Policy Regarding Sexual Assault, Stalking, Domestic Violence, Dating Violence, & Sexual Harassment

In compliance with the Federal Campus Sexual Violence Elimination Act

NICHOLLS STATE UNIVERSITY

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Policy Statement
Sexual assault, stalking, domestic violence, and dating violence are criminal offenses that are inconsistent with the mission and values of Nicholls State University. Such offenses are prohibited and will not be tolerated in any manner, any setting related to the University, or by any individual(s) associated with the University in any way. The University is fully committed to maintaining a respectful, healthy, and safe environment for all members of the campus community and its constituents.

Definitions
For more details about each category and the full policy, protocol, and procedures for each see the [Student Code of Conduct](#) and the Employee Policy and Procedure Manual.

Consent
Consent is present when clearly understandable words or actions manifest a knowing and voluntary agreement to engage in specific sexual or intimate contact. Consent must demonstrate that all individuals understand and are aware of and agree to the “who, what, where, when and how” of the sexual activity. Silence, passivity, submission, or the lack of verbal or physical resistance does not constitute consent. Consent must be given freely and cannot be the result of force, threats, intimidation, coercion, or fraud. Consent must exist at the time of the sexual activity; consent to previous sexual activity does not imply ongoing consent and consent may be withdrawn at any time. Consent is not present when the individual is incapacitated, voluntarily or involuntarily due to age, physical condition (i.e. drugs, alcohol, unconsciousness), or disability.

Sexual Assault
As per the uniform crime reporting system of the Federal Bureau of Investigation, “sexual assault” is classified as a forcible or non-forcible sex offense.

**Rape**
Penetration, no matter how slight, of the vagina or anus with any body part or object, and/or oral penetration by a sex organ of another person, without the consent of the victim including instances where the victim is incapable of giving consent because his/her of age or because of his/her temporary or permanent mental or physical incapacity.

**Sodomy**
Oral or anal sexual intercourse with another person, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental or physical incapacity.
Assault with Object
The use of an object or instrument to unlawfully penetrate, however slightly, the genital or anal opening of the body by another person, forcibly and/or against that person’s will; or not forcibly or against the person’s will when the victim is incapable of giving consent because of his/her age or because of his/her temporary or permanent incapacity.

Fondling
The touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental or physical incapacity.

Non Forcible Offenses
Unlawful, non-forcible sexual intercourse including Incest (non-forcible sexual intercourse between persons who are related to each other wherein marriage is prohibited by law) and Statutory Rape (non-forcible sexual intercourse with a person who is under the statutory age of consent).

Sexual Exploitation
Non-consensual or abusive sexual advantage of another for his/her own advantage or benefit or advantage to anyone other than the one being exploited, and that behavior does not otherwise constitute one of the other sexual assault offenses. Examples include, but are not limited to
- Invasion of sexual privacy
- Recruiting, harboring, transporting, providing, or obtaining another person for the purpose of sexual exploitation
- Non-consensual video or audio recording of sexual activity and/or distributing such recordings
- Going beyond boundaries of consent (e.g., letting a friend hide in closet to watch you having consensual sex)
- Voyeurism
- Exhibitionism
- Sexually based stalking and/or bullying
- Inducing incapacitation in another person with the intent to engage in sexual conduct, regardless of whether prohibited sexual conduct actually occurs

Domestic Violence
Felony or misdemeanor crimes of violence committed by a current or former spouse of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse, by a person similarly situated to a spouse of the victim under the domestic family violence laws of the state, or by any other person against an adult or youth victim who is protected from that person’s acts under state domestic or family law. Domestic violence includes intimidation, harassment, physical abuse, or interference with personal liberty.

Dating Violence
Violence including intimidation, harassment, physical abuse, or interference with personal liberty committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim and where the existence of the relationship shall be determined based on consideration of the following factors: a) the length of the relationship; b) the type of relationship; and c) the frequency of interaction between the persons involved in the relationship.
Stalking
Engaging in a course of conduct directed at a specific person that is unwelcome and would cause a reasonable person to fear for his or her safety or the safety of others; or suffer substantial emotional distress. Conduct that would be defined as stalking may include any actions directed to another person whether done directly, indirectly, through others, via electronic or other devices.

Sexual Harassment
Any unwelcome conduct of a sexual nature, which includes, but is not limited to, unwelcome sexual advances; the use or threatened use of sexual favors as a basis for academic or employment decisions; conduct that creates a hostile, intimidating or offensive academic or working environment; conduct that has the effect of unreasonably interfering with an individual’s academic or work performance; and other verbal, nonverbal, or physical conduct of a sexual nature that is sufficiently severe, persistent, or pervasive to limit a person’s ability to participate in or benefit from an educational program or activity.

Education and Prevention
The University provides education programs and outreach events throughout the academic year to promote awareness of sexual assault, domestic and relationship violence, and stalking. These campaigns provide information regarding resources, teach sensitivity regarding victim/survivor experience, and promote a healthy culture and mindset that prevents these crimes from occurring. Additionally, in compliance with Campus SaVE Nicholls provides specifically structured educational programs for all new students and employees annually. These include definitions of these crimes as well as consent; bystander intervention, risk reduction, and an emphasis on these crimes being strictly prohibited by the institution.

The University also adheres to its procedures and protocols that hold perpetrators accountable and its vigilant crime reporting data and statistics that provide transparency. These factors contribute, along with the education efforts, to the prevention of the crimes addressed in this policy.

Procedures
Being a victim of any of the crimes addressed in this document is traumatic and all victims will respond differently. However, all victims have the same options and rights afforded to them. Below is an explanation of various procedures associated with these options.

Initial Procedural Information for Victims
- Any person who has been a victim of a sex offense is encouraged to seek prompt medical attention regardless of whether or not the decision has been made to report the crime to the police.
- Medical attention will help ensure that any injuries and/or diseases are identified and treated
- Medical attention allows for evidence collection at the individual’s request, which is extremely important should the individual decide at any point, immediately or later, to pursue criminal prosecution, civil action, or a protective order.
- In order to preserve evidence, victims should avoid the following
  - Bathing
  - Douching
  - Urinating
- Drinking any liquids
- Smoking, eating, or brushing teeth if oral contact occurred
- Changing clothes. However, if clothes are changed, place the clothes you were wearing at the time of the assault in a paper bag
- If evidence is collected, there is a special rape protocol that will be followed which entails swabs in and around the mouth, vagina, and anus; combing of pubic hair; collecting clothing; collecting samples of blood, hair, and saliva

**Reporting Procedures**

All victims of sex offenses, domestic or dating violence, and stalking have several options for initiating a report or complaint. These are listed below and the individual may choose to implement one of these options or any combination of these options, including all. Individuals representing any one of the on-campus options below will be able to provide victims with information about and assistance contacting the other options.

**Reporting to Police**

- Directly to University Police (U.P.) Any crime that takes place on the Nicholls State University Campus should be reported directly to U.P.
  - 985-448-4911
  - 985-448-4746
- Directly to local law enforcement in the jurisdiction where the crime took place.
  - Lafourche Parish Sheriff’s Office ~ 985-448-2111
  - Thibodaux Police Department ~ 985-446-5021
  - Terrebonne Parish Sheriff’s Office ~ 985-876-6500

**Reporting to Other Campus Entities/Departments**

- Title IX Coordinator or Co-Coordinator
  - Dr. Michele Caruso ~ 985-448-4080
  - Ms. Annette Arboneaux ~ 985-448-4041
- Student Life/Judicial Affairs
  - Dr. Tommy Ponson ~ 985-448-4530
- Human Resources/EEOC Coordinator
  - Ms. Annette Arboneaux ~ 985-448-4041
- Campus Security Authorities
  - A list of these persons who have significant responsibility for students and/or student activities can be found at [http://www.nicholls.edu/services/campus-save/campus-security-act/](http://www.nicholls.edu/services/campus-save/campus-security-act/).

All University employees, especially those considered Campus Security Authorities by Campus Security Act, but excluding those with confidentiality privilege, are obligated and expected to report any of the crimes addressed in this policy statement of which they become aware to the U.P and/or Title IX Coordinator. However, the departments/individuals specifically listed above are specially trained to respond to work with those who report
sexual assault, domestic and relationship violence, and stalking. These individuals/offices can also assist victims with notifying law enforcement if the victim chooses.

Reporting does not require the filing of criminal charges by the victim. A report allows the University to provide support to the victim and assess the level of risk to the safety of the campus. Once a report is made the University may have an obligation to investigate and/or take action. All reports received by the U.P. are shared with Title IX coordinator and vice versa.

**Procedures for Institutional Disciplinary Action**

If the accused is a Nicholls State student, victims are encouraged to file a complaint with the Office of Judicial Affairs. If the accused is a Nicholls State employee, victims are encouraged to file a complaint with Human Resources. Individuals are not required to file a police report or pursue criminal charges in order to pursue a complaint with Judicial Affairs or Human Resources.

The Student Code of Conduct and the University Employee Policy are both designed to provide a prompt, fair, and impartial investigation and resolution. All hearings are conducted by members of the Nicholls State community who receive annual training on issues related to domestic violence, dating violence, sexual assault, and stalking and how to conduct an investigation and hearing process that protects the safety of victims and promotes accountability.

During any disciplinary proceedings the accuser and accused are entitled to the same opportunity to have others present, including the opportunity to be accompanied to any related meetings or proceedings by any advisor of their choice. Additionally, both the accuser and the accused will simultaneously be informed in writing of the outcome of the disciplinary proceeding; the procedures for the accused and the victim to appeal the results; any change in the results that occurs prior to the time results become final; and when the results become final.

The standard of evidence used in institutions of higher education is different from criminal justice system. At Nicholls State University the standard of evidence shall be whether it is more likely than not that the accused committed the violation charged.

Sanctions for students found responsible for committing the violation charged include but are not limited to restricted access to campus activities and organizations, restrictions from residence halls, community service, rehabilitative education, suspension, and expulsion. The final level of sanctions imposed will be consistent with the severity of the violation and the accused’s past violations of the code of conduct. Similarly, sanctions for employees found responsible for violating University policy include but are not limited to letter of reprimand, restricted access to campus events, suspension, and termination.

Victim Rights & University Responsibilities
Once it has come to the attention of the University that a violation of the Student Code of Conduct or Employee Policy related to sexual assault, domestic or dating violence, or stalking has occurred specific efforts are made to support the health, safety, and well-being of both the victim and the University community as a whole. In addition to the information provided in this document, students or employees who report that they have been a victim of any of the aforementioned crimes will be provided with a written explanation of all of their rights and options as well as resources. All of the rights and responsibilities described below are implemented regardless of whether the victim chooses to file criminal charges with law enforcement or pursue a formal complaint through the Student Code of Conduct or Employee Policy.

Protective Measures
There are options at the victim’s request for accommodations, providing such accommodations are reasonably available, to be made in campus living, academic environment, and on-campus employment environment to protect the victim from encountering the accused and to help ensure the victim’s safety. Stay-away orders may also be issued to the accused by University Police or Judicial Affairs. This assistance is available regardless of whether the victim reports the crime to law enforcement.

The University prohibits any kind of retaliation against anybody involved in a sexual assault, domestic or relationship violence, or stalking case. This non-retaliation policy is explained and provided during the initial contact with all involved in the case.

The University is obligated to protect the entire campus community. Therefore, in some cases protective measures include issuing public safety alerts based on information provided by the victim and/or any witnesses. The victim’s name and other personally identifiable information will not be included in public safety alerts.

Confidentiality
Nicholls State University will preserve the confidentiality of a victim to the extent allowed by law. The degree to which confidentiality can be protected depends on certain factors.

The Person Receiving the Report
Privileged professionals who have legally protected roles include University Counseling staff when acting in their clinical role; University Health Services staff when acting in their clinical role; and Clergy. This means that if an individual reports that they have been a victim to one of these privileged professionals, that professional cannot and will not disclose the information to any other individual or office without the victim’s consent. Other faculty/staff, including some student staff, are required by Campus Security Act to report such violations to the University Police and/or Title IX Coordinator. However, the victim’s name or identifying information is not required in these mandated reports.

Balance of Legal Obligations
The University fully understands the impact of confidentiality of victims and exercises genuine sensitivity to the privacy concerns of victims. However, this must be balanced with legal obligations which include

• The responsibility to protect the entire University community from predators: In some cases Public Safety Alerts must be issued associated with the crime. These Alerts will not contain any of the victim’s identifying information.
The responsibility to hold perpetrators accountable and insure that appropriate disciplinary processes are implemented: Based on severity of the violation and the accused’s history of violations, investigative and/or disciplinary action may be taken by the University even if the victim does not want to participate in the process. Every effort will be made to not include the victim’s identifying information and the victims will be kept informed of the actions and the extent to which his/her identifying information was or was not able to be contained.

Notification of parent/guardian of victims in accordance with FERPA related to health.

Need to Know
All records and files maintained by staff members involved in the process will only be shared with other professionals who are considered “need to know”. That is, only staff members who required information related to the case in order to perform their duty related to the case will be provided with such information.

Public Records
The initial police report is public record; however, all identifying information about the victim is removed. During the investigation no information is accessible to anyone except the victim. Closed investigation are available upon request which is reviewed by a superior officer. If the request is approved, all identifying information about the victim is removed from the documents.

Services Available for Victims/Survivors
All services listed below are available to victims regardless of whether or not he/she chooses to report the incident to law enforcement.

On Campus
University Counseling Center
224 Elkins Hall
985-448-4080
www.nicholls.edu/counseling

University Health Services
Ayo Hall, 1st Floor
985-493-2600
www.nicholls.edu/health

Office of Crisis Management
224 Elkins Hall
985-448-4091
www.nicholls.edu/crisis-management

Dean of Student Services
224 Elkins Hall
985-448-4080
www.nicholls.edu/services
University Police
Police Station (across from softball field)
985-448-4746
www.nicholls.edu/police

Student Life
Student Union
985-448-4530
www.nicholls.edu/life

SGA Legal Services
Student Union SGA Suite
985-448-4557
www.nicholls.edu/sga

Off Campus
Emergency ~ 911

The Haven
Rape Crisis and Domestic Violence Services, Advocacy, and Shelter
800-777-8868 (Crisis Line)
http://www.havenhelps.org/

Louisiana Coalition Against Domestic Violence State Hotline
888-411-1333
http://lcadv.org/

Thibodaux Regional Medical Center
Emergency Medical Attention; Evidence Collection
985-447-5500

Terrebonne General Medical Center
Emergency Medical Attention; Evidence Collection
985-873-4141

Lafourche Parish Sheriff’s Office
Law Enforcement and Victim Advocacy & Reparation Services
985-448-2111

Thibodaux Police Department
Law Enforcement
985-446-5021
**Terrebonne Parish Sheriff's Office**

Law Enforcement
985-876-6500

To locate Law Enforcement in other areas of Louisiana go to [http://www.usacops.com/la/](http://www.usacops.com/la/)

To locate Rape Crisis centers in other areas of Louisiana got to [http://www.lafasa.org/](http://www.lafasa.org/) or call 888-995-7273

To locate Domestic Violence agencies in other areas of Louisiana go to [http://lcadv.org/](http://lcadv.org/) or call 225-752-1296

**Title IX Statement**

It is the policy of Nicholls State University to comply with Title IX of the Education Amendments of 1972 which prohibits discrimination (including sexual harassment and sexual violence) based on sex in the University’s educational programs and activities. Title IX also prohibits retaliation for asserting or otherwise participating in claims of sex discrimination. This compliance is reflected in all policies, procedures, and protocols referenced in this Policy Statement Document.

**History/Revisions of this Policy Statement**

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