

Procedures for Reporting and Responding to Violations of the Sexual Harassment and Other Prohibited Sexual Conduct Policy Involving a Student as Respondent

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I. OVERVIEW

This document sets forth procedures for reporting, *Investigation*, and responding to reports of violations of the Sexual Harassment and Other Prohibited Sexual Conduct Policy (the “Policy”) when a University student (the *Respondent*) is accused of a violation of the Policy. Please refer to Section VIII and the Policy for applicable definitions of key terms, which are italicized herein.

All University community members are strongly encouraged to report incidents of *Sexual Harassment* and other *Prohibited Sexual Conduct* to the Title IX Coordinator, the Equal Employment Officer, the Office of the Dean of Students, or the University Police (“ULPD”). After normal business hours, individuals are encouraged to report incidents of *Prohibited Sexual Conduct* to the Office of the Dean of Students or ULPD. As an alternative, as outlined below, an individual can also seek confidential assistance that does not involve notice to the University.

Upon receipt of a report by the Equal Employment Officer, the Office of the Dean of Students, or ULPD, the recipient will notify the Title IX Coordinator. The Title IX Coordinator, or designee will conduct an *Initial Assessment*, considering the nature of the report, the safety of the parties and the campus community, *Complainant’s* expressed preference for resolution, and the necessity for any *Supportive Measures*.

Following the *Initial Assessment*, the Title IX Coordinator, may: (1) take no further action (e.g., at *Complainant’s* request or where the conduct, on its face, would not rise to the level of a Policy violation); (2) pursue *Informal Resolution*; or (3) pursue a *Formal Complaint* which will include an *Investigation*, whereby the *Decision-Maker* will determine if a Policy violation has occurred and associated disciplinary action is warranted following the hearing process.

The *Grievance Process* is guided by the same principles of fairness and respect for all parties. Resources are available for both *Complainant* and *Respondent* to provide support and guidance throughout the process.

A *Complainant* may explore all available options for resolution, including a report under the Policy and a report to law enforcement. The processes are not mutually exclusive; an individual can choose to pursue both a report under the Policy and a criminal investigation at the same time.

II. EMERGENCY LAW ENFORCEMENT, MEDICAL, AND CRISIS RESPONSE RESOURCES

All individuals are encouraged to seek the support of on and off campus resources, regardless of when or where the incident occurred. Trained professionals can provide guidance in making

decisions, information about available resources and procedural options, and assistance to either party if a report and/or resolution under the Policy is pursued.

As a first priority, the University encourages all individuals to report potential criminal conduct by calling 911 or by contacting ULPD.

The University also encourages individuals to seek assistance from a medical provider or crisis response service immediately after an incident of *Sexual Assault*. This provides the opportunity to address physical well-being or health concerns, preserve any available evidence (see <http://counselingandtesting.louisiana.edu/sites/counseling/files/SEXUAL%20ASSAULT.pdf> for a quick reference on preservation of evidence), acquire preventative treatment for sexually transmitted diseases, and begin a timely investigative and remedial response. Emotional care, counseling, and crisis response are also available on and off campus.

The University participates in the Lafayette Parish Sexual Assault Response Team (SART), which allows it to quickly and effectively collaborate with local agencies in responding to reported cases of *Sexual Assault*. The University maintains a permanent liaison to serve on the SART and participates in all related discussions and trainings. SART works to improve service delivery and response to individuals who have experienced *Sexual Assault*, including accompaniment in medical care, investigation, collection of forensic evidence, and related counseling. Individuals' use of these resources does not obligate them to pursue a disciplinary or criminal investigation; however, if they choose to do so, the resources provided by SART are designed to ease the process.

Furthermore, Sexual Assault Nurse Examiners (SANE) are specialized nurses who are trained in examining individuals who have experienced *Sexual Assault* in a sensitive manner that gathers and retains forensic evidence. If an individual uses SANE services s/he is under no obligation to file a report, but the evidence will be preserved should the individual choose to do so. Hearts of Hope maintains SANE nurses that respond to Lafayette Hospitals as well as St. Martin Hospital. Any survivor of *Sexual Assault* may request SANE services or to be connected to SART by calling the 24-hour Hearts of Hope hotline at 337-232-RAPE (7273).

The following is emergency law enforcement, medical, and crisis response contact information:

Law Enforcement	Medical Providers & Crisis Response
<p>ULPD http://police.louisiana.edu/ 337-482-6447 Bittle Hall 210 Hebrard Blvd. Lafayette, LA 70504</p>	<p>University Counseling and Testing Center http://counselingandtesting.louisiana.edu/ 337-482-6480 O.K. Allen Hall, Saucier Wellness Center, 220 Hebrard Boulevard</p>
<p>Lafayette Police Department http://www.lafayettela.gov/PoliceDepartment/Pages/default.aspx 337-291-8600 900 E. University Ave. Lafayette, LA 70502</p>	<p>Office of Student Health Services http://studenthealth.louisiana.edu 337-482-1293 O.K. Allen Hall, Saucier Wellness Center, 220 Hebrard Boulevard</p>

<p>Lafayette Parish Sheriff's Office http://www.lafayettesheriff.com/ 337-232-9211 316 West Main St. Lafayette, LA 70501</p>	<p>Hearts of Hope http://www.theheartsofhope.org/ 337-232-RAPE (7273) Located in Lafayette, LA</p> <p>Hearts of Hope provides the survivor with advocacy, counseling, and accompaniment to all medical, forensic, and criminal investigations following an incident of sexual assault or abuse and other related incidents.</p>
	<p>Faith House http://www.faithhouseacadiana.com 337-232-8954 800-411-1333 (24-hour crisis hotline)</p> <p>Faith House provides advocacy, counseling, medical and legal assistance, shelter, safety plans, and accompaniment at hearings for all survivors of interpersonal violence and their children.</p>
	<p>Lafayette General Medical Center 1214 Coolidge Blvd Lafayette, La 70503 www.lafayettegeneral.com 337-289-7991</p>
	<p>Our Lady of Lourdes Hospital 4801 Ambassador Caffery Pkwy Lafayette, La 70508 www.lourdesrhc.com 337-470-2000</p>
	<p>Our Lady of Lourdes Women's & Children's Hospital 4600 Ambassador Caffery Pkwy Lafayette, La 70508 www.womens-childrens.com 337-521-9100</p>
	<p>Lafayette General Southwest Medical Center 2810 Ambassador Caffery Pkwy Lafayette, La 70508 http://womens-childrens.com/www.lafayettegeneral.com 337-521-9100</p>

	University Hospital and Clinics 2390 W Congress St. Lafayette, La 70506 www.lafayettegeneral.com 337-261-6000
	Heart Hospital of Lafayette 1105 Kaliste Saloom Rd Lafayette, La 70508 www.hearthospitaloflafayette.com 337-470-1000

III. WHO TO REPORT TO

The University encourages individuals who have experienced *Sexual Harassment* or other *Prohibited Sexual Conduct*, to talk about what happened so they can get the support they need and so the University can respond appropriately. This section identifies University employees who are authorized to receive reports, their roles, and their ability to maintain an individual’s confidentiality.

As *Mandatory Reporters*, all administrators, faculty, staff, and students working for the University as graduate teaching assistants and housing resident assistants are required to promptly report and students and visitors are strongly encouraged to promptly report any incidents of *Sexual Harassment* or other *Prohibited Sexual Conduct* to the University’s Title IX Coordinator, to a Deputy Title IX Coordinator, or through other reporting channels listed below.

A. Officials with Authority

An *Official with Authority* is a University employee who has the authority to institute corrective measures on the University’s behalf. When an individual tells an *Official with Authority* about an incident of *Sexual Harassment* or *Prohibited Sexual Conduct*, the University has actual knowledge and must respond to the allegation. The individual has the right to expect the University to take immediate and appropriate steps to assess and investigate his or her report, if warranted, in a reasonable, prompt, and equitable manner. An *Official with Authority* must report to the Title IX Coordinator all relevant details about the alleged *Prohibited Sexual Conduct* shared by the individual, including the names of the individual who allegedly experienced *Prohibited Sexual Conduct* and respondent(s), any witnesses, and any other relevant facts, including the date, time, and specific location of the alleged incident. To the extent possible, information reported to an *Official with Authority* will be shared only with people responsible for handling the University’s response to the report.

The following individuals are *Officials with Authority*:

- Deputy Title IX Coordinators
- Dean of Students and Assistant Deans of Students

- Dean of Student Rights and Responsibilities
- EEO Officer and staff
- Provost
- Academic Deans
- Athletic Directors and Assistant Athletic Directors
- ULPD

B. Mandatory Reporters

In addition to *Officials with Authority*, it is mandatory that all *Employees* (including graduate teaching assistants and housing resident assistants, but excluding other student workers and excluding the Confidential Reporting Resources listed below) report *Prohibited Sexual Conduct* to the Title IX Coordinator, or an *Official with Authority*.

C. Confidential Reporting Resources

Some individuals on and off the University are required to maintain near complete confidentiality. Talking to these individuals is sometimes called a privileged communication. The trained professionals designated below can provide counseling, information, and support in a confidential setting. These confidential resources will not share information about a patient/client (including whether that individual has received services) without the individual’s express, written permission unless there is a continuing threat of serious harm to the patient/client or to others or there is a legal obligation to reveal such information (e.g., suspected abuse or neglect of a minor).

Confidential resources may include clergy, medical/healthcare providers, and mental healthcare providers. Some confidential resources are listed below:

On Campus Confidential Resources	Off Campus Confidential Resources
<p>University Counseling and Testing Center http://counselingandtesting.louisiana.edu/ 337-482-6480 O.K. Allen Hall, Saucier Wellness Center, 220 Hebrard Boulevard</p>	<p>Hearts of Hope http://www.theheartsofhope.org/ 337-233-RAPE (7273) Located in Lafayette, LA</p> <p>Hearts of Hope provides the survivor with advocacy, counseling, and accompaniment to all medical, forensic, and criminal investigations following an incident of sexual assault or abuse and other related incidents.</p>

Office of Student Health Services http://studenthealth.louisiana.edu 337-482-1293 O.K. Allen Hall, Saucier Wellness Center, 220 Hebrard Boulevard	Faith House http://www.faithhouseacadiana.com 337-232-8954 800-411-1333 (24-hour crisis hotline) Faith House provides advocacy, counseling, medical and legal assistance, shelter, safety plans, and accompaniment at hearings for all survivors of interpersonal violence and their children.
	Lafayette General Medical Center www.lafayettegeneral.com 337-289-7991
	Our Lady of Lourdes Hospital www.lourdesrhc.com 337-470-2000
	Our Lady of Lourdes Women’s & Children’s Hospital www.womens-childrens.com 337-521-9100
	Lafayette General Southwest Medical Center www.lafayettegeneral.com 337-981-2949
	University Hospitals and Clinics www.lafayettegeneral.com 337-261-6000
	Heart Hospital of Lafayette www.hearthospitaloflafayette.com 337-470-1000

D. Confidential Advisors

The University shall designate Confidential Advisors in accordance with state law (La. R.S. 17:3399.15). Contact information for the *Confidential Advisors* will be provided on the University’s Title IX website found at <https://titleix.louisiana.edu/>. Those individuals designated as *Confidential Advisors* shall complete online training developed by the Attorney General in collaboration with the Board of Regents.

The *Confidential Advisor* shall inform the *Complainant* of the following:

- Their rights under federal and state law, as well as University Policy;
- Reporting options and potential outcomes;
- Investigation and disciplinary/adjudication proceedings of the University and the criminal justice system;
- Potential accommodations; and
- Emergency response options.

The *Confidential Advisor* may liaise with the University on behalf of the *Complainant*, as appropriate. In addition, the *Confidential Advisor* may accompany the *Complainant* through various proceedings in the *Investigation*.

The *Confidential Advisor* shall not be obligated to report crimes to the institution or law enforcement in a way that identifies *Complainant* or *Respondent*, unless otherwise required to do so by law.

IV. HOW TO REPORT

The University encourages all individuals, whether a *Complainant*, witness, or third party, to promptly report *Prohibited Sexual Conduct* directly to the Title IX Coordinator, the EEO Officer, the Office of the Dean of Students, athletics coaches, or ULPD. After normal business hours, individuals are encouraged to report incidents of *Prohibited Sexual Conduct* to the Office of the Dean of Students or ULPD. The reporting options are the same whether the reporter is a *Complainant*, a witness, third party, or other individual.

The University recognizes that deciding whether to make a report and choosing how to proceed are personal decisions that may evolve over time; however, unless and until the designees as stated in Section III.A. herein are apprised of the occurrence, action to address such *Prohibited Sexual Conduct* cannot be taken. At the time a report is made, a *Complainant* does not have to decide whether to request any particular course of action. Through a coordinated effort, staff from the offices listed below provide support to assist each individual in making these important decisions, and consistent with the goal of safety for all community members, will make every effort to respect an individual's autonomy in making the determination as to how to proceed. Any individual can also make a report to external law enforcement agencies, including those listed below. If a report is made to the police, the University and the police may share information under certain circumstances.

A. Reporting (Not Anonymous)

On Campus Reporting Options for University Action under the Policy	Off Campus Reporting Options for External Law Enforcement Action
<p>Title IX Coordinator Teresa Leday 337-482-2921 116 Buchanan Hall 111 Boucher St. Lafayette, LA 70504 titleix@louisiana.edu</p>	<p>911</p>
<p>Deputy Title IX Coordinator (Athletics) Andrea Bonin, Human Resources Business Partner 337-482-6232 andrea.bonin@louisiana.edu</p>	<p>Lafayette Police Department http://www.lafayettela.gov/PoliceDepartment/Pages/default.aspx 337-291-8600 900 E. University Ave. Lafayette, LA 70502</p>
<p>Deputy Title IX Coordinator (Students) Margarita Perez, Dean of Students http://studentaffairs.louisiana.edu/ Student Union, Room 168 620 McKinley Street Lafayette, LA 70504 Margarita.perez@louisiana.edu</p>	<p>Lafayette Parish Sheriff's Office http://www.lafayettesheriff.com/ 337-232-9211 316 West Main St. Lafayette, LA 70501</p>
<p>ULPD http://police.louisiana.edu/ 337-482-6447 Bittle Hall 210 Hebrard Blvd. Lafayette, LA 70504</p>	

B. Anonymous Reporting

Any individual may make a report of *Prohibited Sexual Conduct* to the University without disclosing his or her name and without identifying a *Respondent* or requesting any action. Depending on the level of information available about the incident or the individuals involved, the University's ability to respond to an anonymous report may be limited. Anonymous reporting can be made using the following link: www.louisiana.edu/ethicsreport. These reports will be referred to the Title IX Coordinator.

C. Reporting and Considerations

Any individual may report *Prohibited Sexual Conduct*. All individuals, including a *Complainant*, witness, or third party, are encouraged to report *Prohibited Sexual Conduct* regardless of when or

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where it occurred, as soon as possible to maximize the ability to respond promptly and effectively. The University does not, however, limit the time frame for reporting. Reports can be made in person, by mail, by telephone, or by email, using the contact information listed for the Title IX Coordinator or by any means that results in the Title IX Coordinator receiving the individual's verbal or written report.

If *Respondent* is no longer a student at the time of the report the University will determine whether to proceed with the *Grievance Process*. If the alleged conduct occurred outside of the context of an education program or activity of the University, the University will not be able to fully investigate nor take disciplinary action against *Respondent* under this Policy. In each instance, the University will still provide any fair and reasonable support and resources to a *Complainant* designed to end the *Prohibited Sexual Conduct*, prevent its recurrence, and address its effects. The Title IX Coordinator will also help a *Complainant* identify external reporting options.

D. Amnesty

Any student (including a *Complainant*, witness, or third party) who makes a report of *Prohibited Sexual Conduct*, in good faith, will not be subject to disciplinary action by the University for a non-violent student conduct violation, such as underage drinking at or near the time of the incident.

V. GRIEVANCE PROCESS

The University will provide a consistent, transparent *Grievance Process* for resolving *Formal Complaints of Prohibited Sexual Conduct*. The University shall treat *Complainants* and *Respondents* equitably by providing remedies at any time a *Respondent* is found responsible and by not imposing disciplinary sanctions without following the *Grievance Process* prescribed herein. This *Grievance Process* requires an objective evaluation of all relevant evidence, inculpatory and exculpatory, and avoids credibility determinations based on a person's status as a *Complainant*, *Respondent*, or witness.

A. Initial Assessment

When a report is made, the Title IX Coordinator, or designee, will conduct an *Initial Assessment*. The *Initial Assessment* will determine whether the alleged conduct would present a potential violation of the Policy and whether further action is warranted based on the alleged conduct.

1. Preliminary Meeting

The first step of the *Initial Assessment* will usually be a preliminary meeting between *Complainant* and the Title IX Coordinator, or designee to gather facts that will enable the Title IX Coordinator to:

- Assess the nature and circumstances of the allegation;
- Address any immediate concerns about the physical safety and emotional well-being of the *Complainant*;
- If the conduct is criminal in nature, notify *Complainant* of the option to notify law enforcement;

- Provide *Complainant* with information about:
 - On and off campus resources, including the availability of medical treatment to address any physical and mental health concerns, including counseling and support, and to preserve evidence, whether or not *Complainant* chooses to make an official report or participate in the institutional disciplinary or criminal process;
 - The available range of *Supportive Measures*; and
 - Procedural options, including *Informal Resolution*, *Investigation*, and *Appeal*.
- Discuss *Complainant's* expressed preference for manner of resolution and any barriers to proceeding;
- Explain the University's policy prohibiting *Retaliation*;
- Explain the role of the *Support Person/Advisor*; and
- Assess potential pattern evidence or other similar conduct.

If warranted, an emergency removal of the *Respondent* from University education program or activity shall include: (1) written notice; (2) an individual safety and risk analysis to determine whether an immediate threat to physical health or safety of a student or other individual is present; and (3) the opportunity to challenge the decision to the Title IX Coordinator.

2. Requests for Confidentiality or No Formal Action

Where a *Complainant* requests that his/her name or other identifiable information not be shared with *Respondent* or that no formal action be taken, the Title IX Coordinator will balance this request against the following factors in reaching a determination whether the request can be honored:

- The nature and scope of the alleged conduct;
- The respective ages and roles of *Complainant* and *Respondent*;
- The risk posed to any individual or to the campus community;
- Whether there have been other reports of misconduct by *Respondent*;
- Whether the report reveals a pattern of misconduct at a given location or by a particular group;
- *Complainant's* wish to pursue an *Investigation*;
- Whether the University possesses other means to obtain relevant evidence; and
- The University's obligation to provide a safe and non-discriminatory environment.

Where possible based on the facts, circumstances, and the factors listed above, the Title IX Coordinator, will seek action consistent with *Complainant's* expressed preference for manner of resolution, recognizing that the University must move forward with cases. The University's ability to fully investigate and respond to a report may be limited if *Complainant* requests that their name not be disclosed to *Respondent* or declines to participate in an *Investigation*.

B. Grounds for Dismissal and Written Notice of Dismissal

1. Mandatory Dismissal

If the conduct alleged in the *Formal Complaint* would not constitute a violation of this Policy or *Sexual Harassment* as defined in 34 CFR 106.30 even if proved, occurred outside of the context of and education program or activity of the University, or did not occur against a person in the United States, then University will dismiss the *Formal Complaint* with regard to that conduct for purposes under Title IX. Such a dismissal does not preclude action under another provision of the University's Student Code of Conduct.

2. Discretionary Dismissal

The University may dismiss the *Formal Complaint* or any allegations therein, if at any time during the *Grievance Process*: (1) a *Complainant* notifies the Title IX Coordinator in writing that they would like to withdraw the *Formal Complaint* or any allegations therein; (2) the *Respondent* is no longer enrolled at the University; or (3) specific circumstances prevent the University from gathering evidence sufficient to reach a determination as to the *Formal Complaint* or allegations therein.

3. Notice of Dismissal

Upon determination of a mandatory or discretionary dismissal the Title IX Coordinator shall provide written notice of the dismissal and reason(s) therefore simultaneously to the parties.

C. Nondisclosure

The University will not require a party to abide by a nondisclosure agreement, in writing or otherwise, that would prevent the re-disclosure of information related to the outcome of proceedings under this Policy.

D. Determination of Resolution Route

At the conclusion of the *Initial Assessment*, the Title IX Coordinator will determine the appropriate resolution route. Resolutions may include: (1) no further action related to this Policy; (2) *Informal Resolution* or (3) the initiation of a *Formal Resolution* which includes an *Investigation*.

A resolution involving no further action related to this Policy may occur when all statements made by *Complainant*, taken as true, are not a Policy violation. In addition, a resolution involving no further action related to this Policy may occur if the Title IX Coordinator determines after considering and balancing the factors in Section V(A)(2) that no action is deemed necessary. Upon the Title IX Coordinator's determination that no further action needs to be taken in relation to this Policy, the Title IX Coordinator shall refer the matter to the appropriate office, on a case-by-case basis.

Regardless of the manner of resolution, a *Respondent* may choose to accept responsibility at any stage in the process.

1. Informal Resolution

Informal Resolution is a path designed to eliminate the conduct at issue, prevent its recurrence, and remedy its effects by both parties through a manner that is voluntary, informed, and initiated through written consent. An *Informal Resolution* may be used at any point prior to reaching a determination of responsibility as long as a *Formal Complaint* has been filed. An *Informal Resolution* shall not be required as a condition of: (1) enrollment or continuing enrollment, (2) employment or continuing employment, (3) enjoyment of any other right, or (4) waiving the right to an investigation, and adjudication of a *Formal Complaint*. An *Informal Resolution* may not be appropriate for all forms of conduct under the Policy.

An *Informal Resolution* may include: (1) establishing *Supportive Measures*; (2) conducting targeted or broad-based educational programming or training for relevant individuals or groups; (3) providing increased monitoring, supervision, or security at locations or activities where the misconduct occurred; (4) facilitating a meeting between *Respondent* and *Complainant* through mediation; or (5) restorative justice; and any other remedy that can be tailored to the involved individuals to achieve the goals of the Policy.

Mediation is not used when violent behavior is involved, when the Title IX Coordinator determines a situation is not eligible, or the parties are reluctant to participate in good faith. The University does not require an impacted party to contact the person involved.

At any time prior to agreeing to a resolution, any party has the right to withdraw from an *Informal Resolution* and resume the *Grievance Process* with respect to the *Formal Complaint*. Additionally, a *Respondent* can accept responsibility for misconduct during the *Informal Resolution*.

2. Voluntary Agreement

All parties to an *Informal Resolution* will be provided with a written voluntary agreement that includes:

- i.** The allegations;
- ii.** The requirements of the *Informal Resolution* process including circumstances under which it precludes the parties from resuming a *Formal Complaint* arising from the same allegations;
- iii.** A statement providing that at any time prior to agreeing to a resolution, the right of any party to withdraw from the *Informal Resolution* process and resume the grievance process with respect to the *Formal Complaint*; and
- iv.** Any consequences resulting from participating in the *Informal Resolution* process, including the records that will be maintained or could be shared.

A voluntary agreement will not be an available resolution route when an *Employee* is a *Complainant*.

3. Formal Resolution

i. Investigation

The *Investigation* is designed to provide a fair and reliable gathering of the facts by a trained and impartial Title IX Coordinator, or designated investigator(s). The Title IX Coordinator shall presume the *Respondent* is not responsible for the alleged conduct until a final determination is made at the conclusion of the *Grievance Process*. All individuals, including *Complainant*, *Respondent*, and any third-party witnesses, will be treated with appropriate sensitivity and respect throughout the *Investigation*. The *Investigation* will safeguard the privacy of the individuals involved in a manner consistent with federal law and University policy.

The Title IX Coordinator shall investigate the allegations in any *Formal Complaint*. The Title IX Coordinator will gather evidence and provide both parties with equal opportunity to present to the Title IX Coordinator facts, expert witnesses, and other inculpatory and exculpatory evidence. Parties will not be restricted to discuss the allegations or gather evidence to provide to the Title IX Coordinator through the *Investigation* process.

Where the University is made aware that there is a concurrent criminal investigation, the Title IX Coordinator will coordinate with law enforcement so that any University processes do not interfere with the integrity or the timing of the law enforcement investigation. At the request of law enforcement, the University may agree to defer the fact-finding portion of its *Investigation* until after the initial stages of a criminal investigation. The Title IX Coordinator will nevertheless communicate with *Complainant* and *Respondent* regarding resources and accommodations, procedural options, anticipated timing, and the implementation of any necessary *Supportive Measures* for the safety and well-being of all affected individuals.

ii. Investigative Process

The Title IX Coordinator will send written notice of an *Investigation* to both parties at the initiation of the *Grievance Process*. The notification will include a summary which fairly summarizes the allegation or conduct at issue. The Title IX Coordinator will inform the *Complainant* and *Respondent* that they have the ability to challenge the Title IX Coordinator on the basis of an actual conflict of interest, bias, or lack of impartiality. Any such challenge must be submitted in writing to hrcompliance@louisiana.edu within three (3) business days of the notification. The challenge must clearly state the grounds to support a claim of bias, conflict of interest, or an inability to be fair and impartial. Such challenges will be addressed by the Director of Human Resources Compliance and EEO Programs. Failure to timely object eliminates the possibility of any later appeal or objection based on the assertion that the Title IX Coordinator had a conflict of interest, was biased, or lacked impartiality.

Provided that there are no challenges, the Title IX Coordinator will conduct the *Investigation*. The Title IX Coordinator will speak separately with *Complainant*, *Respondent*, and other individuals willing to participate and who have relevant information. As part of the *Investigation*, the Title IX Coordinator may gather or receive information that is relevant to the impact of the alleged incident on *Complainant* and *Respondent*. The Title IX Coordinator will gather available physical or

documentary evidence, including prior statements by *Complainant*, *Respondent*, or witnesses; any communications between the *Complainant* and *Respondent*; email messages; social media messages; text messages; and other records as appropriate and available. The Title IX Coordinator will send the parties and their *Support Persons/Advisors*, evidence directly related to the allegations in electronic format or hard copy. Parties will have ten (10) days to inspect review and respond to the evidence.

Upon notification, or any stage of the *Investigation*, *Respondent* may choose to accept responsibility. Even if *Respondent* accepts responsibility for a violation of this Policy, the Title IX Coordinator may continue the *Investigation*.

In the event that *Respondent* declines to participate in the *Grievance Process* from the University, the *Investigation* may proceed without *Respondent*.

iii. Timeliness of Investigation

Consistent with the goal to maximize educational opportunities and minimize the disruptive nature of the *Investigation*, the Title IX Coordinator seeks to resolve all reports within a reasonably prompt time frame. The Title IX Coordinator may set reasonable time frames for required actions under the Policy.

Time frames may be extended for good cause to ensure the integrity and completeness of the *Investigation*, comply with a request by external law enforcement, accommodate the availability of witnesses, *Complainant*, or *Respondent*, account for University breaks, or address other legitimate issues, including the complexity of the *Investigation* and the severity and extent of the alleged conduct. *Complainant* and *Respondent* will be given periodic status updates throughout the process. Best efforts will be made to complete the process in a timely manner by balancing principles of thoroughness and fundamental fairness with promptness.

iv. Support Person/Advisor

At any meeting related to the *Investigation* of an allegation under the Policy, *Complainant* or *Respondent* may have a *Support Person/Advisor* present. The *Support Person/Advisor* may not be otherwise a party or witness involved in the *Investigation* or proceedings. The Title IX Coordinator will make reasonable efforts to accommodate the *Support Person/Advisor* and/or *Support Person's/Advisor's* schedule, while balancing the University's commitment to a reasonably prompt and equitable process. A party's inclusion of a *Support Person/Advisor* is at the sole initiative and expense of the party.

Once chosen by a *Complainant* or *Respondent* to serve as a *Support Person/Advisor*, at the discretion of the Title IX Coordinator the *Support Person/Advisor* may be required to meet with the Title IX Coordinator in advance of any attendance of any activity related to the *Investigation* to understand the expectations of the role, privacy considerations, and appropriate decorum.

v. Cooperation

All University community members, including students, faculty, and staff, are expected to cooperate with the Title IX Coordinator in the *Investigation*, to assure fairness and procedural due

process. The Title IX Coordinator may request the appearance of individuals from the University community who can provide relevant evidence.

Both a *Complainant* and a *Respondent* may decline to participate in proceedings under the Policy. If at any point, a *Complainant* fails to cooperate with the process, the *Investigation* may be closed without prejudice.

A *Respondent* that withdraws from the University prior to the conclusion of the *Investigation* may not be eligible to return to the University until the *Grievance Process* has concluded. The University shall withhold the transcript of any *Respondent* who has been accused of a sexually-oriented offense and withdraws prior to the conclusion of an *Investigation* and adjudication by the University. If a *Respondent* accused of a non-sexually-oriented offense withdraws prior to the conclusion of an *Investigation* and adjudication by the University, the University may withhold *Respondent's* transcript until the conclusion of the *Investigation* and adjudication by the University. The University shall inform the *Respondent* of the University's obligation to withhold the transcript during the *Investigation*.

When the University becomes aware that a *Respondent* found responsible for a sexually-oriented criminal offense is seeking to transfer or has transferred to another institution, the University's Title IX Coordinator shall contact the receiving institution's Title IX Coordinator to communicate such violation.

University email is the University of Louisiana at Lafayette's primary means of communication with students. **Students are responsible for all communication delivered to their University email address** and are responsible for abiding by timelines set forth.

vi. Relevance and Special Considerations

The Title IX Coordinator has the discretion to determine the relevance of any witness or other evidence to the finding of responsibility and may exclude information in preparing the Investigative Report if the information is irrelevant, immaterial, or more prejudicial than informative.

The Title IX Coordinator may also exclude statements of personal opinion by witnesses and statements as to general reputation for any character trait, including honesty. The Title IX Coordinator will not exclude direct observations or reasonable inferences drawn from the facts.

vii. Character Evidence

Character evidence is information that does not directly relate to the facts at issue, but instead, reflects upon the reputation, personality, qualities, or habits of an individual. In general, information regarding the character of *Complainant*, *Respondent*, or any witness is not relevant to the determination of whether there is a Policy violation.

viii. Prior Sexual History

Questioning about *Complainant's* sexual history with anyone other than *Respondent* should not be permitted. Further, the University recognizes that the mere fact of a current or previous *Consensual*

dating or sexual relationship between *Complainant* and *Respondent* does not itself imply *Consent* or preclude a finding of a violation of the Policy.

ix. Investigative Conclusion and Report

At the conclusion of the *Investigation*, the Title IX Coordinator will prepare and provide an Investigative Report, in an electronic or a hard copy format to each party and their Support Person/Advisor. The Investigative Report will summarize relevant evidence and each party will have ten (10) days to inspect, review, and respond to the evidence included in the report.

x. Consolidation of Reports

At the discretion of the University, multiple reports may be consolidated in one *Investigation* if the information related to each incident would be relevant and probative in reaching a determination on the other incident. This includes, but is not limited to, matters where the evidence of the other conduct is inextricably intertwined with *Prohibited Sexual Conduct* under the Policy. Matters may also be consolidated where they involve multiple *Complainants*, multiple *Respondents*, or related conduct involving the same parties that would otherwise have been heard under the Student or Employee Code of Conduct (provided that it does not delay a reasonably prompt resolution of determinations of violations of this Policy).

E. Live Hearings and Cross Examinations

At the conclusion of the *Investigation*, the Title IX Coordinator will schedule the live hearing. Live hearings will be conducted in accordance and as described herein:

- A *Decision-Maker*, who is not the Title IX Coordinator, will oversee the live hearing and cross examination.
- Hearings are not open to the public and will be conducted remotely on a virtual platform (e.g., Zoom, Microsoft Teams, etc.). All hearings will be recorded (audio or audiovisual).
- *Support Persons/Advisors* will be allowed to ask relevant questions to the other party or witnesses. Questions must be approved by the *Decision-Maker* prior to being asked during cross examination. *Support Persons'/Advisors'* failure to comply will result in their immediate dismissal.
- The University will provide a *Support Person/Advisor*, without fee or charge, to any party needing one. The Title IX Coordinator will select *Support Person/Advisor*, for that party without bias or prejudice.
- All scheduling conflicts and accommodations requests should be made to the Title IX Coordinator at least three (3) days prior to the hearing date. When applicable, the Title IX Coordinator will consult with the appropriate office to determine appropriate changes, including the date and time of hearing.
- All hearing participants are required to adhere to the privacy and confidentiality guidelines.

1. Cross Examinations

At the live hearing, the *Decision-Maker* shall permit each party's *Support Person/Advisor* to ask the other party and any witnesses all relevant questions and follow-up questions, including questions that may challenge credibility. Only relevant cross-examination and other approved questions may be asked of a party or witness. Before a *Complainant*, *Respondent*, or witness answers a cross-examination or other question, the *Decision-Maker* must first determine whether the question is relevant and explain to the party's *Support Person/Advisor* asking cross-examination questions any decision to exclude a question as not relevant.

If a party or witness does not submit to cross-examination at the live hearing, the *Decision-Maker* must not rely on any statement of that party or witness in reaching a determination regarding responsibility; provided, however, that the *Decision-Maker* cannot draw an inference about the determination regarding responsibility based solely on a party's or witness's absence from the live hearing or refusal to answer cross-examination or other questions.

2. Rape Shield Protections for Complainants

Questions about a *Complainant's* prior sexual behavior will be deemed irrelevant; unless the *Complainant's* prior sexual behavior is being offered to prove that someone other than the *Respondent* is responsible for the Policy violation or if being offered to prove consent.

3. Standard of Evidence and Written Determination

The *Decision-Maker* shall issue a written determination simultaneously to the parties regarding responsibility based on preponderance of the evidence and shall include findings of fact, conclusions about whether the alleged conduct occurred, rationale for the result as to each allegation, any disciplinary sanctions imposed on the *Respondent*, and whether remedies will be provided to the *Complainant*, along with information about how to file an appeal.

a. Sanctions

In keeping with the University's commitment to foster an environment that is safe, inclusive, and free of *Prohibited Sexual Conduct*, the following factors shall be considered by the *Decision-Maker* in determining appropriate sanction(s):

- The nature and violence of the conduct at issue;
- The impact of the conduct on *Complainant*;
- The impact or implications of the conduct on the University community;
- Prior misconduct by *Respondent*, including *Respondent's* relevant prior discipline history, both at the University or elsewhere, including criminal convictions;
- Whether *Respondent* has accepted responsibility for the conduct;
- Maintenance of a safe and respectful environment conducive to learning; and

- Any other mitigating, aggravating, or compelling circumstances to reach a just and appropriate resolution in each case.

Restorative outcomes may also be considered that, taking into account the safety of the University community as a whole, allow *Respondent* to develop insight about his/her responsibility for the behavior, learn about the impact of the behavior on *Complainant* and the community, and identify how to prevent or change the behavior.

Sanctions may be imposed individually or in combination. The list of possible sanctions can be found in Section 7(F) of the Student Code of Conduct.

b. Remedies

The *Decision-Maker* may identify short and long-term or permanent remedies to address the effects of the conduct on *Complainant* and ensure there are no barriers to *Complainant's* ability to benefit from the University's employment or educational opportunities. Such remedies should seek to restore to *Complainant*, to the extent possible, all benefits and opportunities lost as a result of the *Prohibited Sexual Conduct*. The *Decision-Maker* will also identify remedies to address the effects of the conduct on the University community, such as conducting targeted or broad-based educational programming or training for relevant individuals or groups; providing increased monitoring, supervision, or security at locations or activities where the misconduct occurred; and any other remedy that can be tailored to the campus community to achieve the goals of the Policy.

The *Decision-Maker* will consider the appropriateness of remedies, including *Supportive Measures*, on an ongoing basis to assure the safety and well-being of the parties throughout the process. Long-term remedies may include extending or making permanent any *Supportive Measures* or implementing additional measures tailored to achieve the goals of the Policy. Many of the remedies and supports that a *Complainant* might need after a finding of a Policy violation will have already been provided as *Supportive Measures*. The *Decision-Maker* will, in all cases, consider whether there is a need for additional remedies. Additional remedies or supports may be included in the sanctions, such as reassignment or removal of *Complainant* or *Respondent* from a class or a dormitory.

F. Retaliation

Retaliation is strictly prohibited by the University. Prohibited *Retaliatory* acts or attempted acts include, but are not limited to, *Intimidation*, threats, *Coercion*, or discrimination. For purposes of this Policy and its procedures, an attempt requires a substantial step towards committing a violation. Additionally, charging an individual with Code of Student Conduct violations that do not involve *Prohibited Sexual Conduct*, but arise out of the same facts or circumstances as a report or *Formal Complaint* of *Prohibited Sexual Conduct*, for the purpose of interfering with any right or privilege secured by Title IX constitutes *Retaliation*.

However, charging an individual with a Code of Student Conduct violation for making a materially false statement in bad faith during the *Grievance Process* **does not** constitute *Retaliation*. A determination regarding responsibility, alone, is not sufficient to conclude that any party made a materially false statement in bad faith.

VI. APPEAL

A. Scope of Appeal

The University will offer both parties the ability to appeal a determination regarding responsibility and from a dismissal of a *Formal Complaint* or any allegations therein. Parties must submit his or her request for an appeal in writing to the Title IX Coordinator within five (5) business days of the University's determination. Appeals may be raised on the following bases:

1. A procedural irregularity that affected the outcome of the matter;
2. Newly discovered evidence that could affect the outcome of the matter; and/or
3. The Title IX Coordinator had a conflict of interest or bias that affected the outcome of the matter.

The *Appeal* is not a de novo review of written determination and/or sanction(s).

Where neither party requests an *Appeal* within the specified time frame, the written determination will become final.

If either party appeals the written determination, the Title IX Coordinator will issue a Notice of *Appeal* to *Complainant* and *Respondent* and forward the party's request for the *Appeal*, the *Investigative Finding*, and the written determination to the Appeal Chair. The *Decision-maker* shall have sole discretion to determine whether any sanctions or remedies are put on hold pending the *Appeal* outcome. Once the *Appeal* has been filed with the Appeal Chair, the Appeal Chair will initiate a *Prehearing Meeting*. The *Prehearing Meeting* will be held individually with each party and their *Support Person/Advisor*. This meeting will provide further guidance on the *Appeal* process.

B. Appeal to the University of Louisiana System (Students)

See University of Louisiana System Board Bylaws and Rules, Part Two, Chapter II, Students, Section XIX, Student Conduct and Appeal Procedures for information on what issues may be appealed to the University of Louisiana System.

(http://ulsystem.edu/assets/docs/searchable/boards/Chpt_2_XIX_Student_Conduct_Appeal_Procedures.pdf)

VII. POST-RESOLUTION FOLLOW UP

After a sanction or remedy is issued, the Title IX Coordinator, may contact *Complainant* to ensure the *Prohibited Sexual Conduct* and *Sexual Harassment* has ended and to determine if additional remedies are necessary and may contact *Respondent* or others to ensure compliance with any sanctions that have been imposed. *Complainant* may decline future contact. Any violation by a *Respondent* of a sanction or *Supportive Measure* imposed under the Policy or a failure by an *Employee* to provide a specified remedy should be reported to the Title IX Coordinator.

VII. DOCUMENTARY RECORDS OF STUDENT DISCIPLINE

Records documenting disciplinary actions brought against students for violation of the Policy shall be maintained for seven (7) years by appropriate offices, including the Title IX Coordinator in the Office of Human Resources and the Division of Student Affairs, as part of a student disciplinary record separate from the transcript. At the conclusion of the *Appeal Hearing*, the official record of the *Appeal Hearing* will be turned over to the Title IX Coordinator.

VIII. DEFINITIONS

In addition to terms defined in the Policy, the following terms are applicable to these Procedures. Where starred (*), the terms listed herein are defined as stated in the Louisiana Board of Regents' Uniform Policy on Sexual Misconduct.

- ✦ **Appeal**: is the process by which *Complainant* or *Respondent* may challenge the *Investigative Finding* and/or sanction(s).
- ✦ **Appeal Chair**: an individual charged with overseeing the *Appeal* process and providing a determination of the *Appeal*.
- ✦ **Appeal Hearing**: is a component of the *Appeal* process in which the *Appeal Panel* considers evidence and makes a determination of whether a Policy violation occurred, and if so, what sanction(s) should be imposed.
- ✦ **Appeal Panel**: is the group of individuals appointed by the President to make determinations of whether a Policy violation occurred, and if so, what sanction(s) should be imposed based on evidence presented during an *Appeal Hearing*.
- ✦ **Formal Complaint**: is a document filed by a *Complainant* or signed by the Title IX Coordinator alleging *Sexual Harassment* and/or *Prohibited Sexual Conduct* against a *Respondent* and requesting that the University investigate the allegation of *Sexual Harassment* and *Prohibited Sexual Conduct*. The *Complainant* must submit a document or electronic submission that contains their physical or digital signature, or otherwise indicate that the *Complainant* is the person filing the *Formal Complaint*.
- ✦ **Formal Resolution**: is an outcome of a report of a violation of *Policy* whereby the *Complainant* seeks a formal resolution; or the Title IX Coordinator determines that a *Formal Resolution* process is necessary after considering the safety of the university community.
- ✦ **Grievance Process**: is the process by which the University will seek to resolve reports of *Sexual Harassment* and *Prohibited Sexual Conduct*.
- ✦ **Informal Resolution**: is an outcome of a report willingly agreed to by *both parties*. It is a path designed to eliminate the conduct at issue, prevent its recurrence, and remedy its effects in a manner that meets the expressed preferences of *both parties* and the safety and welfare of the campus community. If an *Informal Resolution* involves either notification to or participation by *Respondent*, it is *Respondent's* decision whether to accept the *Informal Resolution*.

- ❖ **Initial Assessment**: is, after a report of *Prohibited Sexual Conduct*, the initial determination made by the Title IX Coordinator or designee of whether the alleged conduct would present a potential violation of the Policy and whether further action is warranted based on the alleged conduct.
- ❖ **Investigation**: is an impartial ascertaining of the facts related to the allegations of *Prohibited Sexual Conduct* and *Sexual Harassment*, including interview of the parties and witnesses, as well as gathering available documents and other evidence. The *Investigation* is conducted by the Title IX Coordinator.
- ❖ **Investigative Finding**: is a formal judgment rendered on whether a Policy violation has occurred, based on the *Investigation*.
- ❖ **Prehearing Meeting**: an informative meeting conducted by the *Appeal Chair* prior to the *Appeal Hearing*, held individually with each party and their *Advisors*; information received can include but are not limited to; (1) grounds for the appeal; (2) date and time of the appeal; (3) party, *Advisor*, and witness expectations.
- ❖ **Retaliation/Retaliatory**: any acts or attempted acts for the purpose of interfering with any report, [i]nvestigation, or proceeding under this Policy and its procedures, or as retribution or revenge against anyone who has reported *Sexual Misconduct* or Relationship Violence [or *Prohibited Sexual Conduct*] or who has participated (or is expected to participate) in any manner in an [i]nvestigation, or proceeding under this Policy.
- ❖ **Supportive Measures**: are individualized services reasonably available that are non-punitive, non-disciplinary, and not unreasonably burdensome to the other party while designed to ensure equal educational access, protect safety, or deter *Sexual Harassment* or other *Prohibited Sexual Conduct*.

Sample *Supportive Measures* include, but are not limited to:

1. Access to counseling services and assistance in setting up initial appointments, both on and off campus
2. Imposition of a campus “No-Contact Agreement”
3. Rescheduling of exams and assignments
4. Providing alternative course completion options
5. Change in class schedule, including the ability to drop a course without penalty or to transfer sections
6. Change in work schedule or job assignment
7. Change in student’s campus housing
8. Assistance from University support staff in completing housing relocation

9. Limiting access to certain University facilities or activities pending resolution of the matter
10. Voluntary leave of absence
11. Options for changing campus transportation arrangements

✦ **Support Person/Advisor** is someone who can provide guidance, advice, or emotional, logistical, or other kinds of assistance to a *Complainant* or *Respondent*. The *Support Person/Advisor* is a non-participant who is present to assist a *Complainant* or *Respondent* by taking notes, providing emotional support and reassurance, organizing documentation, or consulting directly with the party in a way that does not disrupt or delay any proceeding.