



UNIVERSITY of
LOUISIANA
L A F A Y E T T E

SEXUAL HARASSMENT AND OTHER PROHIBITED SEXUAL CONDUCT POLICY

Policy # HR.005.2

Vice President for
Administration &
Finance

Responsible Executive:

Responsible Office: Human Resources

Originally Issued: September 30, 2015

Latest Revision: February 14, 2021

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I. Policy Statement

Pursuant to this Policy, as well as federal and state law, the University of Louisiana at Lafayette (the “University”) will provide an educational and working environment for its *Employees* and students that is free from *Sexual Harassment* and other *Prohibited Sexual Conduct*, which includes *Sex Discrimination* (including discrimination on the basis of pregnancy, gender identity, including transgender status and sexual orientation), *Sexual Harassment*, *Sexual Assault*, *Sexual Misconduct*, and interpersonal violence (including *Domestic Abuse* and *Dating Violence*, and *Stalking*).

Behavior of a sexual nature or connotation which negatively impacts the University community is prohibited even though such behavior may not constitute actionable *Sexual Misconduct*, *Sex Discrimination*, or *Sexual Harassment* as defined by law. *Prohibited Sexual Conduct* in accordance with this Policy includes words and conduct that intimidates, exploits, insults, demeans, disrespects, or embarrasses any individual within the University community.

The University strives to maintain an environment that fosters mutual respect and promotes harmonious productive learning and working relationships. Prevention and elimination of *Prohibited Sexual Conduct* requires the personal involvement and commitment of every University member. Through this Policy and related training requirements, the University seeks to reinforce its intolerance of *Prohibited Sexual Conduct*, and encourages *Employees* and students who experience, observe, or are informed of such *Prohibited Sexual Conduct* to promptly initiate the reporting process set forth in this Policy and the related Procedures.

The Procedures for Reporting and Responding to Alleged Policy Violations Involving a Student as a Respondent and the Procedures for Reporting and Responding to Alleged Policy Violation Involving a Faculty, Staff, or Visitor address how the University handles allegations of *Prohibited Sexual Conduct* and detail the methods to administratively report and address complaints of

Prohibited Sexual Conduct in keeping with the University's values and in order to meet the legal obligations of Title IX, Title VII, and other applicable laws.

II. Purpose of Policy

The University is committed to creating and maintaining a campus environment in which all individuals are treated with respect and dignity and are free to participate in a lively exchange of ideas. Furthermore, the University is committed to fostering an environment in which all members of our campus community are safe, secure, and free from *Sex Discrimination*, *Sexual Harassment*, and *Sexual Misconduct* of any form. The University expects that all interpersonal relationships and interactions – especially those of an intimate nature – be grounded upon mutual respect, open communication, and clear *Consent*. Each student has the right to learn and each *Employee* has the right to work in an environment free of *Prohibited Sexual Conduct*. Through this Policy and the mandatory associated training required for all *Employees* and available training for students, the University seeks to:

- Unequivocally state intolerance for *Prohibited Sexual Conduct*;
- Identify the broad scope of such *Prohibited Sexual Conduct*;
- Establish an effective, uniform reporting and investigative process;
- Require prompt action to protect against recurrence of the *Prohibited Sexual Conduct*;
- Ensure resolutions that impose appropriate remedies or sanctions;
- Protect *Complainants*, *Respondents*, and individuals who report or are involved in the investigative process from harassment, reprisal, or Retaliation; and
- Respect confidentiality and the privacy rights of *Employees* and students to the greatest extent practicable and appropriate. The University cannot guarantee complete confidentiality where it would conflict with the University's obligation to investigate a complaint or maintain a safe, healthy, working and learning environment.

A. PROHIBITED SEXUAL CONDUCT

1. Sexual Harassment

- a. This Policy prohibits *Sexual Harassment*. *Sexual Harassment* may occur in several different types of situations, including but not limited to, the following:
 - i. When the submission to unwelcome physical conduct of a sexual nature, or to unwelcome requests for sexual favors or other verbal conduct of a sexual nature, is made an implicit or explicit term or condition of employment or education;
 - ii. When the submission to or rejection of unwelcome physical conduct of a sexual nature, or unwelcome requests for sexual favors or other verbal

conduct of a sexual nature, is used as a basis for academic or employment decisions or evaluations; and

- iii.** When subjected to unwelcome physical acts of a sexual nature, unwelcome requests for sexual favors, or other verbal conduct of a sexual nature, which has the effect of creating an objectively hostile environment that substantially interferes with employment or education on the basis of sex (including gender), and such conduct is intentionally directed towards a specific individual and has the purpose or effect of unreasonably interfering with that individual's education, employment, or participation in University activities, or creating an intimidating, hostile, or offensive atmosphere.
- b.** Physical examples of *Sexual Harassment*, dependent on the totality of the circumstances present, including the frequency and severity of the conduct, include, but are not limited to, the following:
- i.** Unwelcome intentional touching or physical contact (i.e., touching, rubbing, leaning over, pinching, invading another's space, purposefully cornering or blocking passage, etc.);
 - ii.** Unwelcome sexual flirtations, advances, or propositions;
 - iii.** Deliberate physical interference with or restriction of movement.
- c.** Verbal examples of *Sexual Harassment* may present itself as actual conduct, whether oral, written, or symbolic expression, and is dependent of the totality of the circumstances present including frequency and severity. Verbal examples of *Sexual Harassment* include, but are not limited to, the following:
- i.** Unwelcome request for sexual favors;
 - ii.** Unwelcome sexual looks or gestures;
 - iii.** Explicit or implicit propositions to engage in sexual activity;
 - iv.** Gratuitous comments, teasing, jokes, questions, anecdotes, insults, innuendo, inquiries, or remarks of a sexual nature about clothing or bodies;
 - v.** Gratuitous remarks about sexual activities or speculation about sexual experiences;
 - vi.** Persistent, unwanted sexual or romantic attention, including unwelcome repeated requests for dates or social engagement;
 - vii.** Subtle or overt pressure for sexual favors;
 - viii.** Exposure to sexually suggestive visual displays such as photographs, graffiti, posters, calendars, or other materials;

- ix. Deliberate, repeated humiliation or intimidation based upon sex;
 - x. Degrading words and demeaning or inappropriate terms (i.e., referring to a person as “babe”, “honey”, “sweetie”, etc.);
 - xi. Sexually insulting noises;
 - xii. Failure to observe the appropriate boundaries of the supervisor/subordinate or faculty member/student relationship, including the participation of a supervisor, teacher, advisor, or coach in an unreported consensual romantic or sexual relationship with a subordinate employee or student; or
 - xiii. Engaging in any form of *Sexual Exploitation*. Examples of Sexual Exploitation include, but are not limited to, engaging in voyeurism; forwarding of pornographic or other sexually inappropriate material by email, text, or other channels to non-consenting students/groups; and any activity that goes beyond the boundaries of consent, such as recording of sexual activity, letting others watch consensual sex, or knowingly transmitting a sexually transmitted disease (“STD”) to another.
- d. This Policy is not in any way intended to replace or supersede the statutory or regulatory rights regarding *Sexual Harassment* available to *Employees* under federal and state law.

2. Interpersonal Violence

This Policy prohibits all forms of interpersonal violence, including, but not limited to, the following:

- a. *Domestic Abuse*;
- b. *Dating Violence*; and
- c. *Stalking*.

3. Sex Discrimination

This Policy prohibits *Sex Discrimination*.

4. Sexual Assault

This Policy prohibits *Sexual Assault*. *Sexual Assault* includes, but is not limited to, the following:

- a. *Rape*;
- b. *Fondling*;
- c. *Incest*; and

d. *Statutory Rape.*

5. Sexual Behavior Between Individuals in Certain Roles

This Policy prohibits *Sexual Behavior Between Individuals in Certain Roles*. In this category, both *Consensual* and non-*Consensual* sexual behavior are prohibited because of the University's presumption that individuals not in a position of authority (or of lesser authority) cannot willingly and freely say no to any sexual advances, acts, or contact from a person in a position of authority.

To protect the integrity of the University academic and work environment, the University requires that when a *Consensual* romantic or sexual relationship exists or have existed between people in positions of unequal power at the University, the person with the greater power must not hold any supervisory or evaluative authority over the other person in the relationship.

If such a relationship develops, the individual in the relationship with the higher position of authority shall notify his/her supervisor, who shall in turn, notify the Title IX Coordinator. Management of such relationships will be considered on a case-by-case basis, and, when possible, will lead to development of an appropriate plan in consultation with the department chair, dean, and the Office of Human Resources. Any resulting plan must be in accordance with the Louisiana Code of Governmental Ethics.

B. RETALIATION

This Policy prohibits *Retaliatory* or *Intimidating* conduct (including, but not limited to, reprisal and harassment) against any individual who has made an allegation of *Prohibited Sexual Conduct*, or who has testified or assisted in any manner in an investigation pursuant to this Policy. The University will take strong responsive action against any attempt at such *Retaliation*. *Retaliation* will be grounds for a separate violation of this Policy.

Any *Employee* or student making a complaint pursuant to this Policy will be protected from *Retaliation* or *Intimidating* conduct. Likewise, any individual providing information or otherwise participating in the investigation of such a complaint will be protected from *Retaliation* or *Intimidating* conduct.

Retaliation must be promptly reported. If a complaint is made and the investigation reveals that *Retaliation* or *Intimidating* conduct has occurred against a *Complainant* or anyone participating in the investigative process, appropriate disciplinary action, up to and including termination, will be taken.

C. MANDATED COMPLIANCE

1. Training

a. Employees

- i. The University recognizes that implementation of this Policy prohibiting *Prohibited Sexual Conduct* alone is insufficient to prevent and address such behavior. To support this Policy and encourage a

culture where *Employees* willingly report concerns, the University requires all *Employees* to successfully complete training on this topic upon hire and on a continuing basis thereafter. Annual training concerning this Policy and the procedures for reporting and responding to complaints under the Policy will be provided to all *Employees*.

- ii. At a minimum, the University requires the following training for its *Employees*:
 - (1.) Within thirty (30) days of hiring, all new *Employees* are required to complete the most recent training course on *Sexual Harassment*. Certification of successful completion will be documented by the Office of Human Resources.
 - (2.) On an annual basis, all *Employees* are required to complete the most recent training course on *Sexual Harassment*. Certification of successful completion will be documented by the Office of Human Resources.
 - (3.) Within thirty (30) days of attaining a supervisory position, all new supervisors are required to complete the most recent training on *Sexual Harassment* designated for supervisory personnel. Certification of successful completion will be documented by the Office of Human Resources.
- iii. Furthermore, it is required that the University's Title IX Coordinator, *Decision-makers*, and *Officials with Authority* receive training on:
 - (1.) The definition of *Sexual Harassment* as defined herein and in 34 CFR 106.30;
 - (2.) The scope of the University's education program or activities;
 - (3.) How to conduct an investigation and grievance process including hearings, appeals, and issues of relevance, as applicable, and how to serve impartially, including by avoiding prejudgment of the facts at issue, conflicts of interest, and bias;
- iv. Additional training:
 - (1.) The University will ensure that training will be provided for *Decision-makers* on technology to be used at live hearings and on issues of relevance of questions and evidence, including when questions and evidence about the *Complainant's* sexual predisposition or prior sexual behavior are not relevant;

- (2.) The University will ensure that training will be provided for investigators on issues of relevance to create an investigative report that fairly summarizes relevant evidence;
- (3.) The University will ensure that adequate trainings on topics as promulgated by Title IX are made available to the Title IX Coordinator, campus law enforcement officers, security personnel, and *Officials with Authority* to institute corrective measures; and
- (4.) The University will provide additional education and training to supervisors that can be used to prevent *Sexual Harassment* in the workplace.

b. Students

The safety and well-being of students is the University's highest priority. Students, as well as the entire University community, have important roles to play by being aware of the issues, watching out for one another, and reporting violations. All students are encouraged to take the free, online Everfi student training program regarding sex- and gender-based violence. Furthermore, all incoming freshmen, students participating in student organizations, and student athletes are required to take the Everfi student training program regarding sex- and gender-based violence.

2. Education, Prevention, and Awareness Programs

The University will annually offer education and prevention programs to *Employees* and students during their first semester of enrollment and on an ongoing basis that include, but are not limited to: (a) awareness programs; (b) bystander intervention programs; (c) ongoing prevention and awareness campaigns; (d) primary prevention programs; (e) education on risk reduction; and (f) development of an institutional task force to assess additional prevention initiatives. These programs will cover, at a minimum: (1) statements that the University prohibits all forms of *Prohibited Sexual Conduct* and the crimes of *Dating Violence*, *Domestic Violence*, *Sexual Assault*, and *Stalking*, as defined by federal law; (2) the definitions of *Dating Violence*, *Domestic Violence*, *Sexual Battery*, and *Stalking* under state law; (3) the definition of *Consent*, as provided in this Policy; (4) safe and positive options for bystander intervention that may be carried out by an individual to prevent harm or to intervene when there is a real or perceived risk of *Prohibited Sexual Conduct* against a person other than the individual; (5) information on risk reduction to recognize warning signs of abusive behavior and how to avoid potential attacks; (6) information about the procedures that *Complainants* should follow, and that the University will follow, after an incident of *Prohibited Sexual Conduct* has occurred; and (7) any other content or resources that support prevention and reduction of *Prohibited Sexual Conduct*. The University will provide and document all training programs.

- a. Awareness Programs:** Awareness programs consist of community-wide or audience-specific programming, initiatives, and strategies that increase audience knowledge and share information and resources to prevent violence, promote safety, and reduce *Prohibited Sexual Conduct*.

- b. Bystander Intervention:** Bystander intervention consists of safe and positive options that may be carried out by an individual or individuals to prevent harm or intervene when there is a risk of *Prohibited Sexual Conduct*. It also includes recognizing situations of potential harm, understanding institutional structures and cultural conditions that facilitate violence, overcoming barriers to intervening, identifying safe and effective intervention options, and taking action to intervene.
- c. Ongoing Prevention and Awareness Campaigns:** Ongoing prevention and awareness campaigns must consist of programming, initiatives, and strategies that are sustained over time and focus on increasing understanding of topics relevant to, and skills for addressing, *Prohibited Sexual Conduct*, using a range of strategies with audiences throughout the institution.
- d. Prevention Programs:** Primary prevention programs must consist of initiatives and strategies informed by research or assessed for value, effectiveness, or outcome that are intended to stop *Prohibited Sexual Conduct* before they occur through the promotion of positive and healthy behaviors that foster healthy, mutually respectful relationships and sexuality, encourage safe bystander intervention, and seek to change behavior and social norms in healthy and safe directions.
- e. Risk Reduction:** Risk reduction consists of options designed to decrease perpetration and bystander inaction and to increase empowerment for *Complainants* to promote safety and to help individuals and communities address conditions that facilitate violence. Additional options may include designation and publication of “red zones” (i.e., times and places of high incidence of crimes, including sexual violence).

3. Coordination with Local Law Enforcement

The University has entered into Memoranda of Understanding (“MOUs”) with local law enforcement and criminal justice agencies located within each parish of the campus of the University and other organizations such as crisis centers regarding the coordination of its efforts with those of local law enforcement agencies and other organizations such as crisis centers as appropriate. The MOUs clearly delineate the responsibilities and sharing of information between the University, the local law enforcement agencies, and other organizations in accordance with applicable federal and state confidentiality laws including, but not limited to, trends about sexually-oriented criminal offenses occurring against students of the University and joint or shared trauma-informed training specific to assisting *Sexual Assault* victims.

4. Campus Climate Survey

Consistent with the Louisiana Board of Regents and University of Louisiana System Policy, the University will administer an anonymous sexual assault campus climate survey once every three (3) years to students with the intention of assessing campus safety and identify vulnerabilities. This will be coordinated by the Louisiana Board of Regents and the University will be required

to submit results of the survey to the Louisiana Board of Regents. The University may supplement the statewide survey by collecting additional information that can be utilized to develop prevention and intervention strategies appropriate for its campus.

5. Website

The University's Title IX website, found at <https://titleix.louisiana.edu/>, not only includes access to this Policy and the Procedures for Reporting and Responding to Alleged Policy Violations Involving a Student as a Respondent and the Procedures for Reporting and Responding to Alleged Policy Violation Involving a Faculty, Staff, or Visitor as a Respondent, but also includes contact information for Confidential Advisors, reporting options for *Complainants*, and other information regarding accommodations, training, and resources available to *Complainants*.

D. CLERY ACT REPORTING

Under the Clery Act, the University must report particular crimes, including certain sexual offenses which are included in this Policy. *CSA*'s are responsible for reporting the number of crimes and incidents as described in the Clery Act that occur in their department to the University Police Department. These numbers are then included in the federally mandated Clery Report, which is distributed every year in the beginning of October. The report will not include an individual's name, or that of any other involved individuals. The University must publish an Annual Security Report ("ASR") documenting three (3) calendar years of select campus crime statistics including security policies and procedures and information on the basic rights guaranteed victims of *Sexual Assault*. The law requires the University make the report available to all current students and *Employees*, and prospective students and employees must be notified of its existence and given a copy upon request.

The University must also issue timely warnings about Clery Act crimes which pose a serious or ongoing threat to students and *Employees*. The University must provide timely warnings in a manner likely to reach all members of the campus community.

E. FREE SPEECH

This Policy and its related procedures will not be implemented in a manner that infringes on any form of speech or conduct that is protected by the First Amendment.

III. Applicability

This Policy is applicable to and enforceable against all *Employees*, including faculty, administrators, staff, students, individuals affiliated with the University by contract or otherwise (including, but not limited to, non-*Employees*, such as vendors and independent contractors, maintenance personnel, clients, consultants, volunteers, student organization advisors), and visitors. This Policy applies to the entire University community, regardless of an individual's sexual orientation or gender identity. This Policy may include *Prohibited Sexual Conduct* that has taken place on or off campus.

With respect to *Employees*, this Policy applies to all University *Employees* regardless of position, rank, or status. This includes classified and unclassified *Employees*, as well as full time, part time, seasonal, and temporary *Employees*. The tenets of this Policy are equally applicable to appointing authorities, executive management, faculty, administrators, directors, managers, supervisors, staff members, student workers, and interns. This Policy applies not only to the customary workplace and work locations where University *Employees* may be assigned, but also prohibits such behavior while traveling for work, while attending conferences or off-site meetings, workshops, training, business trips, and business-related social events.

IV. Definitions

Where starred (*), the terms listed herein are defined as stated in the Louisiana Board of Regents' Uniform Policy on Sexual Misconduct.

1. **Coercion***: is the use of express or implied threats, Intimidation, or physical force which places an individual in fear of immediate harm or physical injury or causes a person to engage in unwelcome sexual activity. *Coercion* also includes administering a drug, intoxicant, or similar substance with the intent to impair that person's ability to *Consent* prior to engaging in sexual activity.
2. **Complainant**: is an individual alleged to have been affected by *Sexual Harassment* or other *Prohibited Sexual Conduct* in violation of the Policy, regardless of whether a formal complaint has been filed.
3. **Confidential Advisor**: individuals designated, to the extent authorized under law, to provide confidential services to *Complainants*.
 - a. The *Confidential Advisor* shall be authorized to advise *Complainant* of, and provide written information regarding, both *Complainant's* rights and the University's responsibilities regarding orders of protection, no-contact orders, restraining orders, or similar lawful orders issues by a court of competent jurisdiction or by the University.
 - b. The *Confidential Advisor* shall be authorized to liaise with appropriate staff at the University to arrange reasonable accommodations through the University to allow *Complainant* to change living arrangements or class schedules, obtain accessibility services, or arrange other accommodations. The same accommodations that are offered to *Complainant* may be offered to *Respondent*. Any requests for accommodations shall not trigger an investigation by the University.
 - c. The *Confidential Advisor* shall be authorized to accompany *Complainant*, when requested to do so by *Complainant*, to interviews and other proceedings of a campus investigation and University disciplinary proceedings.
 - d. The *Confidential Advisor* may, as appropriate, serve as a liaison between *Complainant* and the University or local law enforcement when directed to do so in writing by *Complainant* who has been fully and accurately informed about what procedures shall

occur if information is shared, and assist *Complainant* in contacting and reporting to an *Official with Authority*, the Title IX Coordinator, or local law enforcement.

- e. The *Confidential Advisor* shall not be obligated to report crimes to the University or law enforcement in a way that identifies *Complainant* or *Respondent*, unless otherwise required to do so by law.
4. **Consent***: *Consent* to engage in sexual activity must exist from beginning to end of each instance of sexual activity. *Consent* is demonstrated through mutually understandable words and/or actions that clearly indicate a willingness to engage in a specific sexual activity. Silence alone, without actions evidencing permission, does not demonstrate *Consent*. *Consent* must be knowing and voluntary. To give *Consent*, a person must be of legal age. Assent does not constitute *Consent* if obtained through *Coercion* or from an individual whom the Alleged Offender [herein, *Respondent*] knows or reasonably should know is *Incapacitated*. The responsibility of obtaining *Consent* rests with the person initiating sexual activity. Use of alcohol or drugs does not diminish one's responsibility to obtain *Consent*. *Consent* to engage in sexual activity may be withdrawn by any person at any time. Once withdrawal of *Consent* has been expressed, the sexual activity must cease. *Consent* is automatically withdrawn by a person who is no longer capable of giving *Consent*. A current or previous consensual dating or sexual relationship between the parties does not itself imply *Consent* or preclude a finding of responsibility.

Note: *Consent* is a voluntary agreement to engage in sexual activity. *Consent* to engage in sexual activity with one person does not imply *Consent* to engage in sexual activity with another. *Coercion*, force, or threat of either invalidates *Consent*.

5. **Consensual**: agreed to by mutual *Consent*.
6. **Campus Security Authority (CSA)***: a *CSA* is a person referred to as a campus security authority by the Clery Act. *CSAs* are a vital part of data collection for the annual safety and security report. The Clery Act requires [the University] to provide an annual safety and security report. In addition to input from law enforcement, certain staff positions are designated as *Campus Security Authorities (CSA)* for the purpose of providing information for this report. *CSAs* are usually found in departments responsible for, but not limited to, student and campus activities, safety/security, discipline, housing, athletics, human resources or judicial proceedings. This designation also includes any individual who has been specified by [the University] to receive and report offenses. *CSAs* are responsible for reporting the number of crimes and incidents as described in the Clery Act that occur in their department to the [University] Police Department. These numbers are then included in the federally mandated Clery Report, which is distributed annually during the month of October.
7. **Course of Conduct**: is two or more acts in which a person directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person or interferes with a person's property.

8. **Dating Violence***: is

- a. **Dating Violence definition in Clery Act**: violence, including but not limited to sexual or physical abuse or the threat of such abuse, committed by a person who is or has been in a social relationship of a romantic or intimate nature with the Alleged Victim [here, *Complainant*]. The existence of such a relationship will be determined based on a consideration of the length and type of relationship and the frequency of interaction.
- b. **Dating Violence definition in Louisiana law**: *Dating Violence* includes but is not limited to physical or sexual abuse and any offense against the person as defined in the Criminal Code of Louisiana, except negligent injury and defamation, committed by one dating partner against the other. La. R.S. § 46.2151(C). For purposes of this Section, “dating partner” means any person who is or has been in a social relationship of a romantic or intimate nature with the victim [here, *Complainant*] and where the existence of such a relationship shall be determined based on a consideration of the following factors:
 - i. The length of the relationship;
 - ii. The type of relationship; and
 - iii. The frequency of interaction between the persons involved in the relationship.

9. **Decision-Maker**: is an individual who conducts the live hearing and must issue a written determination regarding responsibility with findings of fact, conclusions about whether the alleged conduct occurred, rationale for the result as to each allegation, and any disciplinary sanctions and/or remedies.

10. **Domestic Abuse***: is

- a. **Domestic Abuse definition in Louisiana law**: includes but is not limited to physical or sexual abuse is an individual who must issue a written determination regarding responsibility with findings of fact, conclusions about whether the alleged conduct occurred, rationale for the result as to each allegation, and any disciplinary sanctions and any offense against the person as defined in the Criminal Code of Louisiana, except negligent injury and defamation, committed by one family or household member against another. La. R.S. 46:2132(3).
- b. **Domestic Abuse as additionally defined by the University**: is abuse or violence committed by a current or former spouse or intimate partner of the *Complainant*, by a person with whom the *Complainant* shares a child in common, by a person with whom the *Complainant* is cohabiting (or has cohabited) with, by a person similarly situated to a spouse of the *Complainant* under the domestic or family violence laws of Louisiana.

10. **Domestic Violence***: is

Domestic Violence definition in Clery Act: violence, including but not limited to sexual or physical abuse or the threat of such abuse, committed by a current or former spouse or intimate partner or any other person from whom the Alleged Victim [herein, *Complainant*] is protected under federal or Louisiana law. Felony or misdemeanor crime of violence committed:

- a. By a current or former spouse or intimate partner of the victim;
- b. By a person with whom the victim shares a child in common;
- c. By a person who is cohabitating with, or has cohabitated with, the victim as a spouse or intimate partner;
- d. By a person similarly situated to a spouse of the victim under the *Domestic Violence* or Family Violence laws of the jurisdiction in which the crime of violence occurred; or
- e. By any other person against an adult or youth victim who is protected from that person's acts under the *Domestic Violence* or Family Violence laws of the jurisdiction in which the crime of violence occurred.

11. **Employee(s)*:** means any person, paid or unpaid, in the service of the University.

12. **Family Violence*:** is

Family violence definition in Louisiana law: means any assault, battery, or other physical abuse which occurs between family or household members, who reside together or who formerly resided together. La. R.S. 46.2121.1(2).

13. **Fondling:** is the touching of the private body parts (including, but not limited to the genitalia, anus, groin, breast, inner thigh, buttocks, etc.) of another person for the purpose of sexual gratification, without the consent of that person, including instances where that person is incapable of giving consent because of his or her age or temporary or permanent mental *Incapacity*.

14. **Grievance Process:** is the process by which complaints of *Prohibited Sexual Conduct* or *Retaliation* in violation of this Policy are made to the University and are addressed by the University through a formal or informal process (as appropriate).

15. **Hostile Environment Caused by Sexual Harassment:** includes any situation in which there is harassing conduct that is sufficiently severe, pervasive, and objectively offensive such that it alters the conditions of employment or limits, interferes with, or denies educational benefits or opportunities. A *Hostile Environment* can be created by a one-time act that is severe (i.e., a *Sexual Assault*), or it can be created by repeated acts of less severity (i.e., *Sexually Harassing* comments made over a period of time). Examples of a *Hostile Environment Caused by Sexual Harassment* include, but are not limited to:

- a. Posting pictures of pornography;

- b. Consistently telling sexual jokes or stories where it can be overheard by others;
 - c. Making sexually suggestive remarks about people within ear shot of others;
 - d. Persisting in unwanted sexual attention; and
 - e. Using derogatory terms with a sexual connotation.
16. **Incapacitation*/Incapacitated**: an individual is considered to be *Incapacitated* if, by reason of mental or physical condition, the individual is manifestly unable to make a knowing and deliberate choice to engage in sexual activity. Being drunk or intoxicated can lead to *Incapacitation*; however, someone who is drunk or intoxicated is not necessarily *Incapacitated*, as *Incapacitation* is a state beyond drunkenness or intoxication. Individuals who are asleep, unresponsive, or unconscious are *Incapacitated*. Other indicators that an individual may be *Incapacitated* include, but are not limited to, inability to communicate coherently, inability to dress/undress without assistance, inability to walk without assistance, slurred speech, loss of coordination, vomiting, or inability to perform other physical or cognitive tasks without assistance.
17. **Incest**: is sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.
18. **Intimidation**: is to place another person in reasonable fear of harm through the use of threatening words and/or other conduct.
19. **Mandated Reporter/Mandatory Reporter**: is a University *Employee* who is required to report when a violation of the *Sexual Harassment and other Prohibited Sexual Conduct Policy* is observed or suspected. All University *Employees* are *Mandatory Reporters*. Generally, student workers are not considered *Mandatory Reporters*; however, graduate teaching assistants and housing resident assistants are considered *Mandatory Reporters*.
20. **Official with Authority**: is an *Employee* of the University that can, in an *Employees'* capacity, institute corrective measures on the University's behalf and would therefore have "actual knowledge" when made aware of potential Policy violations.
21. **Prohibited Sexual Conduct**: is *Sexual Misconduct, Sex Discrimination, Sexual Harassment, or Sexual Behavior Between Individuals in Certain Roles*, which is prohibited by this Policy.
22. **Rape**: is the penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of that person.
23. **Reasonable Person**: is a fictional person with an ordinary degree of reason, prudence, care, foresight, or intelligence whose conduct, conclusion, or expectation is made in relation to similar circumstances or facts as the *Complainant*.

- 24. Respondent ***: is an individual who's conduct has been reported that could constitute *Sexual Harassment* and/or us an individual alleged to have engaged in *Prohibited Sexual Conduct* in violation of the Policy.
- 25. Retaliation*/Retaliatory**: acts or attempted acts for the purpose of interfering with any report, [i]nvestigation, or proceeding under this Policy, 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. Prohibited *Retaliatory* acts include, but are not limited to, *Intimidation*, threats, *Coercion*, or discrimination. Title IX prohibits *Retaliation*. For purposes of this Policy, an attempt requires a substantial step towards committing a violation.
- 26. Sexual Assault as defined by the Clery Act**: an offense that meets the definition of *Rape*, *Fondling*, *Incest*, or *Statutory Rape* as used in the FBI's Uniform Crime Reporting program.
- 27. Sexual Battery as defined by Louisiana State Law**: includes any act or offense under the provisions of LSA R.S. 14:41 to 14:43.1.
- i. **Non-Consensual Sexual Intercourse**: having or attempting to have sexual intercourse, cunnilingus, or fellatio without *Consent*. Sexual intercourse is defined as anal or vaginal penetration by a penis, tongue, finger, or inanimate object.
 - ii. **Non-Consensual Sexual Contact**: Any intentional sexual touching, or attempted sexual touching, without *Consent*.
- 28. Sexual Behavior Between Individuals in Certain Roles**: sexual advances, acts, or contact, whether *Consensual* or not, involving individuals where, by virtue of roles or position in the University, one individual is in a position of direct academic or supervisory authority with respect to the other are prohibited. These roles include, but are not limited to, the following examples:
- a. A faculty member and any student in his or her class;
 - b. A faculty member and any undergraduate major in his or her department;
 - c. A faculty member and any graduate student in a departmental program;
 - d. A graduate assistant who has teaching or other classroom duties and all students in the class or classes that he or she teaches or assists;
 - e. A departmental, college, or University administrator and any *Employee* in his/her chain of command;
 - f. A laboratory supervisor and those using or working in his/her lab;
 - g. A supervisor of civil service employees and his/her employee; or

- h. A department head and a staff member of his/her chain of command.
28. **Sex Discrimination**: is conduct directed at a specific individual or a group of identifiable individuals that subjects the individual or group to treatment that adversely affects the individual or group's employment or education on the basis of sex (including pregnancy, gender identity, including transgender status and sexual orientation).
29. **Sexual Exploitation***: an act attempted or committed by a person for sexual gratification, financial gain, or other advancement through the abuse or exploitation of another person's sexuality. Examples of *Sexual Exploitation* include, but are not limited to, non-*Consensual* observation of individuals who are undressed or engaging in sexual acts, non-*Consensual* audio- or videotaping of sexual activity, prostituting another person, allowing others to observe a personal *Consensual* sexual act without the knowledge or *Consent* of all involved parties, and knowingly exposing an individual to a sexually transmitted infection without that individual's knowledge.
30. **Sexual Harassment***: is conduct on the basis of sex that satisfies one or more of the following: (1) an [Employee] conditioning the provision of an aid, benefit, or service of the [University] on an individual's participation in unwelcome conduct of a sexual nature, whether verbal or physical; (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 the [University's] education program or activity; or (3) "sexual assault" as defined in 20 U.S.C. 1092(f)(6)(A)(v), "dating violence" as defined in 34 U.S.C. 12291(a)(10), "domestic violence" as defined in 34 U.S.C. 12291(a)(8), or "stalking" as defined in 34 U.S.C. 12291(a)(30). *Sexual Harassment* also includes *Sexual Assault*, *Dating Violence*, *Domestic Violence*, and *Stalking*. For purposes of this Policy, the various forms of prohibited *Sexual Harassment* are sometimes referred to as *Prohibited Sexual Conduct*.
31. **Sexual Misconduct***: is a sexual act or contact of a sexual nature that occurs, regardless of personal relationship, without the *Consent* of the other person(s), or that occurs when the person(s) is unable to give *Consent* or whose *Consent* is coerced or obtained in a fraudulent manner. For the purpose of this Policy, *Sexual Misconduct* includes, but is not limited to, *Sexual Assault*, *Sexual Abuse*, violence of a sexual nature, non-*Consensual* sexual intercourse, *Sexual Exploitation*, video voyeurism, contact of a sexual nature with an object, or the obtaining, posting or disclosure of intimate descriptions, photos, or videos without the express *Consent* [of] the persons depicted therein, as well as *Dating Violence*, *Domestic Violence*, and *Stalking*.
32. **Sexually Oriented Criminal Offense***: is any sexual assault offense as defined in La. R.S. 44:51 and any sexual abuse offense as defined in La. R.S. 14:403.
33. **Stalking***: is:
- a. **Stalking as defined by Clery Act**: (1) intentional and repeated following OR harassing that would cause a Reasonable Person to feel alarmed OR that would cause a reasonable person to suffer emotional distress OR (2) Intentional and repeated uninvited presence at another person's: home, work place, school, or any other place

which would cause a reasonable person to be alarmed OR would cause a reasonable person to suffer emotional distress as a result of verbal or behaviorally implied threats of death, bodily injury, sexual assault, kidnapping or any other statutory criminal act to the victim OR any member of the victim's family OR any person with whom the victim is acquainted. 34 CFR 668.46(a).

b. Stalking as defined by Louisiana state law: is the intentional and repeated following or harassing of another person that would cause a reasonable person to feel alarmed or to suffer emotional distress. *Stalking* shall include but not be limited to the intentional and repeated uninvited presence of the perpetrator at another person's home, workplace, school, or any place which would cause a reasonable person to be alarmed, or to suffer emotional distress as a result of verbal, written, or behaviorally implied threats of death, bodily injury, *Sexual Assault*, kidnapping, or any other statutory criminal act to himself or any member of his family or any person with whom he is acquainted. La. R.S. 14:40.2(A). "Harassing" means the repeated pattern of verbal communications or nonverbal behavior without invitation which includes but is not limited to making telephone calls, transmitting electronic mail, sending messages via a third party, or sending letters or pictures. "Pattern of conduct" means a series of acts over a period of time, however short, evidencing an intent to inflict a continuity of emotional distress upon the person. Constitutionally protected activity is not included within the meaning of pattern of conduct. La. R.S. 14:40.2(C).

c. Stalking as defined by the University: is a *Course of Conduct* directed at a specific person that would cause a *Reasonable Person* to fear for the person's safety or the safety of others or would cause that person to suffer *Substantial Emotional Distress*.

34. Statutory Rape: is sexual intercourse with a person who is younger than seventeen (17) years of age and is not a spouse of the *Respondent*.

35. Substantial Emotional Distress: means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling.

V. Policy Procedure

Pursuant to Title IX of the Education Amendments of 1972 and the U.S. Department of Education's implementing regulations at 34 C.F.R. Part 106, the University's Title IX Coordinator has primary responsibility for coordinating the University's efforts to comply with and carry out its responsibilities under Title IX, which prohibits Sex Discrimination in all the operations of this University, as well as Retaliation for the purpose of interfering with any right or privilege secured by Title IX.

Sexual Misconduct against individuals, including *Sexual Harassment*, *Sexual Assault*, *Rape*, and *Sexual Exploitation*, can be a form of *Sex Discrimination* under Title IX. The Title IX Coordinator oversees the University's response to allegations and complaints that involve possible *Sex Discrimination* to monitor outcomes, identify and address any patterns, and assess effects on the campus climate, so the University can address issues that affect the wider University community. Additional responsibilities of the Title IX Coordinator include, but may not be limited to, overseeing

all Title IX reports and complaints involving participation, scholarships, and equitable treatment in Athletics.

A. REPORTING TO UNIVERSITY

There are a number of methods for reporting *Prohibited Sexual Conduct*, which are addressed in the Procedures for Reporting and Responding to Alleged Policy Violations Involving a Student as a Respondent and the Procedures for Reporting and Responding to Alleged Policy Violation Involving a Faculty, Staff, or Visitor (collectively, the “Procedures”). The various levels of confidentiality involved in the different methods of reporting are described in detail in the Procedures. Procedures related to this Policy are based on the relationship of the *Respondent* to the University.

Although the University does not require a fixed reporting time or deadline, when an individual experiences conduct in possible violation of this Policy, prompt and timely reporting is encouraged. Reports may be made to the Title IX Coordinator, a Deputy Title IX Coordinator, or an *Official with Authority*.

For the purpose of this Policy, all *Employees* are *Mandated Reporters*. Pursuant to the Procedures for Reporting and Responding to Alleged Policy Violation Involving a Faculty, Staff, or Visitor, any *Employee* (other than *Confidential Advisor*) witnessing, or having knowledge, directly or indirectly, of *Prohibited Sexual Conduct* by anyone or towards anyone associated with the University on or off campus premises, must immediately report the incident to the Title IX Coordinator. The initial report should include: (i) name of *Complainant*, (ii) date of incident, (iii) incident location, (iv) name of *Respondent*, and (v) the alleged behavior. This report can be verbal (in person or via telephone), in writing (letter, memo, email, text), or via the University’s third-party services (i.e., EthicsPoint, RealRecruit-Athletics, and The Office of Human Resources website).

The University’s Title IX Coordinator is:

Teressa LeDay
Title IX Coordinator and EEO Investigator
111 Boucher Drive, Buchanan Hall, Suite 116
PO Box 40196
Lafayette, Louisiana 70504
337-482-1819
titleix@louisiana.edu

The University’s Deputy Title IX Coordinators are:

Axel Vasquez, Sr. Human Resources Business Partner
Deputy Title IX Coordinator (Athletics)
111 Boucher Drive, Buchanan Hall, Suite 118
PO Box 40196
Lafayette, Louisiana 70504
or

Cox Communications Building
201 Reinhardt Drive
Lafayette, Louisiana 70506
337-482-1093
axel.vasquez@louisiana.edu

Margarita Perez, Dean of Students
Deputy Title IX Coordinator (Students)
PO Box 44572, Student Union, Room 169
Lafayette, Louisiana 70504
337-482-6276
mperez@louisiana.edu

B. FEDERAL AND STATE LAWS REGARDING ADMINISTRATIVE REPORTING

1. Employees

This Policy also identifies methods to administratively report and address complaints of *Prohibited Sexual Conduct*. This Policy is intended to supplement rather than replace or supersede the private and/or statutory procedures regarding sexually inappropriate workplace behavior available to *Employees* under state and federal law, including Title VII of the Civil Rights Act and La. R.S. 42:342 et seq. *Employees* should be aware that there are certain procedures and time delays, including the filing of a complaint with the Equal Employment Opportunity Commission (“EEOC”) or the Louisiana Commission on Human Rights (“LCHR”), which must be satisfied prior to initiating civil litigation regarding inappropriate workplace sexual behavior.

For more information or to initiate a claim under federal or state law, employees are referred to the EEOC and the LCHR:

<p>EEOC: 800-669-4000 (voice) 504-589-2958 (TDD) 504-595-2844 (fax) https://www.eeoc.gov</p>	<p>LCHR: 225-342-6969 (voice) 888-241-0859 (TDD) 225-342-2063 (fax) http://gov/page/lchr</p>
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2. Students

All student inquiries or complaints that involve potential violations of Title IX may also be referred to the Regional Civil Rights Director, Office for Civil Rights, Dallas Office, U.S. Department of Education, 1999 Bryan Street, Suite 1620, Dallas, Texas 75201-6810; (214) 661-9600; Fax (214) 661-9587; TDD (800) 877-8339; Email: OCR.Dallas@ed.gov.

C. GRIEVANCE PROCESS

The University will courteously treat any person who invokes the *Grievance Process* and handle all complaints in a reasonably prompt manner and as confidentially as possible in light of the need

to take appropriate action. Lodging a good faith complaint will not be used against an individual or have an adverse impact on the individual's status at the University.

When a report of conduct is received which alleges *Prohibited Sexual Conduct* or *Retaliation* in violation of this Policy, the Title IX Coordinator shall conduct an initial assessment of the allegation(s) to determine the appropriate resolution process. The University shall presume the *Respondent* is not responsible for the alleged conduct until a final determination is made at the conclusion of the *Grievance Process*.

VI. Enforcement

The Associate Vice President for Administration and Finance and Chief Human Resources Officer is responsible for enforcement of this Policy. Sanctions for violations of this Policy may include, but are not limited to, disciplinary action up to termination of employment, expulsion, rescission of contractual relationship, campus ban, and other sanctions detailed in the Procedures.

Regardless of the outcome of University enforcement of this Policy, the *Complainant* has the option of pursuing a claim under state or federal law. Initiation of such a claim is not dependent upon the outcome nor completion of the University's administrative investigation.

A. EMPLOYEES

Any *Employee* regardless of rank or status who, upon completion of the *Grievance Process*, is found responsible with any element of this Policy, will be subject to disciplinary action. Classified *Employees* are subject to the provisions of Chapter 12 of the Louisiana Civil Service Handbook, Discipline; Corrective Actions; Separations. All unclassified *Employees* are subject to disciplinary action, up to and including termination, in accordance with the University's Code of Conduct Policy and as stated in the Procedures for Reporting and Responding to Alleged Policy Violation Involving a Faculty, Staff, or Visitor. In addition, other appropriate measures, including but not limited to, follow-up inquiries and re-training, may be utilized to ensure that a violation of this Policy does not recur.

B. STUDENTS

Any student regardless of rank or status who, upon completion of the *Grievance Process*, is found responsible with any element of this Policy, will be subject to disciplinary action in accordance with the University's Student Code of Conduct and as stated in the Procedures for Reporting and Responding to Alleged Policy Violations Involving a Student as a Respondent.

VII. Policy Management

Upon adoption, the Vice President of Administration and Finance shall be the *Responsible Executive* for this Policy in charge of the management of this Policy. The Office of Human Resources shall be the Responsible Office for this Policy. The Associate Vice President for Administration and Finance and Chief Human Resources Officer shall be the Responsible Officer for this Policy.

VIII. Exclusions

N/A

IX. Effective Date

This Policy shall apply to all incidents of *Prohibited Sexual Conduct* that are reported on or after the date February 14, 2021.

X. Adoption

This Policy is hereby adopted on 3/17/2021.

DocuSigned by:

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Dr. E. Joseph Savoie
President

XI. Appendices, References, and Related Materials

- ✦ Procedures for Reporting and Responding to Alleged Policy Violations Involving a Student as a Respondent
- ✦ Procedures for Reporting and Responding to Alleged Policy Violation Involving a Faculty, Staff, or Visitor
- ✦ Investigative Resource Guide
- ✦ Consensual, Romantic or Sexual Relationships between Faculty, Staff and Student Guide
- ✦ Title IX of the 1972 Education Amendments; Title 20 U.S.C. Sections 1681-1688
- ✦ The Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (Clery Act) as amended; 20 U.S.C. 1092(f)
- ✦ Section 304 of the Violence against Women Reauthorization Act of 2013 (VAWA); PL113-4 (March 7, 2013)
- ✦ Louisiana Revised Statutes, Titles 14 and 46
- ✦ La. R.S. § 17:1805(H); § 40:2405.8(A); (C)(1)
- ✦ La. R.S. § 17:3351
- ✦ La. R.S. § 42:34.9-43.3

- ✦ La. R.S. § 42:342-343
- ✦ Louisiana Campus Accountability and Safety Act, La. R.S. § 17:3399.11, *et seq.*
- ✦ La. Executive Order No. BJ 2014-14
- ✦ [Louisiana Board of Regents Uniform Policy on Sexual Misconduct, Appendix A: Louisiana Campus Sexual Misconduct Policy](#)
- ✦ [Louisiana Code of Governmental Ethics](#)
- ✦ [University Policy on Academic Freedom](#)
- ✦ [University Policy on Non-Discrimination](#)
- ✦ [University of Louisiana System Policy Number: S-II.XXI, Sexual Misconduct Policy and Procedures Memorandum \(June 25, 2020\)](#)
- ✦ [University of Louisiana System Board Bylaws and Rules, Part Two, Chapter II, Students, Section XIX, Student Conduct and Appeal Procedures](#)
- ✦ [34 C.F.R. 106 \(Department of Education, May 6, 2020\)](#)

XII. Revision History

- Original adoption date of the Policy on Prohibited Sexual Conduct (Interim Policy) (AF002.1): September 30, 2015.
 - This Policy replaced:
 - (1) Faculty Handbook Document XI, University Policy Regarding Sexual Behavior and Sexual Harassment; (2) Staff Handbook, Policy Document III, University Policy Regarding Sexual Behavior and Sexual Harassment; and (3) Student Code of Conduct and Appeal Procedures, Section 19 Sexual Harassment.
 - For purposes of hearings and appeals related to Prohibited Sexual Conduct, this Policy replaced the Student Code of Conduct and Appeal Procedures, Section 7 and Section 18.1 – 18.4.
- Adoption of Policy on Prohibited Sexual Conduct: November 30, 2015 (AF002.2).
- The Policy on Prohibited Sexual Conduct was administratively updated on February 14, 2018 (AF002.3) and August 8, 2018 (AF002.4).
- Adoption of Interim Policy on Sexual Harassment and Other Prohibited Sexual Conduct on August 13, 2020 (HR.005.1). This version changed the Policy name, Policy number, and made additional substantive changes.

- Adoption of Policy on Sexual Harassment and Other Prohibited Sexual Conduct: Effective February 14, 2021 (HR.005.2). This version includes minor updates to the Policy definitions and made additional substantive changes.