



Nicholls State University

Procedures for the Resolution of Non-Title IX Sexual and Interpersonal Misconduct Complaints Against Faculty, Staff, Affiliates, and Non- Affiliates

*Note: These **Procedures for the Resolution of Title IX Sexual and Interpersonal Misconduct Complaints Against Faculty, Staff, Affiliates, and Non-Affiliates** are effective on August 1, 2021. The new Sexual and Interpersonal Misconduct Policy and its three corresponding Complaint Procedures (including this Procedure) apply to conduct that occurs on or after August 14, 2020. Conduct occurring on or before August 13, 2020 will be handled under the University's Sexual and interpersonal misconduct/Title IX Policy and the corresponding Complaint Procedures.*

These procedures will include the following requirements and rights for both Respondents and Complainants:

- The parties will receive copies of the Sexual and Interpersonal Misconduct Policy and Procedures applicable to their case, which will include information about any available supportive measures and the process for submission and consideration of evidence that may be used during a hearing or disciplinary proceeding.
- The parties may be accompanied by and may consult with an advisor or support person of their choice throughout the proceedings, although the availability of an advisor may not significantly delay any meeting. The University will provide reasonable measures for the involvement of the advisor, which will be applied equally.
- The Respondent will receive notice of an allegation of sexual and interpersonal misconduct that will include the date, time, and location, if known of the alleged incident, including a specific statement of policies allegedly violated.
- The complaint resolution process, including the investigation and any hearing and disciplinary proceedings, will be impartial and conducted by individuals who do not have a conflict of interest or bias, and who will have not less than annual training on the University's Sexual and Interpersonal Misconduct Policy and Procedures.

- The Respondent is presumed not responsible for the alleged conduct until a determination regarding responsibility has been made by a preponderance of the evidence at the conclusion of the applicable complaint resolution process.
- The parties will have equal opportunities to inspect and review evidence obtained in an investigation that is directly related to the allegations.
- The parties will have an equal opportunity to present evidence and witnesses on their behalf during a hearing or proceeding, and each party will be provided with timely and equal access to relevant evidence that will be used during any disciplinary process conducted under the Sexual and Interpersonal Misconduct Policy.
- There may be restrictions on evidence considered by the fact finder, including, but not limited to, evidence regarding prior sexual history or character evidence of a party.
- The parties may not directly question each other during an investigation or any complaint resolution process conducted under the Sexual and Interpersonal Misconduct Policy and Procedures.
- The parties will receive written notice of the results of a hearing or disciplinary proceeding not later than 7 business days after a final determination of a complaint (not including time for an appeal) unless good cause for additional time is shown, and the parties will be informed of any appeals process.
- If the opportunity is made available to appeal a determination based on a perceived procedural error, previously unavailable evidence that could significantly impact the outcome of the case, or a sanction that is disproportionate to the findings, both parties will be permitted to appeal decisions regarding responsibility or sanctions.
- The University will not disclose the identity of the parties, except as necessary to carry out disciplinary proceedings under its Sexual and Interpersonal Misconduct Policy and Procedures or as permitted under state or federal law.

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I. Applicability & Scope

The procedures outlined here will be used to investigate and resolve all other complaints of sexual and interpersonal misconduct against Nicholls State University faculty and staff members, affiliates, and non-affiliates, as appropriate, if the alleged conduct does not fall within the scope of Title IX Sexual and Interpersonal Misconduct under the University's [Sexual and Interpersonal Misconduct Policy](#). For purposes of the University's [Sexual and Interpersonal Misconduct Policy](#) and these procedures, an "affiliate" includes, but is not limited to, visiting scholars and post-doctoral fellows who are not otherwise classified as Nicholls State University faculty, staff, or students.

Complaints of Title IX Sexual and Interpersonal Misconduct against Nicholls State University students, faculty, staff, affiliates, and non-affiliates will be investigated and resolved using the Title IX Sexual and Interpersonal Misconduct Procedures, if the alleged conduct falls within the scope of Title IX Sexual and Interpersonal Misconduct under the University's [Sexual and Interpersonal Misconduct Policy](#).

All other complaints of sexual and interpersonal misconduct against Nicholls State University students that do not fall within the scope of Title IX Sexual and interpersonal misconduct under the University's [Sexual and Interpersonal Misconduct Policy](#) will be investigated and resolved using the [Procedures for the Resolution of Non-Title IX Sexual and interpersonal misconduct Complaints against Students](#).

All other complaints of discrimination or harassment against faculty and staff members, including but not limited to those based on race, color, creed, religion, ethnic origin, age, sex, disability, and sexual orientation, will be resolved using the University's [Policy Prohibiting Workplace Discrimination, Harassment, & Retaliation](#).

II. Rights of the Complainant and Respondent

The procedures for the investigation, adjudication, and resolution of sexual and interpersonal misconduct (including non-Title IX sexual harassment) complaints brought against faculty, staff, affiliates and non-affiliates are designed to be accessible, prompt, fair, and impartial. Throughout this process, both the complainant and respondent have the following rights:

- To be treated with respect, dignity, and sensitivity.
- To receive appropriate support from the University.
- Privacy to the extent possible, consistent with applicable law and University policy.
- Information about the University's [Sexual and Interpersonal Misconduct Policy](#).
- A prompt and thorough investigation of the allegations.

- Notification, in writing, of the case resolution, including the outcome of any appeals.
- To report the incident to law enforcement (including the Nicholls State University Police or the police department in the jurisdiction in which the sexual and interpersonal misconduct occurred) at any time.

III. Preliminary Matters

A. Effect of Criminal Proceedings.

The filing and processing of a complaint of sexual and interpersonal misconduct is separate from and independent of any criminal investigation or proceeding. Nicholls State University will not wait for the conclusion of any criminal investigation or proceedings to begin its own investigation, although the University may delay temporarily the fact-finding component of the investigation while the police are gathering evidence. Neither law enforcement's decision whether to prosecute a respondent nor the outcome of a criminal prosecution is determinative of whether sexual and interpersonal misconduct occurred under the University's [Sexual and Interpersonal Misconduct Policy](#).

B. Advisor.

The complainant and respondent may each choose and be accompanied to any meeting or hearing related to these procedures by an Adviser, who may provide support during such meeting or hearing. During meetings and interviews, the Adviser may quietly confer or pass notes with the party in a non-disruptive manner. The Adviser may not intervene in a meeting or address the Investigator. Consistent with the University's obligation to promptly resolve sexual and interpersonal misconduct complaints, the University reserves the right to proceed with any meeting or interview, regardless of the availability of the party's selected Adviser.

C. Declining to Participate.

A complainant may decline to participate in the investigative or complaint resolution process. The University may continue the process without the complainant's participation.

D. Time Frame for Complaint Resolution.

The University will seek to resolve every report of sexual and interpersonal misconduct within 90 calendar days after the filing of a complaint, including appeals. Time frames may vary depending on the complexity of a case and the availability of witnesses, and at certain times of the academic year (for example, during breaks, study periods or final exams). The University may extend any time frame for good cause, with a written explanation to the complainant and respondent.

E. Prohibition on Retaliation.

It is illegal and a violation of the University's [Sexual and Interpersonal Misconduct Policy](#) to retaliate against a person for filing a complaint of sexual and interpersonal misconduct or for cooperating in a sexual and interpersonal misconduct investigation. Any person who retaliates against a person for reporting sexual and interpersonal misconduct, filing a sexual and interpersonal misconduct complaint, or participating in a sexual and interpersonal misconduct investigation is subject to disciplinary action up to and including termination by the University.

F. Notice.

The Title IX Coordinator, or designee, will give the complainant and respondent, respectively, an explanation of their rights and options, and as appropriate, any available supportive measures, as soon as possible after a complaint is reported. The Title IX & Civil Rights Compliance Office will also ensure that both the complainant and respondent are updated throughout the investigative process, including with timely notice of meetings where either the complainant's or the respondent's presence may be required. The complainant and respondent will be simultaneously provided with written notice of the results of any investigation including whether there has been a violation of the University's [Sexual and Interpersonal Misconduct Policy](#). The Title IX Coordinator or designee will also inform the complainant of any sanctions imposed on the respondent that directly relate to the complainant, and any other steps the University has taken to prevent recurrence of the misconduct.

IV. Initiating a Complaint

Any person who believes they have experienced sexual and interpersonal misconduct, as defined in the University's [Sexual and Interpersonal Misconduct Policy](#), may file a complaint against the Nicholls State University faculty or staff member, affiliate, or non-affiliate responsible for that conduct (the person filing a complaint is referred to as a "complainant"). A person who has information that a University faculty or staff

member, affiliate, or non-affiliate may have committed sexual and interpersonal misconduct may also file a complaint (the person filing the complaint is referred to as a “reporter”). A complainant or reporter may include any member of the Nicholls State University community, including students, faculty, administrators, staff members, visitors, applicants for employment or admission, participants in a NSU program or activity, or a non-affiliate with knowledge of an incident of sexual and interpersonal misconduct.

V. Supportive Measures

Upon the filing of a sexual and interpersonal misconduct complaint, the Title IX Coordinator will review the allegations and determine the necessity and scope of any supportive measures to prevent further acts of harassment, misconduct, or retaliation and to provide a safe educational and/or work environment. The range of supportive measures may include, but not be limited to:

- Adjusting a party’s work/school schedule, assignment, or location for University employment.
- Changing a party’s academic schedule, allowing the party to take an incomplete in one or more courses, allowing the party to drop (or retake) a course without penalty, or attend class via web conference.
- Providing an escort to ensure safe movement between classes, work sites, and other activities.
- Allowing a party to withdraw from or retake a class without penalty, or extending deadlines for examinations or other academic or work assignments.
- Providing access to tutoring or other academic support.
- Putting a party on administrative leave until the conclusion of the investigation.
- Issuing an administrative No Contact Directive.

The University will maintain as confidential any supportive measures provided to the parties to the extent that maintaining such confidentiality would not impair the ability of the University to provide the supportive measures.

An individual’s failure to comply with any restrictions imposed by supportive measures is a violation of University Policy and a basis for disciplinary action, up to and including termination of employment.

VI. How to File a Complaint

A complainant or reporter may submit a paper (hard copy) or electronic [Incident Report Form](#) to the Title IX Coordinator, the Vice President of Student Affairs, the Dean of Students Office, the Office of Judicial Affairs (OJA), University Police, or one of the

University's Deputy Title IX Coordinators. Although the [Incident Report Form](#) should contain sufficient information to permit the respondent to understand and respond adequately to the allegation presented, it may not reflect every detail related to the allegations in the complaint, as additional information may be discovered during the investigation.

A complainant may also call or meet with the Title IX Coordinator, the Vice President of Student Affairs, the Dean of Students Office, OJA, or a Deputy Title IX Coordinator to initiate a complaint.

- **Office of Title IX and Civil Rights Compliance**

Picciola Hall, Suite 132

985-448-4001

titleix@nicholls.edu

www.nicholls.edu/titleix

- Steven H. Kenney, Jr.
Title IX Coordinator
985-448-4001
steven.kenney@nicholls.edu
- Adrienne Naquin-Bolton
Deputy Title IX Coordinator
985-448-4091
Adrienne.bolton@nicholls.edu
- Andrew Kearney
Deputy Title IX Coordinator
985-4448-4812
andrew.kearney@nicholls.edu

- **Vice President for Student Affairs**

102 Picciola Hall

985-448-4022

www.nicholls.edu/student-affairs

- **Dean of Students**

Bollinger Student Union, Suite 13

985-448-4563

www.nicholls.edu/dean-of-students

- **University Police**

Police Station (across from softball field)

985-448-4746

VII. Investigation of a Complaint

A. Investigator.

The Title IX Coordinator will designate an Investigator specifically trained in sexual and interpersonal misconduct investigations to conduct a prompt, thorough, and fair investigation of any sexual and interpersonal misconduct allegations against a University faculty or staff member, affiliate, or a non-affiliate.

B. Investigation Process.

The investigation may involve one or more meetings with the complainant and respondent, interviewing witnesses, reviewing other relevant evidence, requesting written statements from the parties, informing the respondent of the allegations and/or providing to that person a copy of the complainant's statement. Before any adverse determination is made, the respondent will be informed as to the nature of the complaint, and will have the opportunity to respond. The respondent will also be advised of the University's strict prohibition against retaliation.

C. Standard of Proof.

In resolving complaints pursuant to the [Sexual and Interpersonal Misconduct Policy](#), the University will use a "preponderance of the evidence" standard, which is whether the evidence gathered and information provided during the investigation supports a finding that it is more likely than not that the respondent violated the [Sexual and Interpersonal Misconduct Policy](#).

D. Investigation Finding.

At the conclusion of the investigation, the Investigator will prepare a report (the "Investigative Report") summarizing and analyzing the relevant facts determined through the investigation, with reference to any supporting documentation or statements.

The final Investigative Report will provide a summary of the Investigator's findings and determinations, including context for the evidence, and will make a determination

as to whether the respondent's conduct violated the [Sexual and Interpersonal Misconduct Policy](#). The Investigative Report will be stored in the Office of Title IX and Civil Rights Compliance, with copies being provided to the Office of Human Resources, and applicable Vice President.

After review of the Investigative Report, Office of Human Resources and relevant Vice President will, if a violation of the [Sexual and Interpersonal Misconduct Policy](#) has been found, make a final determination as to the appropriate disciplinary sanction for the respondent's violation of the [Sexual and Interpersonal Misconduct Policy](#). Prior to any disciplinary action, the respondent shall be afforded an appeal, as described in Section IX, below.

E. Preservation of Records.

A confidential record of all complaints, including their disposition, will be maintained by the Title IX Coordinator and the Office of Title IX and Civil Rights Compliance.

VIII. Request for Confidentiality and Privacy

Every reasonable effort will be made to protect the privacy of all parties during the investigation, consistent with and subject to the University's obligation to investigate and resolve the complaint. Complainants who prefer to discuss an incident of sexual and interpersonal misconduct confidentially such that an investigation will not be initiated should contact one of the confidential resources listed in Section XI of the [Sexual and Interpersonal Misconduct Policy](#).

If the complainant reports an incident of sexual and interpersonal misconduct to any other campus resource and requests confidentiality or asks that the report of sexual and interpersonal misconduct not be pursued, the University will, generally before taking any further investigative steps, evaluate the complainant's request in the manner set forth in Section V.B of the [Sexual and Interpersonal Misconduct Policy](#). The evaluation will be conducted by the Title IX Coordinator in consultation with a small number of University administrators as deemed necessary and appropriate under the circumstances.

Even absent a request for confidentiality, every reasonable effort will be made to protect the privacy of all parties during the investigation. Nicholls State University will disclose information about its investigation and resolution of sexual and interpersonal misconduct complaints only to those who need to know the information in order to carry out their duties and responsibilities. It will inform all University personnel participating in an investigation, proceeding, or hearing that they are expected to

maintain the privacy of the process. This does not prohibit either a complainant or respondent from obtaining the assistance of family members, counselors, therapists, clergy, doctors, attorneys, or other resources.

IX. Appeal

Parties have the right to appeal the investigative determination and the sanction imposed by the Office of Human Resources and relevant Vice President.

The University's determination as to whether the respondent's conduct violated the [Sexual and Interpersonal Misconduct Policy](#) will be presumed to have been reached reasonably and appropriately, by a preponderance of the evidence. Therefore, an appeal is available only on the following grounds:

1. Insufficient evidence to support the Investigator's findings.
2. The disciplinary sanction imposed is disproportionate to the violation of the [Sexual and Interpersonal Misconduct Policy](#).
3. The discovery of new, relevant evidence, that was unavailable to the appealing party during the investigation that could reasonably affect the outcome of the case.
4. Prejudicial bias on the part of the Investigator.

Any appeal must be in writing and should be filed with the Title IX Coordinator within ten (10) calendar days of the date of receipt of Office of Human Resources' final decision. The Title IX Coordinator may accept a late submission under extenuating circumstances.

In the case of complaints against staff members and non-affiliates, the Title IX Coordinator will direct the appeal to the appropriate officer of the University for review and disposition. In the case of complaints against faculty, the Title IX Coordinator will consult with the University Provost to determine the appropriate officer of the University to whom the appeal should be directed.

The decision of the University officer charged with hearing the appeal will be final, subject to Section X, below.

X. Imposition of Sanctions

A. Suspension or Termination of Faculty.

Any disciplinary sanction that involves corrective action and/or termination of a faculty member will be conducted pursuant to the procedures outlined in the [Policy & Procedure Manual](#).

B. Disciplinary Actions against Staff.

Disciplinary sanctions involving staff will be consistent with any applicable State Civil Service rules and University policies.

C. Disciplinary Actions against Affiliates and Non-affiliates.

Disciplinary sanctions involving affiliate and non-affiliates will be consistent with any applicable University policies, procedures, guidelines, and applicable 3-party contracts and/or guidelines, where applicable.

Title IX of the Education Amendments of 1972 (20 U.S.C. § 1681) is a federal law that prohibits discrimination based on the gender of students and employees of educational institutions which receive federal financial assistance.

Nicholls State University and University of Louisiana System policies prohibit sexual discrimination in the form of sexual harassment, sexual assault, stalking, domestic violence, dating violence, and unauthorized distribution of sexual images or recordings.

This guideline complies with requirements of the United States Department of Education requirements as well as the provision of Louisiana's Board of Regents Uniform Policy on Power-Based Violence/Sexual Misconduct.