, reporting options:
 - a. Filing a Formal Complaint; or
 - b. Filing a criminal complaint with law enforcement, if applicable
 2. Title IX Coordinator will provide Complainant with options for other available supportive measures, if applicable, to include, but not limited to:
 - a. Health care
 - b. Counseling; and/or,
 - c. Work adjustments.
 3. Individuals are strongly encouraged to report the offense to Hospital security, or local law enforcement if they believe criminal conduct occurred such as sexual assault, sexual battery, stalking, etc. Title IX Coordinator will assist with contacts, if requested.
 4. If complaint is criminal in nature and to the extent possible, 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.
- E. Supportive Measures/Resources
1. Available supportive measures/resources are provided to both parties upon receipt of notice of an alleged violation of this policy. Available supportive measures/resources are also available on the HCSD/Lallie Kemp Hospital websites as well as in the Appendix of this policy. It is not required that the matter be investigated to access supportive measures/resources.
 2. Supportive measures/resources may include, but not limited to:
 - a. Referral for counseling, medical, or other healthcare services;
 - b. Referral to local advocacy programs;
 - c. Referral to local law enforcement;
 - d. Referral to community-based service providers;
 - e. Safety planning;
 - f. Implementing a no contact order, or other contact limitations;
 - g. Changing an employee's work environment (e.g. reporting structure, office/workspace relocation);
 - h. Any other actions deemed appropriate by the Title IX Coordinator
 3. Support measures/resources are maintained as confidential, to the extent possible.
 4. Support measures/resources are non-disciplinary, non-punitive services offered as appropriate and as reasonably available.
- F. 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. The Complainant

also has the right to receive assistance from the HCSD Confidential Advisor.

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, including but not limited to:
 - a. To be treated with dignity and respect;
 - b. To receive a prompt, fair, and impartial process consistent with these policy procedures;
 - c. To be offered supportive measures;
 - d. To receive timely, written notice of the allegations, proceedings, processes, and outcomes under this policy;
 - e. To have an Advisor of their choice present at any meeting or hearing under this policy and to have that Advisor conduct cross-examination of the parties and witnesses in a hearing;
 - f. To refuse to engage in informal resolution of a Formal Complaint;
 - g. To present witnesses, including fact and expert witnesses, and any relevant evidence;
 - h. To not have inadmissible prior sexual history/predisposition used by the Decision-Maker;
 - i. To be free from retaliation for reporting violations of this policy or cooperating with an investigation.
 - j. A right to review and comment on all evidence prior to a decision being made (for Administrative Resolution and Formal Resolution);
 - k. To be simultaneously informed in writing of the outcome or resolution of the complaint, and the rationale for the outcome, any appeal, or any other decision considered final; and
 - l. To exercise a right of appeal as outlined in this policy.
4. Additionally, parties participating in a Formal Resolution also have the following rights:
 - a. The right to review and comment on all relevant and directly related evidence at least ten (10) calendar days prior to completion of the final investigation report;
 - b. The right to review and comment on the final investigation report (if applicable) at least ten (10) calendar days prior to a decision;
 - c. The right to be present for the entire hearing, whether in person or via video technology.

X. **COMPLAINT AND INVESTIGATION**

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

In order for an investigation into a complaint of sex- or gender-based harassment and discrimination to occur, the Complainant, or under certain circumstances the Title IX

Coordinator, must file a Formal Complaint. This is a step beyond an Incident Report, which is the first notification that a possible violation occurred. The Incident Report does not trigger an investigation. The Formal Complaint will be reviewed and determination made as to whether the offenses meet the criteria to be considered as a Title IX complaint. If it does, a Title IX investigation will proceed. If it does not, the allegation may be investigated under other HCSD policies.

A. Initial Response to Reports

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

1. The availability of supportive measures/resources regardless of whether a Formal Complaint is filed;
2. The process for filing a Formal Complaint as well as process for an investigation including an appeal;
3. Complainants preference for manner of resolving the complaint and any barriers to proceeding;
4. Information on the rights and responsibilities as a party in the matter including the right to have an Advisor of their choice;
5. Jurisdiction of Title IX policy versus power-based violence conduct and differences between procedures;
6. Instruct the Complainant not to destroy any potentially relevant documentation in any format;
7. Explain the prohibition against retaliation;
8. Provide a copy of PM73 and any other relevant policies;
9. The right to file a complaint with law enforcement, if the conduct alleged is criminal in nature; to be assisted in doing so; and
10. If the Title IX Coordinator has cause to believe that as a result of the incident there is reason to believe the safety of any person is in imminent danger, the Title IX Coordinator shall inform the applicable Administrative staff members.
11. The legal requirement to communicate necessary non-identifiable details of the report to applicable HCSD Administration and/or law enforcement

B. Formal Complaint Process

1. The Formal Complaint Process commences with the filing of a Formal Complaint by a Complainant or signed by Title IX Coordinator alleging sex- or gender-based harassment or discrimination, including Sexual Misconduct, against one or more Respondents and requesting HCSD to investigate the allegation. A Formal Complaint may be filed with the Title IX Coordinator in person, by mail, or electronic mail.
2. A Complainant may file a Formal Complaint with a Title IX Coordinator at any time; there is no time limitation on doing so. A Formal Complaint must be submitted by the Complainant and include the following components:

- a. Facts alleging prohibited conduct under this policy including time, date, location, name of individuals involved;
 - b. A signature, electronic or handwritten, or other designation that the Complainant is the individual choosing to file a Formal Complaint;
 - c. Some allegation or evidence the conduct occurred at a location or event covered by this policy; and
 - d. A statement that the Complainant is an employee or other person, volunteer, visitor, or contractual staff associated with HCSD.
3. The Title IX Coordinator will assess whether all necessary components are present in the complaint; whether the allegation, if true, would be a violation of Title IX and/or other applicable policies related to sex- or gender-based discrimination; and whether the complaint falls within the Title IX jurisdiction. The Title IX Coordinator will make the decision to either begin a Title IX investigation, or dismiss the complaint as a whole.
 4. If the Formal Complaint warrants dismissal under Title IX because it does not meet the Title IX threshold under this policy, the Complainant will be notified in writing by the Title IX Coordinator, typically within seven (7) calendar days of filing.
 5. Other discretionary reasons for dismissal may include withdrawal of the complaint; at the time of complaint, the Complainant is no longer participating or attempting to participate as a part of the HCSD agency; or the Complainant is no longer an employee of HCSD.
 6. A Formal Complaint under this policy may be consolidated with other complaints where there are multiple allegations of conduct that arise out of the same facts or circumstances, such as when there are multiple Complainants or Respondents. This policy may also address any alleged misconduct (employee code of conduct, etc.) that is ancillary to our concurrent with alleged violations of this policy.
 7. 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 HCSD employees or HCSD premises. This may include, but is not limited to, use of threats; use of weapons; use of violence; a continued pattern of behavior and /or predatory behavior. If the Respondent is an employee, HCSD may also be required to act on alleged misconduct irrespective of a Complainant's wishes.

C. Advisors

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

Prehearing Conference or the Hearing when conducting cross-examination of a party or a witness.

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

D. Notice and Investigation

1. Upon determining that an investigation is warranted under this policy, the LSU Title IX Coordinator will appoint the trained investigator(s). Assigned investigators will not be the HCSD Title IX Coordinator or the Decision Maker. When an investigation commences the Respondent, the Complainant, and their Advisors shall be sent a detailed, written Notice of the Investigation and Allegations (NOIA) including, at a minimum, the following:
 - a. A summary of the allegation with reasonable specificity;
 - b. The identity of the parties (if known);
 - c. The specific policies implicated;
 - d. The date and location of the incident (if known);
 - e. The right for the parties to have an advisor of their choice, who may be – but is not required to be – an attorney, present for all resolution-related proceedings and that LSU can help appoint an Advisor, if desired by the party;
 - f. A statement that presumes the Respondent is not responsible for all allegations until found responsible for the alleged conduct by a hearing panel under this policy;
 - g. A statement that the parties may inspect and review evidence, including the investigation report, consistent with these procedures, prior to a decision being made;
 - h. A statement about retaliation included in this policy;
 - i. A statement indicating that HCSD policy prohibits knowingly false statement or knowingly submitting false information during the resolution process;
 - j. A request to meet with the Title IX investigator;
 - k. an indication that the resolution process complies with Title IX’s Regulations contained in Section 106.45 of 20 U.S.C. 1681; and
 - l. The notice of investigation and allegations may be amended during the course of the investigation, and that any amendments will be promptly communicated to the parties.
2. The Investigator will make a good faith effort to conduct a thorough, prompt, and impartial investigation based on the facts and circumstances of each complaint within 45 calendar days of the receipt of the Formal Complaint. This timeframe may expand or contract based on factors such as the complexity or severity of the allegations, as well as the involvement of external parties (e.g. law enforcement), Complex or consolidated

investigations may take longer. The burden of proof and burden of gathering evidence is on HCSD, and the HCSD will provide the Complainant and Respondent equal opportunity to present facts, expert witnesses, and other inculpatory and exculpatory evidence. The parties will not be restricted from discussing the allegations or gathering evidence.

3. HCSD/LSU will comply with law enforcement requests for cooperation and such cooperation may require HCSD/LSU to temporarily suspend the fact-finding aspect of an investigation under this policy while the law enforcement agency is in the process of gathering evidence. HCSD/LSU will promptly resume its investigation as soon as notified by law enforcement that it has completed the initial evidence gathering process. HCSD/LSU may provide up to fifteen (15) 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. Police investigations and reports are not determinative of whether harassment occurred under Title IX or HCSD policy, and therefore the HCSD has the responsibility to respond promptly and effectively.
4. To maintain safety and to limit the impact of alleged misconduct, HCSD may implement appropriate interim actions and support measures to the parties in the case as well as, the HCSD community during the law enforcement agency's investigation.
5. The investigation shall include meetings with the parties involved, including witnesses and any other parties the Investigator may deem appropriate. All investigation interviews will be recorded by the Investigator and no unauthorized recordings are permitted. The Respondent and complainant will be given the opportunity to identify witnesses and request that they be interviewed. An attempt will be made to interview all available, relevant witnesses with follow-up interviews conducted as necessary.
6. The Investigator may seek and collect, and parties may submit, any documents or other relevant information, including, but not limited to:
 - a. Photographs;
 - b. Emails or text messages;
 - c. Video or audio recordings
 - d. Information from social media; or
 - e. Screenshots or other communications.
7. The HCSD will not access , consider, disclose, or otherwise use records are made or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting or assisting in their professional capacity, and which are made and maintained in connection with the provision of treatment to the part, unless, the HCSD obtains the party's voluntary, written consent to do so as part of the investigation process.
8. At the conclusion of the investigation, the investigator shall prepare a comprehensive draft investigative report that summarizes the

that

investigation, and all relevant evidence obtained. The draft report shall be sent electronically to each party and the party's Advisor, if identified. All evidence shall be included, even that on which the university does not intend to rely in reaching a determination regarding responsibility and shall include inculpatory and exculpatory evidence whether obtained from a party or other source.

9. The parties shall have fifteen (15) calendar days, from the date the draft report and the evidence are submitted to the parties, to review and submit a written response. All reasonably available evidence to be presented by the parties at the hearing must be submitted to the investigator prior to completion of the final investigative report. The investigator will review the comments and prepare a final report, incorporating as deemed necessary any relevant feedback.
 10. The final investigative report shall include:
 - a. A description of procedural steps taken from receipt of the formal complaint up to the decision;
 - b. A timeline of the alleged incidents(s); and
 - c. Facts and circumstances surrounding the complaint
 11. The report will fairly summarize relevant evidence, but all evidence shall be included, even that on which HCSD/LSU does not intend to rely in reaching a determination regarding responsibility. This includes inculpatory and exculpatory evidence whether obtained from a party or other source.
 12. The investigative report will not make any recommendation or decision about whether a violation occurred, not make any formal assessment of credibility.
 13. The final report will be sent electronically, along with all evidence, to each party and Advisor, if identified, and to the Decision-Maker or Hearing Panel Chair.
- E. Resignation/Retirement/Termination/Transfer While a Case is Pending,
1. If an employee resigns, retirees, transfers out of HCSD, or terminates employment from HCSD by any other means while a case is pending, the Title IX Coordinator will have the discretion to continue the investigation to the extent possible.
 2. The employee also may not be eligible for rehire.
 3. In either case, LSU/HCSD will, continue to address and remedy any systemic issues or concerns that contributed to the alleged violation, and provide supportive measures/resources available to the Complainant and others, as deemed necessary or appropriate by the Title IX Coordinator.

XI. RESOLUTIONS

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

1. Informal Resolution – a voluntary process intended to provide parties the opportunity to mutually control the outcome, and is most often used in lower-level case of sex- or gender-based harassment or discrimination. Informal Resolution can be used at any time during the resolution process.
2. Administrative Resolution – involves a thorough and impartial investigation, a review of all evidence and the investigation report by the parties, and an impartial Decision-Maker who reviews all evidence, the investigation report, and poses written questions to the parties prior to making a decision. The parties may also appeal any decision from the Administrative Resolution process.
3. Formal Resolution – is used for the Title IX cases, as well as any case where suspension or dismissal from employment is possible. Formal resolution involves a thorough and impartial investigation, a review of all evidence and the investigation report by the parties, a live hearing before an impartial panel of three (3) individuals, and a decision by those decision makers. The parties may also appeal any decision from the Administrative or Formal Resolution processes.

B. Resolution Process Pool

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

C. Informal Resolution

1. Informal Resolution is a process whereby the parties work with a professional to reach a resolution of the complaint without a decision by a Decision-Maker or a Hearing Panel regarding a violation of this policy.
2. This process is a completely voluntary and requires the consent of both parties.
3. A party may terminate the informal resolution process at any time before conclusion.
4. Informal Resolution can include mediation, alternative dispute resolution, or other agreements between the parties.
5. Informal Resolution does not use an investigation, calling of witnesses, or a report of findings. The parties themselves create an outcome that resolves the complaint.

6. The LSU Title IX Coordinator, in consultation with the HCSD Title IX Coordinator must determine that the circumstances and parties are appropriate for informal resolution and shall appoint a trained individual to facilitate the process. Complaints involving violence that resulted in significant harm to other (e.g.; domestic violence, dating violence, etc.) are not appropriate for informal resolution.
7. Informal Resolution will never be required as a condition of continued employment or enjoyment of any other right; a waiver of right to investigation under the Formal Resolution process; nor be utilized to resolve an allegation against a Respondent employee.
8. If a Formal Complaint is resolved through Informal Resolution, a written agreement shall be issued including any terms, obligations or outcomes. Agreement will be drafted by the informal process facilitator, and must have the approval of the Complainant and Respondent. Upon approval of both parties, the Formal Complaint shall be dismissed. Agreement shall be promptly shared electronically with the parties by the Title IX Coordinator.
9. Discussion and information generated during the Informal Resolution process are considered confidential and shall not be used or admissible in the Formal Resolution process. The imposition of sanctions are not possible as the result of the Informal Resolution process. At the discretion of the Title IX Coordinator, however, a failure of the parties to uphold certain elements of the agreement may warrant a disciplinary action. No facilitator of an informal resolution process may be called as a witness in any procedure under this policy.
10. The results of Informal Resolution are not subject to appeal.

D. Administrative Resolution

1. This process is the procedures used when allegations in a Formal Complaint are sex- or gender-based but do not rise to the level of requiring a Formal Hearing under Title IX, and otherwise identified as power-based violence, or for which Informal Resolution is either inappropriate or where one or both parties choose not to use Informal Resolution.
2. The Administrative Resolution includes an investigation into the allegations and a single Decision-Maker who will determine the findings and sanctions.
3. The determination as to whether or not an Administrative Resolution is appropriate is made by the Title IX Coordinator, and must account not just for the nature and severity of the alleged violation, but also for the disciplinary history of the Respondent. Cases appropriate for Formal Resolution are not able to use the Administrative Resolution process unless the Respondent has accepted responsibility for all allegations.
4. Administrative Resolution will never be used unless a Formal Complaint is filed. The investigation for Administrative Resolution follows the procedures set forth in Section IX of this policy.
5. Questioning During Administrative Resolution

- a. At the conclusion of the investigation, but prior to dissemination of the final investigation report, the Title IX Coordinator will appoint a trained, impartial person to serve as Decision-Maker in the case.
 - b. The final report will then be sent to the Decision-Maker, the parties, and their Advisors.
 - c. Upon receipt of the final report, the Decision-Maker will contact the parties and their Advisors and offer them the opportunity to provide a list of questions, if desired, that the party would like asked of the other party and the witnesses.
 - d. These questions must be submitted within seven (7) calendar days following the Decision-Maker's outreach.
 - e. Upon receipt of such questions, the Decision-Maker will determine the relevance of each question and ask the relevant questions of the other party and the witnesses. The Decision-Maker can also ask their own questions of the parties and the witnesses.
 - f. This questioning – both from the parties and by the Decision-Maker-is done in writing. This is not a formal, in-person hearing, rather a decision by a trained Decision-Marker.
- E. Decision-Making
1. Once the Decision-Maker, the parties and their advisors have received a copy of the final investigation report, the Decision-Maker will review the investigation report, as well as all relevant evidence, the parties' additional statement, and responses to the draft investigation report. The Decision-Maker will then apply the preponderance of the evidence standard when determining responsibility.
 2. 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.
 3. If the Respondent is found responsible, the Decision-Maker may request input from the parties to evaluate possible sanction/disciplinary action.
 4. The Decision Maker may also request input from relevant HCSD officials in determining the appropriate sanction/disciplinary action. Prior conduct history of the Respondent will also be considered when determining an appropriate action.
 5. The Decision-Maker will prepare and provide to the Title IX Coordinator, typically within fifteen (15) calendar days of receiving the final investigation report, a written determination which will include:
 - a. Identification of the allegations constituting a violation of this policy;
 - b. A description of the procedural steps taken from receipt of the Formal Complaint through determination, including any notifications to the parties, interviews with parties and witnesses, evidence gathered and hearings held;
 - c. Findings of fact supporting the determination;
 - d. Conclusions regarding the application of the policy to the facts;

- e. A statement explaining the sanction/corrective action/disciplinary action for each policy violation for which the Respondent is found “responsible;” and
 - f. Whether additional remedies designed to restore or preserve equal access will be provided to the Complainant.
6. The Title IX Coordinator is responsible for effective implementation of any sanctions and sharing of outcomes.
 7. An employee found responsible for violating this policy may expect a range of actions to include, but not limited to, suspension, demotion, counseling, psychological assessment, and/or termination of employment.
 8. A non-employee found responsible for violating this policy may expect termination of services/activities including volunteers, organizations, contractual staff, and any other affiliate associated with HCSD.
 9. Both the Complainant and Respondent will be informed in writing of the outcome of any corrective action or disciplinary process. The written determination prepared by the Decision-Maker shall be simultaneously shared electronically by the Title IX Coordinator with all parties and Advisors. With limited exceptions such as imminent risk to the safety of others, sanctions from a Formal Hearing are not implemented until the conclusion of the appeals process.
 10. Either party can file an appeal as is described in Section VII of this policy. The determination regarding responsibility and sanctions becomes final either:
 - a. If appealed, the date written notice is provided to the parties of the appeal result, or
 - b. If not appealed, the date on which an appeal would no longer be considered timely.
 11. With limited exceptions, sanctions from the Administrative Resolution process are not implemented until the conclusion of the appeals process.

F. Formal Resolution

The Formal Resolution process is the procedure by which allegations in a Formal Complaint are presented in a formal PM 73 Hearing for a determination as to whether the policy was violated.

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

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

A minimum of fifteen (15) calendar days must pass once the final investigative report has been disseminated before the Hearing takes place. During this time, the Title IX Coordinator will secure members and name the chair of the Hearing Panel and ensure both parties have an Advisor who will be present during the Hearing panel. At their discretion, the Hearing Panel Chair may, for good cause, issue one delay in the hearing of no more than fifteen (15) calendar days.

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

The conference shall be conducted at least five (5) calendar days prior to a scheduled Hearing Panel. Pre-Hearing Conferences are not recorded.

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

- a. Identify the panelists and address any objections to members of the Hearing Panel;
 - b. Address evidentiary issues or questions to be posed at the hearing (i.e. numbers of witnesses, use of documents, relevance of evidence, expected length of hearing, etc.);
 - c. Ensure parties have Advisors available to conduct cross examination and that the Advisor is familiar with the hearing process under this policy; and
 - d. Provide a forum to address any questions related to the Hearing Panel process and procedures.
2. Hearing Panel
 - a. The PM 73 Hearing Panel is appointed by the Title IX Coordinator and shall consist of one chair and two other individuals trained in adjudication.
 - b. Hearing Panel chairs and members are typically selected from the trained Resolution Process Pool, or from the trained group of Administrative Law Judges, but the Title IX Coordinator may go outside of that group as long as the individuals have received appropriate training.
 - c. The Hearing panel shall afford each party an opportunity to present evidence and for their Advisor to question opposing parties and witnesses.
 - d. Hearings may be conducted in person, via video technology, or a hybrid approach depending on the wishes of the parties and the Hearing Panel Chair.
 3. Advisors in Hearings
 - a. Each party is permitted to have an Advisor present with them throughout the Hearing.

- b. The Advisor may not answer questions on behalf of their advisee, and their role in the hearing is limited to cross-examination and questioning of the other party and the witnesses, and to consult with their advisee throughout the Hearing as needed.
 - c. If a party does not have an Advisor at the Hearing, one shall be provided by LSU at no cost, typically selected from the Resolution Process Pool.
 - d. The Advisor is the only person who may conduct cross-examination on behalf of the Complainant or Respondent.
 - e. An Advisor will be appointed even in situations where a party elects not to participate in the Hearing.
4. Presentation of Evidence – the following describes the Hearing Process:
- a. The Hearing Panel Chair will oversee and manage the procedures and order for presentation of evidence. The Hearing will be recorded and the recording or transcript will be made available for the parties for review. No unauthorized recordings are permitted.
 - b. At the beginning of the Hearing, the Investigator will present a summary of the final Investigation Report and the relevant evidence and will be subject to questioning by the Decision-Makers and the parties' Advisors. The Investigator will be present for the entire Hearing, but not for deliberations, and the Panel and the parties may ask clarifying questions of the Investigator throughout the hearing, as deemed appropriate by the Chair. Neither of the parties (or their Advisors), nor the Decision-Makers should ask the Investigator their opinions on credibility, recommended findings or determinations.
 - c. Once the Investigator has presented their report, relevant evidence, and been questioned by the Panel and parties' Advisors, witnesses will provide relevant information in turn. Typically, the Complainant will present first, followed by an order determined by the Hearing Panel Chair. Absent exigent circumstances, all evidence presented by the parties must have been submitted to the Investigator prior to the hearing.
 - d. At the conclusion of each party's or witness's presentation of evidence, the members of the Hearing Panel will be allowed to ask questions, followed by cross-examination by the parties' Advisors. Cross-examination must be conducted direct, orally, and in real-time by the party's Advisor, and never by a party personally. The parties must be able to see and hear each other, as well as the witnesses while each is giving testimony and answering questions.
 - e. Only questions relevant to determining whether the applicable policies have been violated or the credibility of a witness will be allowed. The Hearing Panel Chair will have sole authority to determine whether evidence presented or a question in cross-examination is relevant and whether it will be permitted. The

- Hearing Panel Chair must explain any decision to exclude evident or a question as not relevant.
- f. Questions or evidence about a Complainant’s sexual predisposition or prior sexual behavior are not relevant, unless:
 1. Offered to prove that someone other than the Respondent committed the conduct alleged in the complaint, or
 2. Concern specific incidents of the Complainant’s prior sexual behavior with respondent and are offered to prove consent.
 - g. Only evidence submitted to cross-examination may be considered by the Hearing Panel to determine responsibility. The parties and witnesses must be willing to submit to cross-examination, and answer all relevant questions posed by the Parties’ Advisors.
5. **Absence or Failure to Appear/Answer**
 The Hearing Panel cannot draw an inference about the determination regarding responsibility based solely on a party’s or witness’s absence from the hearing or refusal to answer questions.
6. **Deliberations**
- a. The Hearing Panel shall deliberate in closed session with only panelists present.
 - b. the Hearing Panel is to apply the preponderance of the evidence standard when determining responsibility.
 - c. A simple majority vote is required to determine the finding.
 - d. In order to find a Respondent responsible under the preponderance of the evidence standard, the evidence must show that the charge is more likely supported than not. If the respondent is found in violation for one or more of the allegations, the Panel will then shift to determining the appropriate corrective action, and/or disciplinary action within the jurisdiction of LA State Civil Services rules, and LSU Policies, when applicable.
7. **Determining Sanctions/Corrective Actions/Disciplinary Actions**
- a. During sanctioning/corrective action/disciplinary action deliberations, the Panel may consider the previously submitted impact statements in determining the appropriate action.
 - b. HCSD guidelines, as well as the prior conduct history of the Respondent and any power differential between the Respondent and the Complainant will also be considered when determining an appropriate action along with the nature, severity, pervasiveness, and the predation of the violations(s).
 - c. The Panel may also consult with Human Resources to ensure the action is consistent with employment-related laws, regulations, and policies.
 - d. The Hearing Panel will prepare and provide to the Title IX Coordinator, typically within seven (7) calendar days of the Hearing, a written Determination Letter which musts include:

1. Identification of the allegations constituting violation of the sex- or gender-based harassment and discrimination policy, as well as any other concurrent or ancillary policies;
 2. A description of the procedural steps taken from receipt of the Formal Complaint through determination, including any notifications to the parties, interviews with parties and witnesses, evidence gathered and hearings held;
 3. Findings of fact supporting the determination;
 4. Conclusions regarding the application of the policy to the facts;
 5. A rationale for each finding;
 6. A statement explaining the action for each policy violation found “responsible”; and
 7. Whether additional remedies designed to restore or preserve equal access will be provided by HCSD to the Complainant.
- e. The Title IX Coordinator is responsible for effective implementation of any actions and sharing of outcomes. The written determination prepared by the Hearing Panel chair shall be shared electronically by the Title IX Coordinator with the parties and Advisors, typically within five (5) calendar days of receipt from the Hearing Panel.
- f. The determination regarding responsibility and sanctions/corrective actions/disciplinary actions becomes final either:
1. If appealed, the date written notice is provided to the parties of the appeal results; and
 2. If not appealed, the date on which an appeal would no longer be considered timely.
- g. Possible Corrective Actions/Disciplinary Actions
1. An employee found responsible for violating this policy may expect the range of actions to include, but not be limited to, suspension, demotion, psychological assessment, counseling, or termination of employment.
 2. A non-employee found responsible for violating this policy may expect termination of services/activities including volunteers, organization contractual staff, and any other affiliate associated with HCSD.
 3. Both the Complainant and respondent will be informed in writing of the outcome of any corrective action or disciplinary process.
 4. With limited exceptions such as imminent risk to the safety of others, actions from a Formal Hearing are not implemented until the conclusion of the appeals process.

XII. APPEAL

A. Right of Appeal

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

1. The title IX Coordinator, Investigator, Decision-Maker or Hearing Panel members had a conflict of interest or bias for or against complainants or respondents generally or the individual Complainant or respondent specifically that affected the outcome of the matter;
2. New evidence is discovered that was not reasonably available at the time the determination regarding responsibility or dismissal was made, that could affect the outcome of the matter;
3. Procedural irregularity that affected the outcome of the matter;
4. The outcome was clearly erroneous based on the facts and evidence presented to the Decision-Maker or the Hearing Panel;
5. The sanctions imposed were inappropriate for both the violation and the disciplinary history of the Respondent.

B. Appeals Procedures

1. The Appeals process is to be deferential to the Hearing Panel's decisions.
2. The process is not a re-hearing.
3. In most cases, the appeals are confined to a review of the relevant evidence, the Investigation report, the Hearing Panel's determination letter and the recording of the hearing.
4. The Appeals review is also limited to specific grounds intended to ensure the decision of the Decision-Maker or the Hearing Panel was materially fair and consistent with policies.
5. A Notice of Appeal must be in writing and submitted to the Title IX Coordinator within seven (7) calendar days of email notification of the Decision-Maker's or the Hearing Panel's decision.
6. The Notice of appeal shall contain:
 - a. The name of the Complainant and Respondent;
 - b. Identify the ground(s) for appeal; and
 - c. And if the appeal is based upon discovery of new information, a description/documentation of the new information and reason it was not discoverable prior to the Hearing Panel hearing.
7. Upon receipt of the Notice of Appeal, the Title IX Coordinator, typically within five (5) calendar days, shall confirm receipt of the Notice of Appeal to the appealing party, notify any other part of the appeal, and contact the LSU Title IX Coordinator. The other party of the appeal shall be provided seven (7) calendar days to submit a response to the appeal to the Title IX Coordinator.
8. The LSU Title IX Coordinator shall promptly appoint an impartial Appeals Reviewer and provide the Appeals Reviewer(s) with the Notice of Appeal. The Appeals Reviewer will then determine if the Notice of Appeal is timely and contains required elements for appeal. If so, the Appeals Reviewer will notify the parties of their identities. The Appeals Reviewer(s) are individuals trained in their responsibilities and are

typically drawn from the resolution Process Pool. If either of the parties challenges the impartiality of a Reviewer, the LSU Title IX Coordinator, in conjunction with the HCSD Title IX Coordinator, will determine if cause exists to excuse the reviewer. If the Notice of Appeal is not timely or does not contain the required elements, then the Notice of appeal is dismissed and the decision of the Hearing Panel becomes final.

9. The Title IX Coordinator shall promptly forward the evidence and information relied upon by the Decision-Maker or Hearing Panel, to the Appeals Reviewer. The evidence and information shall include, but is not limited to:
 - a. The Notice of Appeal;
 - b. All evidence introduced at the hearing, including the investigation report;
 - c. Any pre-hearing determinations from the Hearing Panel Chair (if applicable);
 - d. The written findings of the Decision-Maker or Hearing Panel; and
 - e. The recording or transcript of the formal hearing (if applicable).
10. The Appeals Reviewer(s) shall render a written decision including finding and rationale and forward to the LSU Title IX Coordinator typically within seven (7) calendar days after receipt of the evidence and information. The reviewer may:
 - a. Uphold the Hearing Panel outcome; or
 - b. Overturn the Hearing Panel finding and sanction and remand for a new hearing; or
 - c. Overturn the Hearing Panel outcome and remand for a new or adjusted investigation (if the error was in the investigation, which is then subject to a new hearing; or
 - d. Modify the Hearing Panel outcome for responsibility and/or sanctions.
11. The LSU Title IX Coordinator shall notify the HCSD title IX Coordinator who shall then notify the parties and Advisors, typically within five (5) calendar days of receipt of the decision.
12. Decisions of the Appeal Reviewer are final. In the event of remand for re-hearing, the subsequent Hearing Panel outcome may be appealed in accordance with the provisions herein. Otherwise, any appeal right exercised under this policy shall complete the process.

XIII. ADDITIONAL PROVISIONS

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

Records created or received under this policy will be maintained for at least seven (7) years from the date each case is closed. The following shall be kept as part of the record:

1. Each investigation including any determination regarding responsibility, whether through the Formal or Administrative processes;
2. Any audio or audiovisual recording or transcript of a hearing;
3. Any disciplinary sanctions imposed on the Respondent;
4. Any appeal and result therefrom;
5. Any informal resolution and result therefrom;
6. All materials used to train Title IX Coordinators, Investigators, Decision-Makers, and any person who facilitates an informal resolution process; and
7. Records of any actions, including supportive measures/resources, taken in response to a report of Formal Complaint. These records will also include:
 - a. the basis for all conclusions that the response was not deliberately indifferent;
 - b. If no supportive measures were provided to the Complainant, document the reasons why such a response was not clearly unreasonable in light of the known circumstances.
8. HCSD/LSU may be required to disclose information on a need-to-know basis in order to properly address a complaint, when there is a threat to others, pursuant to subpoena, or other court or administrative order, or as may be required by applicable law.
9. Violations of confidentiality or privacy by any other persons involved in the resolution, investigation or administration of the complaint, including any employee may result in disciplinary or correction action.
10. HCSD/LSU will also maintain any and all records in accordance with state and federal laws.

XIV. ADMINISTRATIVE REPORTING REQUIREMENTS

- A. Act 472 of the 2021 Regular Session requires biannual reporting to institutional management boards and annual reporting to the Board of Regents with ultimate submission to the Louisiana Legislature.
- B. The following timeline is prescribed:
 1. HCSD Title IX Coordinator submits HCSD reports to HCSD COO by October 10th and April 10th.
 2. HCSD COO submits biannual reports to the LSU President by October 24th and April 24th.
 3. LSU President submits biannual report to the LSU Board of Supervisors by November 7th, and May 8th.
 4. LSU Board of Supervisors submits annual report to the Board of Regents by December 1st, and an interim report to the Board of Regents by June 1st.

5. The Board of Regents submits report to the Louisiana Legislature by January 15th .

XV. **EXCEPTIONS**

The HCSD COO may consider an exception to this policy as long as it does not violate the intent of this policy, state and federal law, LSU policies, or the Board of Regents policy and procedures.

XVI. **RESOURCES**

- A. Title IX of the Education Amendments of 1972
- B. La R.S. 13:43.1.
- C. Title 13 of the Louisiana Revised Statutes
- D. La. R.S. 14:403
- E. La. R.S. 44:51
- F. Louisiana Board of Regents Uniform Policy on Power-Based Violence

Appendix

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

Reporting Options:

Health Care Services Administration and Lallie Kemp Medical Center
Title IX Coordinator
Kathy Townsend, HR Administrator
225-354-4843
ktowns@lsuhsc.edu
5429 Airline Hwy
Baton Rouge, LA 70805

Health Care Services Division and Lallie Kemp Medical Center
Confidential Advisor/Supporter
Rebecca Reeves
985-878-1369
rreeve@lsuhsc.edu
52579 Hwy 51 South
Independence, LA 70443

Lallie Kemp Medical Center
Jill LaVergne, HR Director
985-878-1565
jhellm@lsuhsc.edu
52579 Hwy 51 South
Independence, LA 70443

Listed below are Support Measures/Resources available in the Baton Rouge Area, New Orleans Area, and Tangipahoa/Independence Area that can provide assistance regarding sexual assault, domestic violence, dating violence, and/or stalking:

SUPPORTIVE MEASURES/RESOURCES FOR BATON ROUGE AREA:

Emergency Contacts

911

Baton Rouge City Police
225-389-3800

Baton Rouge Sheriff
225-389-5000

The Phone (Crisis Line)
225-924-5781

24-hour crisis line
225-924-3900 or 1-800-437-0303

Medical

Our Lady of the Lake Regional Medical Center
7777 Hennessy Blvd.
Baton Rouge, LA 70808
<https://ololrmc.com>

Baton Rouge General Bluebonnet
8585 Picardy Avenue
Baton Rouge, LA 70809
<https://brgeneral.org>

Community Resources

Iris Domestic Violence Center
225-389-3001
1-800-541-9706

STAR: Sexual Trauma Awareness & Response
225-383-7273

SUPPORTIVE MEASURES/RESOURCES FOR NEW ORLEANS AREA:

Emergency Contacts

911

New Orleans Police Department
504-821-2222

Orleans Parish Sheriff Department
504-202-9339

Jefferson Parish Sheriff Department
504-363-5500

Medical

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

Community Resources

Metropolitan Center for Women and Children
504-837-5400 or 1-888-411-1333
<http://mcwcgno.org/>

Crescent House (Orleans Parish)
504-866-9554

New Orleans Family Justice Center
<https://www.nofjc.org/>

Assisting Survivors of Sexual Assault and Violence in New Orleans
University Medical Center - New Orleans
Forensic Program
2000 Canal Street
New Orleans, LA 70112
504-702-4547 or 504-702-4542
<https://www.umcno.org/programs-services/forensic-program>

SUPPORTIVE MEASURES/RESOURCES FOR LALLIE KEMP AREA:

Emergency Contacts

911

Tangipahoa Parish Sherriff's Office
985-345-6150

Independence Police Department
269 E Railroad Ave
Independence, LA 70443
985-878-9477

Medical

NOTE: Most hospitals, including Lallie Kemp, have access to a Sexual Assault Nurse Examiner (SANE)

Lallie Kemp Medical Center
52579 Hwy 51 South
Independence, LA 70443

985-878-9421
<https://www.lsuhsospitals.org/lak>

Hood Memorial Hospital
301 Walnut Street
Amite City, LA 70422
985-748-9485

North Oaks Health System
15790 Medical Center Drive
Hammond, LA 70403
985-345-2700

Community Resources

Tri-Parish Rape Crisis Program
1-877-748-6882

Washington Parish Rape Crisis Center (ADAPT)
985-732-4961

ADDITIONAL SUPPORTIVE MEASURES/RESOURCES FOR ALL AREAS

State Wide Hotline
1-800-541-9706

Not Alone
<https://youth.gov/federal-links/notalonegov-together-against-sexual-assault>

National Center for Victims of Crime
<https://www.victimsofcrime.org/>

National Suicide Prevention Life Line
<https://suicidepreventionlifeline.org>
1-800-273-8255

Louisiana Commission on Law Enforcement and Administration of Criminal Justice
<https://lcle.la.gov/>

Louisiana District Attorney's Association
<https://www.ladaa.org/>

Louisiana Coalition Against Domestic Violence - Home Page
<https://lcadv.org>

Louisiana Coalition Against Domestic Violence - Programs and Resources
<https://lcadv.org/programs-resources>

RAINN (Rape, Abuse & Incest National Network)
<https://www.rainn.org/>

LaFASA - Louisiana Foundation Against Sexual Assault
1-888-995-7273

STAR: Sexual Trauma Awareness and Response
24/7 Hotline
1-855-435-7827
<https://star.ngo/>

National Sexual Violence Resource Center
<https://www.nsvrc.org/>

National Center on Domestic and Sexual Violence
<http://www.ncdsv.org>

National Resources for Sexual Assault Survivors and their Loved Ones
<https://www.rainn.org/national-resources-sexual-assault-survivors-and-their-loved-ones>

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