

# Policy Regarding Sexual Assault, Stalking, Relationship Violence, & Sexual Harassment

In compliance with:  
Federal and State Laws and Codes  
Board of Regents and University of Louisiana System Policies

**NICHOLLS STATE UNIVERSITY**  
**JUNE 15, 2016**

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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.

## Scope of Policy

The policy herein and all applicable related policies applies to all students and employees who feel they have experienced incidents covered in these policies. Resources and services are available in any and all circumstances. Any incident taking place while the respondent is enrolled or employed qualify for remediation, resolution, and/or adjudication, but the extent of that application may be dependent on location and circumstances of the incident. The application of all policies herein is inclusive of all students and employees regardless of sexual/affectional orientation or gender identity.

Confidentiality is of the utmost importance to the university and all efforts will be made to maintain the complainant's and respondent's confidentiality while meeting all obligations to the safety of individuals and the campus community and promoting accountability for sexual misconduct. More information about confidentiality can be found in this document under [Confidentiality](#)

## Definitions

**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, sexual harassment, 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.

The following definitions reflect the most current laws and statutes in the state of Louisiana and/or Federal laws and definitions.

**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 UCR program

**Sexual Assault as defined by Louisiana State Law:**

**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.

**Non-Consensual Sexual Contact:** Any intentional sexual touching, or attempted sexual touching, without Consent.

**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.

**Sexually Oriented Criminal Offense:** Any sexual assault offense as defined in La. R.S. 44:51 and any sexual abuse offense as defined in R.S. 14:403

**Stalking as defined by Clery Act:** 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 complainant OR any member of the complainant's family OR any person with whom the complainant is acquainted 34 CFR 668.46(a)(ii)

**Stalking as defined by Louisiana state law:** Stalking 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 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. RS § 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. RS § 14:40.2(C)

**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 Complainant is protected under federal or Louisiana law. Felony or misdemeanor crime of 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 who is cohabitating with, or has cohabitated with, the complainant as a spouse or intimate partner;

By a person similarly situated to a spouse of the complainant under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred; or

By any other person against an adult or youth complainant who is protected from that person's acts under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred

**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. RS § 46.2121.1(2)

**Domestic abuse definition in Louisiana law:** 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 family or household member against another. La. RS 46:2132(3)

**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 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.

**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. RS § 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 complainant and where the existence of such a relationship shall be determined based on a consideration of the following factors:

The length of the relationship.

The type of relationship.

The frequency of interaction between the persons involved in the relationship.

The following definitions shall also be used in institutional policy and in the implementation thereof by all Louisiana public postsecondary education institutions as per the Board of Regents:

**Sexual Harassment:** Unwelcome conduct of a sexual nature when i) submission to such conduct is made either explicitly or implicitly a term or condition of a person's employment or education; ii) submission to or rejection of such conduct by a person is used as the basis for a decision affecting that person's employment or education; or iii) such conduct has the purpose or effect of unreasonably interfering with a person's employment or education, or creating an intimidating, hostile, or offensive employment or educational environment, and has no legitimate relationship to the subject matter of a course or academic research. Sexual Harassment also includes non-sexual harassment or discrimination of a person because of the person's sex and/or gender, including harassment based on the person's nonconformity with gender stereotypes. For purposes of this Policy, the various forms of prohibited Sexual Harassment are referred to as "sexual misconduct."

**Retaliation:** Acts or attempted acts for the purpose of interfering with any report, investigation, or proceeding under this Policy, or as retribution or revenge against anyone who has reported Sexual Misconduct or Relationship Violence or who has participated (or is expected to participate) in any manner in an investigation, 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.

**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 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 persons involved does not itself imply Consent or preclude a finding of responsibility.

**Incapacitation** An individual is considered to be Incapacitated if, by reason of mental or physical condition, the individual is manifestly unable to make a knowing and deliberate choice to engage in sexual activity. Being drunk or intoxicated can lead to Incapacitation; however, 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.

**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.

## Educational Prevention and Awareness Programs

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 complainant/survivor experience, and promote a healthy culture and mindset that prevents these crimes from occurring. Additionally, in compliance with Campus SaVE as well as State Law and BoR/ULS Policy, 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 complainant of any of the crimes addressed in this document is traumatic and all complainants will respond differently. However, all complainants have the same options and rights afforded to them. Below is an explanation of various procedures associated with these options.

### Initial Procedural Information for Complainants

- Any person who has been a complainant 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, complainants 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
- The following local emergency rooms provide evidence collection:
  - Thibodaux Regional Medical Center ~ Thibodaux
  - Chabert Hospital ~ Houma

- Terrebonne General Medical Center ~ Houma
- St. Anne Hospital ~ Raceland
- Lady of the Sea General Hospital ~ Cut Off

## Reporting Procedures

All complainants of sex offenses, domestic or relationship violence, sexual misconduct, and stalking have several options for initiating a complaint and/or taking legal action. 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 complainants with information about and assistance contacting the other options. Additionally, complainants have options to file informal or formal complaints with campus entities. **Informal complaints** will involve finding solutions that address the complainant's concerns and allow the complainant to continue to matriculate or work without interference related to the incident. **Formal complaints** will trigger official investigations, processes such as adjudication, and potential hearings by a Discipline Committee or Anti-Discrimination Committee. Complainants may file both complaints and take legal action by filing reports with law enforcement, file a complaint only, halt the informal complaint process at any time and pursue a formal complaint, or bypass the complaint process and only take **legal action** by filing a criminal report with law enforcement. Informal complaints are not appropriate for all incidents included in this policy and there may be circumstances where the University is obligated to pursue formal protocols to maintain the safety of the institution. It should be noted that informal complaints/resolutions are not appropriate for all types of incidents.

It is also important that complainant understand the level of confidentiality to which each individual is obligated. **Privileged professionals** have legally protected parameters when acting in their clinical role, which means that if a complainant reports that they have been a complainant, that professional cannot and will not disclose the information to any other individual or office without the complainant's consent except under circumstances that require disclosure under the laws governing that profession (e.g. imminent danger to self or others). **Mandatory Reporters (Campus Security Authorities)** are employees and students who are required to report that an incident has occurred with basic non-identifying information about the incident, but will upon the request of the complainant, withhold the complainant's identity. **Confidential Advisors** are specially trained individuals who primarily serve to aid a student involved in a sexual misconduct complaint in the resolution process as a confidential resource. Requests for accommodations that flow through a confidential advisor shall not trigger an investigation. These individuals are trained to serve as a liaison between the complainant and other entities on campus for accommodation request; fully and accurately explain to the complainant all reporting options, complainant's rights, university obligations, and all procedures; and accompany complainant when requested to do so by the complainant to interviews and other proceedings if the complainant chooses to make a formal complaint or report. **Responsible Employees** have the authority to take action to redress sexual violence and have been given the duty of reporting incidents of sexual violence or any other misconduct by students to the Title IX Coordinator and must report all information related to the complainant's report including the complainant's name and full details of the incident. Below is a list of those individuals/offices by category.

### *Privileged Individuals*

#### *Individuals/offices for completely confidential reporting:*

- University Counseling Center counselors

- 985-448-4080
- 224 Elkins Hall
- University Health Services physician, nurse practitioners, RN's
  - 985-293-2600
  - First Floor Ayo Hall
- Campus Clergy
  - St. Thomas Aquanis
    - Father Andre'
    - 985-446-6201
  - Baptist Student Union
    - Brother Conan Sherlin
    - 985-365-8873
- (Off-Campus) The Haven - Rape Crisis/Domestic Violence Agency
  - 800-777-8868 (Crisis Line)

### **Confidential Advisors**

***Specially trained individuals who will maintain full confidentiality otherwise and provide special assistance to complainant:***

- Sabrina Laurent
  - Callais Recreation Center
  - 985-493-2743
- Michael Matherne
  - Housing & Residence Life
  - 985-448-4479
- Cambria Bouzigard
  - Academic Advising Center
  - 448-4101
- Rachel Boguille
  - Housing & Residence Life
  - 493-3312
- The confidential advisor may, as appropriate, serve as a liaison between an alleged victim and Nicholls State University or local law enforcement when directed to do so in writing by an alleged victim who has been fully and accurately informed about what procedures shall occur if information is shared, and assist an alleged victim in contacting and reporting to a responsible employee or local law enforcement.
- The confidential advisor is authorized by Nicholls State University to liaise with appropriate staff to arrange reasonable accommodations to allow the alleged victim to change living arrangements or class schedules, obtain accessibility services, or arrange other accommodations. The same accommodations that are offered to the alleged victim may be offered to the accused. Any requests for accommodations shall not trigger an investigation by the institution.
- The confidential advisor is authorized to accompany the alleged victim, when requested to do so by the alleged victim, to interviews and other proceedings of a campus investigation and institutional disciplinary proceedings.
- The confidential advisor is authorized to advise the alleged victim of, and provide written information regarding, both the alleged victim's rights and the institution's responsibilities regarding orders of protection,



no-contact orders, restraining orders, or similar lawful orders issued by a court of competent jurisdiction or by the institution.

- The confidential advisor is not obligated to report crimes to the institution or law enforcement in a way that identifies an alleged victim or an accused individual, unless otherwise required to do so by law.

### **Mandatory Reporters (Campus Security Authorities {CSA})**

#### **Individuals/offices for reporting who must report incident information, but will maintain complainant's anonymity:**

\*May trigger obligated action by university while maintaining complainant confidentiality (i.e. Security Alerts)

\*May trigger investigation

- Vice president for Student Affairs; Director of University Police; University Police Officers; Student Judicial Officer; Director of Union Services and Facilities; Campus Recreation Staff; Dean of Student Services; Director of Financial Aid; Director of Bands; Director of Student Publications; Director of Disability Services; Coordinator of SEALs; Director of International Student Services; Advisor of KNSU; Advisor of Judicial Board; Director and Assistant Director of Housing; Greek Life Coordinator; Residence Hall Directors; Director of Student Orientation; Art Faculty; Music Faculty; Athletic Academic Advisors; Faculty Advisors of Active Student Organizations; Director and Associate Directors of Athletics; Head and Assistant Coaches; Graduate assistants in Athletics; Athletic Trainers
- A current list of these specific persons and their contact information can be found at <http://www.nicholls.edu/services/campus-save/campus-security-act/>.

### **Responsible Employees**

\*Must report to Title IX Coordinator. May trigger investigation.

#### **Individuals/offices who must report all information:**

- All CSA's listed above and
- Academic Deans and Assistant/Associate Deans; Academic Department Heads; Non-Academic Department Heads; Provost; Vice President for Business Affairs; Vice President for Advancement; Chief of Staff; President; Executive Director of Enrollment; Director of Graduate Studies; Academic Advisors

### **Reporting To Judicial Affairs**

\*Informal or Formal Complaint; Adjudication Process

- Directly to Dr. Tommy Ponson
  - Office of Student Life in Student Union
  - 985-448-4530

### **Reporting to Police**

\*Legal/criminal action

- 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
  - List of law enforcement across Louisiana <http://www.usacops.com/la/>

## Online & Anonymous Reporting

- Individuals may submit an anonymous report of the crimes listed in this document or any other crimes or potential crimes through the University Police web page at <https://www.nicholls.edu/police/frequently-asked-questions/anonymous-crime-report/> or by calling University Police's anonymous report line at 985-448-4480.

## Reporting to Other Campus Entities/Departments

\*Formal or Informal Complaint

\*May trigger investigation

- Title IX Coordinator or Deputy Coordinator
  - Dr. Michele Caruso ~ 985-448-4080
  - Ms. Annette Arboneaux ~ 985-448-4041
- Dean of Student Services
  - Dr. Michele Caruso ~ 985-448-4080
- Human Resources/EEOC Coordinator
  - Ms. Annette Arboneaux ~ 985-448-4041

All University employees, excluding those with confidentiality privilege, are expected to report any of the crimes, including those 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 may have reporting obligations and are specially trained to respond to work with those who report sexual assault, domestic and relationship violence, sexual harassment, and stalking. These individuals/offices can also assist complainants with notifying law enforcement if the complainant chooses.

Remember, reporting does not require the filing of criminal charges by the complainant. A report allows the University to provide support to the complainant 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.

## Investigation Procedures and Protocols

Both formal and informal complaints may be filed with or be sent to the Title IX Coordinator or Deputy Title IX Coordinator by Responsible Employees or others as requested by the complainant. The general responsibilities of the Title IX Coordinator include overseeing the institution's response to reports and complaints and identifying and addressing patterns or systematic problems revealed by such reports and complaints. Additionally, the Title IX coordinator will review requests for confidentiality in the context of the institution's responsibility to provide a safe and nondiscriminatory environment for all students. Nicholls State University policies and procedures will not be implemented in a manner that will infringe on any form of speech or conduct that is protected by the First Amendment.

## Assessment and Timeline

Upon receipt of a sexual misconduct report, the College's Title IX Coordinator or a member of the Title IX team in consultation with other professionals as necessary will conduct an initial Title IX assessment. The goal of this assessment is to provide an integrated and coordinated response to reports of sexual harassment or sexual assault. The assessment will consider the nature of the report, the safety of the complainant and of the campus community, and the complainant's expressed preference for resolution.

The initial assessment will proceed to the point where a reasonable assessment of the safety of the complainant and of the campus community can be made. Thereafter, the investigation may continue depending on a variety of factors, such as the complainant's wish to pursue disciplinary action, the risk posed to any individual or the campus community by not proceeding, and the nature of the allegation.

## Investigation

Where the Title IX assessment concludes that disciplinary or administrative action may be appropriate the university will initiate an investigation to be conducted by the Director Judicial Affairs (or appropriately trained designee) or the Human Resources Compliance Officer (or appropriately trained designee). All efforts will be made to investigate and resolve all reports of possible violations within thirty (30) working days.

The investigator(s) will conduct the investigation in a manner appropriate in light of the circumstances of the case, which will typically include interviews with the complainant, the respondent, and any witnesses. As part of the investigation, the university will provide an opportunity for the parties to present statements, witnesses, and other evidence. The interviews will be supplemented by the gathering of any physical, documentary, or other evidence, as appropriate and available. The investigation is designed to provide a fair and reliable gathering of the facts. The investigation will be thorough, impartial, and fair, and all individuals will be treated with appropriate sensitivity and respect. The investigation will be conducted in a manner that is respectful of individual privacy concerns.

At the conclusion of the investigation, the investigator will prepare a report setting forth the facts gathered, which will be forwarded to the Title IX coordinator and the university administrator responsible for initiating disciplinary resolution proceedings. Upon receipt of the investigation report, the university will notify all parties that the investigation is complete and provide information about next steps in the process.

Information gathered during the review or investigation will be used to evaluate the responsibility of the respondent, provide for the safety of the complainant and the university campus community, and impose remedies as necessary to address the effects of the alleged conduct. Where there is sufficient information alleged, if proven, that would constitute a violation of policy, the university has the discretion to institute disciplinary resolution proceedings against the respondent.

Based on the information gathered in the initial Title IX assessment and/or investigation, the university will take appropriate measures designed to end the misconduct, prevent its recurrence, and address its effects.

If a complainant's request for confidentiality limits the institution's ability to investigate a particular matter. An institution may take steps to limit the effects of the alleged Sexual Misconduct and prevent its recurrence without initiating formal action against the alleged perpetrator or revealing the identity of the student complainant. Examples include: providing increased monitoring, supervision, or security at locations or activities where the misconduct occurred; providing training and education materials for students and employees; revising and publicizing the institution's policies on Sexual Misconduct; and conducting climate surveys regarding Sexual Misconduct.

## Remedy Based Resolutions

Where the Title IX assessment concludes that remedies-based resolution may be appropriate, the College will take immediate and corrective action through the imposition of individual and community remedies designed to maximize the complainant's access to the educational and extracurricular activities of the College. Examples of potential remedies are provided in policy Section IX: Interim Measures. Other potential remedies include targeted or broad-based educational programming or training. In cases that do not involve sexual violence, mediation and other restorative justice interventions may be an appropriate form of remedies-based resolution.

The College will not compel a complainant to engage in mediation, to directly confront the respondent, or to participate in any particular form of remedies-based resolution. Mediation, even if voluntary, may not be used in cases involving sexual assault. The decision to pursue remedies-based resolution, which may occur at any time, will be made when the College has sufficient information about the nature and scope of the conduct. Participation in remedies-based resolution is voluntary, and a complainant can request to end remedies-based resolution at any time.

## Procedures for Institutional Disciplinary Action

If the respondent is a Nicholls State student, complainants are encouraged to file a formal complaint with the Office of Judicial Affairs. If the respondent is a Nicholls State employee, complainants are encouraged to file a formal complaint with Human Resources or the Title IX Coordinator. Individuals are not required to file a police report or pursue criminal charges in order to pursue a formal complaint with Judicial Affairs or Human Resources. Mediation through informal resolution or other means is never appropriate in sexual misconduct or relationship violence cases, but may be pursued in sexual harassment cases.

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 relationship violence, sexual assault, and stalking as well as how to conduct an investigation and hearing process that protects the safety of complainants and promotes accountability.

The primary adjudicator at Nicholls when the respondent is a student is the Director of Judicial Affairs, Dr. Tommy Ponson (985-448-4530). This individual also determines sanctions in cases that do not go through the Discipline Committee and recommends sanctions for cases that do. The primary adjudicator who also determines sanctions at Nicholls when the respondent is an employee is the Compliance Officer in Human Resources, Ms. Patti Rasberry (985-448-4050). Should either the complainant or the respondent feel that any of the individuals involved in this process present a potential conflict of interest should provide a written statement to the primary adjudicator within 10 work days of the hearing/committee meeting. If the conflict of interest is with the adjudicator him/herself, the written request should be presented to the Title IX Coordinator.

During any disciplinary proceedings the complainant and respondent are entitled to the same opportunity to have others present, including the opportunity to be accompanied to any related meetings or proceedings by any individual (i.e. confidential advisor, family member, friend, community advocate, etc.) of their choice, excluding individuals who will serve as witnesses. However, these individuals will not be allowed to directly participate in the process by addressing or being addressed by the primary adjudicator or the committee members, witnesses, or the other party.

Both the complainant and the respondent shall be notified of any scheduled hearing. Both parties shall have the opportunity to present witnesses and other evidence. Note that questions or evidence about the complainant's prior sexual conduct with anyone other than the respondent is prohibited. Additionally, Evidence of prior consensual dating

or sexual relationship between the parties by itself does not imply consent or preclude a finding of sexual misconduct. During any hearing proceeding, complainant and respondent shall not be allowed to directly question, examine, or cross examine each other. A full list of complainants' rights and respondents' due process rights can be found in the Code of Student Conduct and the University Policy and Procedure Manual.

Both the complainant and the respondent will simultaneously be informed in writing of the outcome of the disciplinary proceeding within 10 business days; the procedures for the respondent and the complainant 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 institution will not require either party to abide by a nondisclosure agreement, in writing or otherwise.

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* (also known as *preponderance-of-the-evidence*) that the respondent 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 respondent'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. Additionally, the adjudication process may result in accommodations or situational remedies for the complainant and/or remedies for the broader campus community.

Both parties may choose to appeal the decision of the primary adjudicator or Committee. Detailed explanations of procedures related to appeals including grounds for appeal, standard of review, the entity who will decide appeals, and time parameters can be found in the Student Code of Conduct and the Employee Manual.

The full detailed policy and proceedings contained in the Student Code of Conduct can be found at [http://www.nicholls.edu/documents/student\\_life/code\\_of\\_conduct.pdf](http://www.nicholls.edu/documents/student_life/code_of_conduct.pdf). The full detailed policy and proceedings contained in the Employee Manual can be found at <http://www.nicholls.edu/administration/university-policies-procedures/>.

## Prohibition of Retaliation

Retaliation against an individual who in good faith complains of sexual misconduct or provides information in an investigation about sexual misconduct is strictly prohibited and will be considered a violation of the Code of Student Conduct or Employee Policy and Procedure. As such, consequences of retaliation will be implemented as per the respective policies. Any student or employee submitting a sexual misconduct complaint or assisting in the investigation of such a complaint will not be adversely affected in terms and conditions of employment and/or academic standing, nor discriminated against, terminated, or expelled because of the complaint.

## Amnesty Policy

Any student who reports in good faith sexual misconduct of any kind shall be provided amnesty for nonviolent Code of Student Conduct violations committed by him/herself in association with the reported sexual misconduct. An example of this policy is underage drinking by the complainant or witness that might be revealed in the course of the report or investigation.

## Complainant 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 complainant 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 complainant 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 complainant 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 complainant'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 complainant from encountering the respondent and to help ensure the complainant's safety. Stay-away orders may also be issued to the respondent by University Police or Judicial Affairs. This assistance is available regardless of whether the complainant reports the crime to law enforcement, files informal complaint, or files formal complaint.

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 in this document 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 complainant and/or any witnesses. The complainant's name and other personally identifiable information will not be included in public safety alerts.

## Support Services

The following services are available immediately to any student involved in sexual misconduct: on- and off-campus resources, including but not limited to local advocacy, counseling, health and mental health services, as applicable. These support services will be offered regardless of whether the complainant chooses to formally report the incident. Contact information for this purpose is below.

## Confidentiality

Nicholls State University will preserve the confidentiality of a complainant 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 complainant to one of these privileged professionals, that professional cannot and will not disclose the information to any other individual or office without the complainant's consent except under circumstances that require disclosure under the laws governing each profession (e.g. imminent threat of danger to self or others). Designated trained Confidential Advisors are also available to university students. Other faculty/staff, including some student staff, are required to report such violations to the University Police and/or Title IX Coordinator. However, the complainant's name or identifying information is not required in these mandated reports. A third category of individuals includes those who must report all information related to the report to the Title IX

Coordinator and/or designated campus official responsible for overseeing sexual misconduct complaints. Please see list of each of these categories of individuals in Reporting Procedures section.

### **Balance of Legal Obligations**

The University fully understands the impact of confidentiality of complainants and exercises genuine sensitivity to the privacy concerns of complainants. 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 complainant'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 respondent's history of violations, investigative and/or disciplinary action may be taken by the University even if the complainant does not want to participate in the process. Every effort will be made to not include the complainant's identifying information and the complainants 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 complainants 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. All applicable laws are strictly adhered to including FERPA.

### **Public Records**

If a student chooses to file criminal charges, the initial police report is public record; however, all identifying information about the complainant is removed. During the investigation no information is accessible to anyone except the complainant. Closed investigation are available upon request which is reviewed by a superior officer. If the request is approved, all identifying information about the complainant is removed from the documents.

## **Other Services Available for Complainants/Survivors**

All services listed below are available to complainants 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](http://www.nicholls.edu/counseling)

#### **University Health Services**

Ayo Hall, 1<sup>st</sup> Floor

985-493-2600

[www.nicholls.edu/health](http://www.nicholls.edu/health)

**Office of Crisis Management**

224 Elkins Hall

985-448-4091

[www.nicholls.edu/crisis-management](http://www.nicholls.edu/crisis-management)

**Dean of Student Services**

224 Elkins Hall

985-448-4080

[www.nicholls.edu/services](http://www.nicholls.edu/services)

**University Police**

Police Station (across from softball field)

985-448-4746

[www.nicholls.edu/police](http://www.nicholls.edu/police)

**Student Life**

Student Union

985-448-4530

[www.nicholls.edu/life](http://www.nicholls.edu/life)

**SGA Legal Services**

Student Union SGA Suite

985-448-4557

[www.nicholls.edu/sga](http://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 Complainant 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/>

To locate Rape Crisis centers in other areas of Louisiana go to <http://www.lafasa.org/> or call 888-995-7273

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

## **Other Related Information**

### **Campus Climate Survey**

As per BoR and ULS Policy and in accordance with ACT 172, each institution will administer a campus climate survey annually to their students with the intention of assessing campus safety and identify vulnerabilities. This will be coordinated by the BoR and institutions will be required to submit results of the survey to the BoR. Nicholls State University may supplement the statewide survey by collecting additional information that can be utilized to develop prevention and intervention strategies appropriate for its institution.

### **Prevention and Awareness Programs**

Nicholls State University offers annual education and prevention programs that include, but are not limited to: (a) awareness programs; (b) bystander intervention programs; (c) ongoing prevention and awareness campaigns; (d) primary prevention programs; and (e) education on risk reduction. Each institution must provide and document all training programs.

### **Institutional Task Force**

Nicholls State University's Sexual Misconduct Task Force is established to review sexual misconduct policies and procedures; prevention and awareness efforts; and receive feedback from the campus community regarding the impact of sexual misconduct issues on the learning and living environment. The Task Force can be accessed by contacting Student Services at 985-448-4080 or visiting the web site at (TBA)

### **Coordination with Local Law Enforcement**

University Police, in accordance with BoR and ULS Policy as well as best practices, has established agreements with local law enforcement agencies that enhance the coordination of training, information sharing in investigations, evidence preservation, and responsibilities. A copy of the MOU describing these factors in detail is maintained in University Police.

### **Inter-campus Transfer Policy**

If a student accused of a sexually-oriented criminal offense seeks to transfer to another institution during an investigation, the institution shall withhold the student's transcript until such investigation or adjudication is complete and a final decision has been made. If the student is found responsible for sexually-oriented criminal offenses upon the completion of such investigation and/or adjudication and seeks to transfer to another institution, institutions are required to communicate such a violation, when the institution becomes aware of the student's attempt to transfer, with the institution(s) to which the student seeks to transfer or has transferred.

### **History/Revisions of this Policy Statement**

**Origination Date:** June 20, 2014

**Original Approval by President's Council:** July 7, 2014

**Revised by Title IX Coordinator:** September 11, 2015 (*pending Cabinet and BoR approval*)

**Notification of December, 2015 BoR approval:** June 15, 2016

**Revised by Title IX Coordinator:** June 15, 2016