

Board of Regents Uniform Policy on Power-Based Violence and Sexual Misconduct

Approved August 26, 2026



BOARD of REGENTS
STATE OF LOUISIANA

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I. INTRODUCTION

The Louisiana Board of Regents (BOR) is committed to the highest quality and most impactful educational experiences for all students attending public postsecondary institutions (Institutions) in the state. These experiences are key to Louisiana's prosperity and growth, and rely on campus environments that are safe, inclusive, and protective for the entire postsecondary education community. Leadership at all levels must collaborate on policy development and take all reasonable steps to prevent discrimination, harassment, misconduct, and psychological and physical violence. Ultimately, Institutions must fully commit to building and sustaining a strong culture of respect across campuses, systems, and the state.

Act 472 of the 2021 Regular Session of the Louisiana Legislature (Act 472) directs the Board of Regents to establish uniform policies and best practices to implement measures to address the reporting of power-based violence on Institutions' campuses, the prevention of such violence, communication between Institutions regarding incidents of power-based violence, and the provision of medical and mental health care and other support for alleged victims. This Uniform Policy on Power-Based Violence, originally promulgated pursuant to Act 472 and revised as necessary to meet amendments thereto, sets forth processes and procedures to guide public postsecondary education stakeholders in maintaining safety and protection for students and employees. Power-based violence is defined as any conduct intended to control, coerce, harm, exploit or intimidate another person on the basis of sex through the assertion of power or authority over the person. It includes but is more expansive than sexual misconduct and Title IX misconduct (See statutory definition in Appendix II).

Each Institution's Management Board shall institute policies incorporating the uniform policies and best practices prescribed by BOR regarding the prevention and reporting of incidents of power-based violence committed by or against students of an Institution. This Policy shall be effective as of August 10, 2021. Each institution (or a Management Board for each of its member institutions) shall begin establishing policies and procedures in full compliance with this Policy and shall implement those policies. Each Management Board must review the policies of each of its member institutions for compliance with this Policy and applicable laws and regulations. Upon verification of such compliance, the Management Board shall forward the institutional to the BOR.

Upon the effective date of this Policy, all institutions shall immediately begin complying with this Policy as well as the institutional policy, once approved by their Management Boards. All policies and processes shall be posted on institutional websites as required in this Policy. Each Management Board shall ensure that its member institutions' policies comply with applicable federal and state laws and regulations with necessary amendments to reflect any changes to federal and state laws and regulations.

II. POLICY STATEMENT

BOR-prohibits discrimination on the basis of sex in any Louisiana public postsecondary institution. This policy applies to all Louisiana public postsecondary institutions in accordance with federal and state law, including Act 472 of the 2021 Legislative Session of the Louisiana Legislature, Title IX of the Education Amendments of 1972 (Title IX), Title

VII of the Civil Rights Act of 1964 (Title VII), the Violence Against Women Act (VAWA), the Jeanne Clery Campus Security Act (Clery Act), and other applicable laws.

The comprehensive scope of this Policy includes procedures to address both power-based violence (which includes sexual misconduct) and Title IX conduct (see Title IX Formal Grievance Procedures). This Policy is designed to help Institutions create and maintain safe learning, working and living environments for all individuals who participate in the institutions' activities and programs, including online instruction. It reflects BOR's strong commitment to promoting an environment that is free from power-based violence, including sexual misconduct and Title IX conduct.

Institutions may develop supplementary procedures to further support the implementation of this Policy. However, this Policy establishes various mandatory obligations with which all institutional policies must comply at a minimum.

BOR will review, evaluate, and make any revisions or amendments to applicable power-based violence policies on an ongoing and as-needed basis.

Inquiries about the application of this policy should be directed to the relevant Institution's Title IX Coordinator, whose contact information is available on each Institution's Title IX website. Institutions shall provide additional information about Title IX on their respective Title IX websites and provide additional information about the U.S. Department of Education's Office for Civil Rights.

This Policy is not intended to infringe upon or restrict rights guaranteed by the United States Constitution, including the right to free speech under the First Amendment or the due process clauses of the Fifth and Fourteenth Amendments.

III. NONDISCRIMINATION

Each Institution must publish a notice of nondiscrimination in their power-based violence policies. The notice must be distributed to all students, employees, applicants for admission and employment, and other relevant individuals. The notice must be prominently displayed on the Institution's website and included in publications of general distribution that provide information to students and employees.

Title IX is a federal law that prohibits discrimination on the basis of sex in any federally funded education program or activity. Title IX prohibits use of federal money to support sex discrimination in education programs and provides individuals protection against such practices. This policy shall be implemented in accordance with applicable state and federal laws, regulations, executive orders, and federal guidance, including, but not limited to, those identified in Appendix I.

Institutions should address allegations of power-based violence, including sexual harassment and sexual assault, in a timely and effective manner. Further, Institutions shall provide resources as needed for affected persons (Reporters, Complainants, Respondents and third parties within an Institution's community) and will not tolerate retaliation against any person who reports or participates in the investigation of alleged power-based violence or sex discrimination.

IV. SCOPE

This Uniform Policy (Policy) serves as BOR's overarching policy against power-based violence in all of its forms. It outlines procedures mandated by state law and identifies best practices that address both Title IX Conduct and power-based violence which includes sexual misconduct.

This Policy is intended to inform and guide the development of institutional policy to address individuals who have been affected by power-based violence, whether as a Complainant, a Respondent, or a witness, and to provide fair and equitable procedures for all parties. It is applicable to all Institutions with respect to conduct that occurs both on and off campus.

Power-based violence is a broader term that covers sex-based misconduct beyond the Title IX Regulations' "sexual harassment" definition. Power-based violence prohibited by this Policy includes conduct defined in RS 17:3399.12.

The accompanying Title IX Formal Grievance Procedure covers a narrower subset of conduct (i.e., Title IX Conduct) that must be addressed under a defined formal grievance process as required by the U.S. Department of Education under Title IX Regulations, effective August 14, 2020. When power-based violence meets the criteria specified in the Title IX Regulations, it must be addressed under the Title IX Formal Grievance Procedure, and not this overarching Power-Based Violence Policy, to the extent the processes differ between the two policies. (See 34 C.F.R. §106.44-.45.)

“Sexual harassment” is defined in the Title IX Regulations (§106.30) as conduct on the basis of sex that meets one or more of the following:

1. The provision of an aid, benefit, or service conditioned by an institution’s faculty, staff or employee on an individual’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 education programs or activities; or
3. Sexual assault, dating violence, domestic violence, or stalking (See statutorily defined terms in [Appendix II](#)).

The Title IX Grievance Procedure applies to an Institution’s education program activity, which under the Title IX Regulations includes locations, events, or circumstances in which an Institution exercises substantial control over both the Respondent and the context in which the sexual harassment occurs, and also includes any building owned or controlled by a student organization that is officially recognized by the Institution. Under the Title IX Regulations, the Title IX Grievance Procedure does not apply to any education program or activity that does not occur in the United States (§106.44(a)).

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

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

B. OVERVIEW OF POLICY AND SELECTED DEFINITIONS

Institutions shall address all reports of power-based violence (“Reports”) received by the Title IX Coordinator. Each Institution shall take certain actions to address or remedy power-based violence after receiving a Report, during an investigation, and after an investigation, even if the matter does not proceed to adjudication.

Anyone can report an incident of power-based violence to an Institution under the procedure described in [Section VII](#) of this Policy. For example, a “Reporter” can be any individual who reports to an Institution that they are a victim or survivor of power-based violence or that they have been affected by sex discrimination or power-based violence (sometimes referred to as a “First-Party Reporter”) or that they have knowledge of power-based violence happening to or affecting someone else (sometimes referred to as a “Third-Party Reporter”).

A Report (verbal or written) will become a “Formal Complaint” if a First-Party Reporter files a written and signed document with the Title IX Coordinator describing an incident of power-based violence and indicating that they want the Institution to take further steps, such as conducting a full investigation and possibly holding an adjudication to resolve the alleged issue. An Institution may also convert a Report to a Formal Complaint if the Institution determines that further steps are necessary to address and resolve the matter in compliance with its Title IX obligations. *In such cases, the Complainant must be allowed to submit on paper (hard copy), in electronic form, or in person, whereby the individual can file a Formal Complaint by meeting with the Title IX Coordinator (or Deputy Coordinator) to provide a verbal description of the sexual misconduct which the Title IX Office will use to draft a written document that the individual will review, verify, and sign to constitute a Formal Complaint.*

A “Complainant” refers to an individual who is alleged to have been subjected to an incident of power-based violence (i.e., a First-Party Reporter or a victim or person who has otherwise been affected by power-based violence or, under the Title IX Formal Grievance Procedure governing sexual harassment, an individual who is alleged to be the victim of conduct that could constitute sexual harassment). A Complainant has certain rights under this Policy, as discussed below.

A “Respondent” refers to an individual who has been accused of conduct that could constitute power-based violence prohibited under this Policy (or, under the Title IX Formal Grievance Procedure governing sexual harassment, an individual who has been reported to be the perpetrator of conduct that could constitute sexual harassment). A student Respondent has certain rights under this Policy, as discussed below, and under the Title IX Formal Grievance Procedure when that Procedure is applicable.

A “Third Party” refers to any other participant in the process, including a witness to the incident or an individual who makes a Report on behalf of someone else.

As used throughout this Policy, references to the “Title IX Coordinator” shall include any Deputy Title IX Coordinator and any other person expressly designated by the Title IX Coordinator to act on their behalf. Additional definitions are contained in [Appendix II](#).

V. SAFETY EDUCATION

A healthy and prevention-minded campus culture allows students to learn to the best of their abilities on a safe and nurturing campus. Robust education and training programs for both students and employees are the cornerstone of these efforts and essential to building a culture in which sexual misconduct is rare and both Complainants and Respondents are well supported. Prevention depends on clear and well-communicated guidelines, underpinned by regular education on understanding of sexual misconduct and power-based violence, positive versus harassing behaviors, tools for reporting harassment and adjudicating disputes, and sanctions for violations.

Based on management board policy, each Institution, in consultation with campus or local law enforcement agencies, shall distribute updated information to students regarding power-based violence, campus safety, internet and cell phone safety, and online content that is a potential threat to school safety. This information shall be provided to each student not less than four times per academic year through in-person delivery, online delivery, or a combination of both.

The information shall include instructions on:

1. The identification, prevention, dangers, and prohibition of power-based violence and how to detect potential threats to school safety exhibited online, including on any social media platform;
2. How to report incidents of power-based violence, crimes on campus, violations of the student code of conduct, and possible threats to campus safety; and
3. Where to find reports regarding campus safety.

The information shall be distributed as part of new student orientation and shall be posted on an easily accessible page of each Institution's website. If the student receiving this information is a minor, the information shall also be provided to the student's parent or legal guardian.

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

- I. A standardized form to be used by students, faculty, and other personnel to report potential threats. The form shall request, at a minimum, the following information:
 - a. Name of Institution, person, or group being threatened;
 - b. Name of student, individual, or group threatening violence;
 - c. Date and time the threat was made; and
 - d. Method by which the threat was made, including the social media outlet or website where the threat was posted, a screenshot or recording of the threat, if available, and any printed evidence of the threat.
- II. A process for allowing anonymous reporting and for safeguarding the identity of a person who reports an incident of power-based violence or a safety threat.

Each Institution shall adopt a policy to implement the provisions of this Section. That policy must require that for every report of an incident of power-based violence or a safety threat received the actions taken by the Institution and the campus law enforcement agency or security officers be documented. The policies shall also provide for guidelines on referring the reports to the appropriate law enforcement agencies.

VI. RETALIATION PROHIBITION

Retaliation is expressly prohibited under this Policy. Retaliation includes, but is not limited to, intimidation, harassment, threats, or other adverse action or speech against the person who reported the misconduct, the parties, and their witnesses.

Institutions are prohibited from retaliating against anyone who: 1) in good faith reports what they believe is power-based violence, 2) cooperates with an investigation or proceeding under this Policy, or 3) opposes conduct that they believe to violate this Policy. However, an individual who reports an incident of power-based violence or participates in an investigation or proceeding and has perpetrated or assisted in the perpetration of committing the power-based violence reported, is still subject to an investigation for a potential violation of this policy and may be subject to disciplinary action. Such investigation or subsequent disciplinary action shall not constitute retaliation.

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

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

VII. REPORTING POWER-BASED VIOLENCE

An Institution's policy shall provide that *anyone* can report an incident of power-based violence (to include Sexual Misconduct and Title IX Conduct).

A Report can be made by any individual who has:

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

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

A. REPORTING INCIDENTS OF POWER-BASED VIOLENCE

To make a Report, a reporting individual should report the incident to the **Title IX Coordinator or Deputy Coordinator**. Institutions shall make available contact information for the Title IX Coordinator and any Deputy Coordinator(s), as well as methods for reporting power-based violence. Reporting methods may vary by Institution but shall include, at a minimum, in-person reporting, reporting by mail, and reporting via email.

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

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

a. ONLINE REPORTING

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

B. MANDATORY REPORTING FOR EMPLOYEES

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

A Responsible Employee must report all relevant information, including the following if known, to the Title IX Coordinator:

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

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

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

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

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

C. CONFIDENTIAL AND ANONYMOUS REPORTING

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

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

Note: Consistent with FERPA's prohibition on re-disclosure of confidential information, any person who receives another person's confidential information solely as a result of participation in any investigation or proceeding under this Policy is prohibited from using or disclosing such confidential information outside of such forums without express consent or for any improper purpose. This provision only applies to other people's confidential information, as a party is never restricted from discussing their own experience. This provision does not apply to any information learned outside of an investigation or proceeding under this Policy.

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

D. ADMINISTRATIVE REPORTING

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

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

The Title IX Coordinator of an Institution shall immediately report to the Chancellor of the Institution of an incident reported to the Coordinator if the Coordinator has cause to believe as a result of the incident that the safety of any person is in imminent danger.

- b. **Chancellor:** The Chancellor of each Institution shall submit a report to the Institution's Management Board and System President within **fourteen (14) days** of receiving the report from the Title IX Coordinator in accordance with the information required in [Appendix III](#) . The report shall be posted on the Institution's website.
- c. **System President:** The System President shall submit a system-wide summary report within **fourteen (14) days** of receiving the reports from the Chancellors to the System Management Board in accordance with the information required in [Appendix III](#).
- d. **III.** The report shall be published on the website of the system.
- e. **System Management Board:** The System Management Board shall send an annual system-wide summary report to BOR by **December Thirty-First (31)** in accordance with the information required in [Appendix III](#) . BOR shall post the report on its website.
In addition, each management board shall send an annual training report to BOR by **January Thirtieth (30)**. The report shall include the number of employees and confidential advisors for each institution, and the number and percentage of those who have completed the required annual training. The training report shall be published on the website of each system.
- f. **Board of Regents:** BOR shall annually submit a report to the Governor, the president of the Senate, the speaker of the House of Representatives, and the Senate and House Education Committees by **February Twenty-Eighth (28)** which shall include the statewide information. The report shall also include any recommendations for legislation. The report shall be published on BOR's website.

E. EMPLOYEE'S FAILURE TO REPORT OR FALSE REPORTING

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

F. STUDENT'S FALSE REPORTING

As a Best Practice BOR recommends; Any student who knowingly and in bad faith makes a false accusation of power-based violence or retaliation of any form will be subject to an

investigation for a potential violation of this Policy and may be subject to disciplinary action, up to and including dismissal.

G. IMMUNITIES AND AMNESTY

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

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

Each Institution shall provide an amnesty policy for any student who reports, in good faith, power-based violence to the Institution. Such student shall not be sanctioned by the Institution for a nonviolent student conduct violation, such as underage drinking, that is revealed in the course of making such a report.

VIII. TRANSCRIPT WITHHOLDING, NOTATION & COMMUNICATION

In accordance with state law, public postsecondary Institutions shall implement uniform transcript notation and communication policies to effectuate communication regarding the transfer of a student who is the subject of a power-based violence Formal Complaint or who has been found responsible for an incident of power-based violence pursuant to an Institution's investigative and adjudication process. The following Section(s), which include procedures relative to the withholding or notation of transcripts during the investigative and adjudication processes, were developed by BOR in consultation with the System Management Boards.

At a minimum, for any student who is the subject of a power-based violence Formal Complaint and who attempts to transfer to another institution, the Institution from which the student seeks to transfer ("Sending Institution") shall either (1) withhold the transcript of the student or (2) place a notation on the student's transcript. If the Sending Institution does not know whether the student seeks to transfer to another Institution, the student's transcript shall either be withheld or notated.

The Sending Institution shall notify the student that their transcript has been withheld or notated, and of the appeals process to have the hold or notation removed. Either the transcript is withheld or the notation remains on the transferring student's transcript until the Institution makes a determination that the transferring student is not responsible for power-based violence or the transferring student prevails in a request to appeal the withholding of a transcript or notation pursuant to Part c of this Section, whichever occurs first.

A. WITHHOLDING STUDENT TRANSCRIPTS

If the Sending Institution chooses to withhold upon the filing of a Formal Complaint, the Institution shall place an administrative hold on the transcript of a student who is the subject of the Formal Complaint. For any student who is the subject of a power-based violence Formal Complaint that also constitutes sexual harassment under Title IX, the Institution should commence an investigation and place a notation on the student's transcript, rather than withholding the transcript.

When a student transcript is withheld, the institution to which the student seeks to transfer ("Receiving Institution") must make a timely inquiry directed to the Sending Institution regarding the purpose of the transcript hold. Upon such an inquiry, the Sending Institution must timely disclose appropriate and factual information, consistent with the Family Education Rights and Privacy Act (FERPA), 20 U.S.C. § 1232g.

B. NOTATION

If the Sending Institution chooses to notate upon the filing of a Formal Complaint, the Institution *may* place a notation on the transcript of a student attempting to transfer to another institution. For any student who is the subject of a power-based violence Formal Complaint that also constitutes sexual harassment under Title IX, the Sending Institution should commence an investigation and place a notation on the student's transcript, rather than withholding the transcript.

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

For a transferring student for whom a final decision has been rendered, and the student has been found to be responsible for power-based violence, the notation on the transcript shall read: **"STUDENT FOUND RESPONSIBLE IN VIOLATION OF CODE OF CONDUCT"** or other notation sufficient to place the Receiving Institution on notice and trigger an inquiry regarding the notation directed to the Sending Institution.

When a student transcript is notated as described above, the Receiving Institution must make a timely inquiry directed to the Sending Institution regarding the purpose of the transcript notation. Upon such an inquiry, the Sending Institution must timely disclose appropriate and factual information, consistent with the Family Education Rights and Privacy Act (FERPA), 20 U.S.C. § 1232g.

For a transferring student found to be responsible for power-based violence, the Sending Institution will determine how long the notation will remain on the student's transcript.

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

C. TRANSCRIPT WITHHOLDING AND NOTATION APPEALS

A student whose transcript has been withheld or notated as described above may request a release of the hold or an expungement of the notation for good cause shown. Cause may include, but is not limited to, when (1) a student who transferred while under investigation was found not responsible or (2) a student was initially found responsible and later evidence showed that the student was in fact not responsible. In the second instance, an Institution must send an updated version of the student's transcript.

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

D. APPLICABILITY

State law requires that all Louisiana public postsecondary institutions implement this Transcript, Withholding, Notation, and Communication policy; all Louisiana non-public postsecondary institutions are encouraged to implement this policy. Nothing in this Policy shall prohibit or prevent a Sending Institution from withholding or notating the transcript of a student who is the subject of a power-based violence Formal Complaint, or who has been found responsible for power-based violence, when such student seeks to transfer to a non-public postsecondary or out-of-state institution. The BOR recognizes an obligation to ensure investigation and adjudication of all complaints of power-based violence, regardless of the type or location of the postsecondary institution where they occur. Accordingly, the BOR strongly encourages all institutions to adopt practices that fully meet this obligation.

IX. VICTIMS' RIGHTS POLICY

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

Institutions are to develop a policy to address victims' rights as required by this law.

X. IDENTIFIED BEST PRACTICES BY BOR

In addition to compliance with federal and state laws and regulations, BOR has prescribed and identified a set of best practices, in accordance with Act 472, which Institutions should implement to address the resolving of power-based violence.

The Title IX Coordinator has authority to resolve or dismiss a Report or Formal Complaint of power-based violence/sexual misconduct or Title IX conduct through Informal Resolution, implement any Supportive Measures, or close the Report or Formal Complaint, if the alleged conduct does not satisfy the USDOE's definition of Title IX Sexual Harassment, or the statutory definition of power-based violence. The dismissal of the Report or Formal Complaint does not preclude action under another provision of an institution's policies.

A. INITIAL STEPS & DETERMINATION OF APPROPRIATE PROCEDURES

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

B. INITIAL CONTACT WITH POTENTIAL COMPLAINANT

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

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

- a. Give the potential Complainant a copy of the relevant policies;
- b. Explain the process for filing a Formal Complaint with the Title IX Office;
- c. Provide the potential Complainant with information regarding the rights/responsibilities as a party in this matter;
- d. Explain the process for investigating and resolving a power-based violence Formal Complaint (including the available appeal procedures);
- e. Explain the procedural differences based on Title IX vs power-based violence conduct;
- f. Instruct the potential Complainant not to destroy any potentially relevant documentation in any format;
- g. Inform the individual of the availability of Supportive Measures with or without the filing of a Formal Complaint;
- h. Discuss the potential Complainant's expressed preference for manner of resolution and any barriers to proceeding (e.g., confidentiality concerns);

- i. Explain the prohibition against retaliation; and
- j. Communicate necessary details of the report to the campus police department for entry into the Institution's daily crime log.

C. SUPPORTIVE MEASURES

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

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

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

D. FILING A FORMAL COMPLAINT

If a potential Complainant wishes to pursue an incident of power-based violence beyond simply reporting it, they may file a Formal Complaint. The filing of a Formal Complaint means that the individual is asking an Institution to take further steps, such as a full investigation and possibly an adjudication to resolve the alleged issue. Any Complainant (i.e., an alleged victim or survivor or someone who has otherwise been directly affected by power-based violence) may file a Formal Complaint, and the Institution will treat it as such.

An individual who is alleged to have been subjected to an incident of power-based violence (i.e., a victim or a person who has been directly affected by power-based violence) and subsequently files a Formal Complaint will be referred to as a Complainant.

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

Similarly, the fact that the Title IX Coordinator converts a Report to a Formal Complaint does not make the Title IX Coordinator a Complainant. However, the Title IX Coordinator reserves the right to initiate a Formal Complaint in order to meet an Institution's Title IX obligations to provide a safe and nondiscriminatory environment and if the Institution determines that it must take additional steps to protect the campus community. Depending on the conduct alleged and the location of the incident, a Formal Complaint and subsequent investigation will be

governed by either this Policy or the Title IX Formal Grievance Procedure.

a. HOW TO FILE A FORMAL COMPLAINT

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

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

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

b. WITHDRAWAL OF FORMAL COMPLAINT

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

E. POWER-BASED VIOLENCE GRIEVANCE PROCEDURE

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

Institutions should investigate all Reports of power-based violence reported to the Title IX Coordinator regardless of whether the Report becomes a Formal Complaint. The investigation and adjudication procedures (if needed) shall be prompt, fair, and impartial.

a. NOTICE TO RESPONDENT

The person alleged to have committed power-based violence is called the Respondent. The Respondent should be notified in writing that a Formal Complaint alleging power-based violence has been filed against them. The Respondent should be advised that they may have an Adviser accompany them to any meeting or interview related to the investigation and resolution process.

Within seven (7) business days of receiving notice of the Formal Complaint, the Respondent should arrange to meet with the Title IX Office. The Title IX Office is required to provide the same information that was presented to the Complainant during their initial contact (See [Section B](#)).

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

F. INVESTIGATION PROCESS

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

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

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

Both Complainants and Respondents should be advised of the utilization of Advisors

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

G. FINDINGS & INVESTIGATIVE REPORT

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

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

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

H. RESOLUTION

a. INFORMAL RESOLUTION

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

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

b. FORMAL RESOLUTION

Institutions must provide for a process to resolve Formal Complaints. That process should be delineated in their policy. Institutions should avoid the “single investigator” or “sole investigator” model and ensure that the Title IX Coordinator and investigator(s) do not serve as the decision-maker(s) for a Formal Complaint.

Institutions shall use the preponderance of the evidence standard as the burden of proof in resolving all Formal Complaints of Power-Based Violence and Sexual Misconduct under this Uniform Policy in accordance with [RS 17:3394](#). Under this standard, a determination of responsibility is made when the evidence establishes that it is more likely than not that the alleged conduct occurred. This standard shall be applied consistently and equitably to all parties, including Complainants and Respondents, and shall be used in all related investigations, hearings, determinations of responsibility, and appeals, as applicable.

I. SANCTIONS

Institutions should describe the range of sanctions for employees and students.

J. GRIEVANCE PROCEDURE APPEALS

Institutions' policies should provide an appeal process that is equally available to the parties and includes the procedures and permissible basis for the Complainant and Respondent to appeal.

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

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

As to all appeals the Institution should, at a minimum:

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

XI. TRAINING

A. RESPONSIBLE EMPLOYEES

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

BOR, in coordination with the attorney general and in consultation with state or local victim services organizations, shall develop the annual training program required in this Section. BOR shall annually review the annual training program and revise it as needed.

B. CONFIDENTIAL ADVISORS

Each Institution shall designate individuals who shall serve as Confidential Advisors, such as health care staff, clergy, staff of a women's center, or other such categories. Such designation shall not preclude the Institution from partnering with national, state, or local victim services organizations to serve as Confidential Advisors or in other confidential roles.

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

Each Institution's website shall provide the contact information for accessing a Confidential Advisor.

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

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

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

The Confidential Advisor shall:

1. be authorized by the Institution to liaise with appropriate staff at the Institution to arrange reasonable accommodations through the Institution to allow the alleged victim to change living arrangements or class schedules, obtain accessibility services, or arrange other accommodations;
2. Be authorized to accompany the alleged victim, when requested to do so by the alleged victim, to interviews and other proceedings of a campus investigation and institutional disciplinary proceedings;
3. Advise the alleged victim of, and provide written information regarding, both the alleged victim's rights and the Institution's responsibilities regarding orders of protection, no-contact orders, restraining orders, or similar lawful orders issued by a court of competent jurisdiction or by the Institution;
4. Not be obligated to report crimes to the Institution or law enforcement in a way that identifies an alleged victim or an accused individual, unless otherwise required to do so by law; and
5. To the extent authorized under law, provide confidential services to students. Any requests for accommodations made by a Confidential Advisor, as provided in this Section, shall not trigger an investigation by the Institution.

The Institution shall appoint an adequate number of Confidential Advisors. The BOR shall determine the adequate number of Confidential Advisors for an Institution based upon its size, annually by January 1.

Each Institution that enrolls fewer than five thousand students may partner with another Institution in their system or region to provide the services described in this Section. However, this provision shall not absolve the Institution of its obligations under this Section.

XII. DATA PUBLICATION(S)

A. POWER-BASED VIOLENCE CLIMATE SURVEY

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

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

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

BOR shall:

1. Develop the survey in consultation with the System Management Boards and in accordance with national best practices;
2. Work with System Management Boards in researching and selecting the best method of developing and administering the survey;
3. Consult with victims' advocacy groups and student leaders who represent a variety of student organizations and affiliations, including student government associations, academic associations, faith-based groups, cultural groups, and fraternities and sororities, when meeting the requirements of this Section;
4. Submit a written report on survey results to the House Committee on Education, Senate Committee on Education, and the Governor not later than forty-five (45) days prior to the convening of the next Regular Session of the Legislature following the administration of the survey. The report shall summarize results from each public postsecondary education Institution and the state as a whole; and
5. Publish the survey results on BOR's website and in any other location or venue BOR considers necessary or appropriate.

Institutions must:

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

B. CAMPUS SECURITY REPORT

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

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

BOR recommends as a best practice to include information related to statistics of incidents of power-based violence.

The report shall be posted in a prominent location that is readily accessible from the main landing page of the Institution's website. If an individual campus does not have its own website, this information shall be posted on the main website of the Institution, with the campus clearly indicated.

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

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

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

XIII. MEMORANDA OF UNDERSTANDING

Pursuant to R.S. 17:3399.14, each Institution and law enforcement and criminal justice agency located within the parish of the campus of the Institution, including the campus police department, if any, the local district attorney's office, and any law enforcement agency with criminal jurisdiction over the campus, shall enter into and maintain a written memorandum of understanding (MOU) to clearly delineate responsibilities and share information in accordance with applicable federal and state confidentiality laws, including but not limited to trends about power-based violence committed by or against students of the Institution. This MOU must be signed by all parties to the MOU.

The head of any law enforcement or criminal justice agency located within the parish of the campus of the institution shall execute an MOU proposed by an institution within the law enforcement agency's criminal jurisdiction within thirty days of receipt of the proposal.

Each MOU shall include the following:

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

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

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

XIV. CAMPUS POWER-BASED VIOLENCE POLICIES

The Board of Regents shall establish uniform policies and best practices to implement measures to address the reporting of power-based violence on Institutions' campuses, the prevention of such violence, communication between Institutions regarding incidents of power-based violence, and the provision of medical and mental health care for these alleged victims.

Each Institution's Management Board shall institute policies incorporating the policies and best practices prescribed by BOR regarding the prevention and reporting of incidents of power-based violence committed by or against students and employees of an Institution.

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

1. **Confidential Advisors** (See Section about [Confidential Advisors](#))
2. **Website** (See Section about [Website Compliance](#))
3. **Online Reporting** (See Section about [Online Reporting](#))
4. **Amnesty Policy** (See Section about [Immunities and Amnesty](#))
5. **Training** (See Section about [Training](#))
6. **Inter-campus Transfer Policy** (See Section about [Transcript Notation](#))
7. **Victims' Rights Policy** (See Section about [Victims' Rights Policy](#))

XV. WEBSITE COMPLIANCE

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

- a. Contact information for obtaining a Confidential Advisor;
- b. Reporting options for alleged victims of power-based violence;
- c. The process of investigation and disciplinary proceedings of the Institution;
- d. The process of investigation and adjudication of the criminal justice system;
- e. Potential reasonable accommodations that the Institution may provide to an alleged victim;
- f. The telephone number and website address for a local, state, or national hotline providing information to victims of power-based violence, which shall be updated at least on an annual basis;
- g. The name and location of the nearest medical facility where an individual may have a rape kit administered by an individual trained in sexual assault forensic medical examination and evidence collection, and information on transportation options and available reimbursement for a visit to such facility;
- h. Each current memorandum of understanding between the Institution and local law enforcement and criminal justice agency located within the parish of the campus (12:15-13:5); and
- i. Data publications as specified in [Section XII](#) of this Policy.