



Nicholls State University

## **Procedures for the Resolution of Non-Title IX Sexual and Interpersonal Misconduct Complaints Against Students**

*Note: These **Procedures for the Resolution of Title IX Sexual and Interpersonal Misconduct Complaints Against Students** 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 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 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 have reasonable measures to provide 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 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 evidence regarding the prior sexual history or character evidence.
- The parties may not personally and 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 and Scope**

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These procedures will be used to investigate and resolve complaints of sexual and interpersonal misconduct against Nicholls State University students (undergraduate, graduate; full-time, and part-time) 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](#).

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](#).

Complaints of sexual and interpersonal misconduct against Nicholls State University faculty, staff, affiliates and non-affiliates 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 Faculty, Staff, Affiliates, and Non-Affiliates.

## **II. Rights of the Complainant and Respondent**

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Nicholls State University's Procedures for the investigation, adjudication, and resolution of sexual and interpersonal misconduct complaints brought against students are designed to be accessible, prompt, equitable, 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](#).
- The presence of an Adviser throughout the process.
- To participate or to decline to participate in the investigation or complaint resolution process. However, a decision not to participate in the process either in

whole or in part may not prevent the University from proceeding with the information available.

- A prompt and thorough investigation of the allegations.
- Adequate time to review documents in the Office of Compliance, Conduct Accountability and Ethical Development following the investigation.
- To appeal the decision made or any sanctions imposed by the Dean of Students to a Discipline Committee.
- To challenge a Hearing Panel member(s) for a possible conflict of interest.
- To refrain from making self-incriminating statements.
- To appeal the decision by made the Director of Conduct to the Discipline Committee.
- Notification, in writing, of the case resolution, including the outcome of any appeals, and the final determination.
- For the complainant, to report the incident to law enforcement (including the Nicholls State University Police or with the police department in the jurisdiction in which the sexual and interpersonal misconduct occurred) at any time.

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.

### **III. Preliminary Matters**

#### **A. Timing of Complaints.**

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If the respondent is a current Nicholls State University student (undergraduate or graduate; full-time or part-time), there is no time limit for filing a complaint to initiate these Procedures. However, students are strongly encouraged to report sexual and interpersonal misconduct in a timely manner to maximize the University's ability to gather evidence, and conduct a thorough, impartial, and reliable investigation. If the respondent is a second semester senior (or in the final semester of a graduate program), the University may withhold that student's Nicholls State University degree pending conclusion of the complaint resolution procedures.

#### **B. Effect of Criminal Proceedings.**

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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 determination as to whether or not to prosecute a respondent nor the outcome of any criminal prosecution is determinative of whether sexual and interpersonal misconduct occurred under the University's [Sexual and Interpersonal Misconduct Policy](#).

## **C. Effect of a Pending Complaint on the Respondent.**

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If the Respondent is a current NSU student, no notation will be placed on the respondent's transcript of a complaint or pending disciplinary action prior to the conclusion of the complaint resolution process. If the respondent withdraws from Nicholls State University while a sexual and interpersonal misconduct complaint is pending, the respondent's transcript will reflect a withdrawal and a notation of pending disciplinary action subject to modification to reflect the outcome of the disciplinary action.

## **D. Amnesty.**

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A student who files a sexual and interpersonal misconduct complaint, or who serves as a third-party witness during the complaint resolution process, will not be subject to disciplinary action by the University for his or her own personal consumption of alcohol or other drugs at or near the time of the alleged sexual and interpersonal misconduct, provided that such violations did not and do not place the health or safety of any other person at risk. However, the use of alcohol or drugs does not excuse sexual and interpersonal misconduct and a person who has been incapacitated through the use of alcohol and drugs (or by any other means) cannot give effective consent to sexual activity. The University may initiate an educational discussion or pursue other educational remedies regarding alcohol or other drugs.

## **E. Adviser.**

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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 interview, 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.

## **F. Declining to Participate.**

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A complainant and/or respondent may decline to participate in the investigative or complaint resolution process. The University may continue the process without the complainant's and/or respondent's participation. In most cases, a refusal to participate in the investigative process will preclude a complainant or respondent from appealing any determination. The Dean of Students will make this determination.

## **G. Time Frame for Complaint Resolution.**

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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, 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.

## **H. Prohibition on Retaliation.**

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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 expulsion from the University.

## **I. Notice.**

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The Office of Compliance, Conduct Accountability and Ethical Development will give the complainant and respondent, respectively, a written explanation of their rights and options, and any available accommodations, as soon as possible after a complaint is reported. The Office of Compliance, Conduct Accountability and Ethical Development and the Dean of Students 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.

## IV. Initiating a Complaint

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### A. Individual

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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 student responsible for that conduct (the person filing a complaint is referred to as a "complainant"). A person who has information that sexual and interpersonal misconduct may have been committed by a University student or a participant in a University Program may also file a complaint (the person with such information is referred to as a "reporter"). A complainant or reporter may include any member of the Nicholls State University community, including students, faculty, administrators, and 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.

### B. Administrative

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In extraordinary cases, such as situations that threaten the safety of members of the Nicholls community, the University may initiate a complaint through the Dean of Students Office against a Nicholls State University student. As set forth in the [Sexual and Interpersonal Misconduct Policy](#), reports of sexual and interpersonal misconduct undergo a Title IX Review to determine the appropriate response and make an initial determination as to whether the conduct alleged in the complaint may violate Title IX.

#### a. Administrative Responsibility

1. The Vice President for Student Affairs is responsible for administration of the Standards of Conduct.
2. The Director of Conduct and Accountability is primarily responsible for day to day implementation of the Student Conduct Program. The Dean of Students will serve in the absence of the Director of Conduct and Accountability.

## V. How to File a Complaint

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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, Office of Compliance, Conduct Accountability and Ethical Development, 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 charges being brought, 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, Office of Compliance, Conduct Accountability and Ethical Development, 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](mailto:titleix@nicholls.edu)

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

- Steven H. Kenney, Jr.  
**Title IX Coordinator**  
985-448-4001  
[steven.kenney@nicholls.edu](mailto:steven.kenney@nicholls.edu)
- Adrienne Naquin-Bolton  
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985-448-4091  
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985-4448-4812  
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- **Vice President for Student Affairs**

102 Picciola Hall

985-448-4022

[www.nicholls.edu/student-affairs](http://www.nicholls.edu/student-affairs)

- **Dean of Students**

Bollinger Student Union, Suite 13

985-448-4563

[www.nicholls.edu/dean-of-students](http://www.nicholls.edu/dean-of-students)

- **Office of Compliance, Conduct Accountability and Ethical Development**

Elkins Hall,

985-448-4530



- **University Police**  
Police Station (across from softball field)  
985-448-4746  
985-448-4911 (Emergency)  
[www.nicholls.edu/police](http://www.nicholls.edu/police)

## VI. Information for Complainants

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After receiving a report of sexual and interpersonal misconduct, Office of Compliance, Conduct Accountability and Ethical Development will notify the complainant of the option to have an Adviser accompany them to any meeting or interview related to the complaint resolution process. Office of Compliance, Conduct Accountability and Ethical Development will also:

- Provide the complainant with information regarding the Rights of the Complainant and Respondent.
- Explain the prohibition against retaliation.
- Explain the process for investigating and resolving a sexual and interpersonal misconduct complaint (including the available appeal procedures).
- Instruct the complainant not to destroy any potentially relevant documentation in any format.
- Give the complainant a copy of the relevant policies.
- Explain the availability of interim measures.

## VII. Supportive Measures

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Upon the filing of a sexual and interpersonal misconduct complaint, the Title IX Coordinator, the Dean of Students, Office of Compliance, Conduct Accountability and Ethical Development, or a Deputy 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 work environment. The range of supportive measures may include, but not be limited to:

- Moving a party's on-campus residence.
- 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 and other activities.
- Reassigning a party to another section, if the complainant and respondent are enrolled in the same lecture, discussion class, academic team, or project group.
- Providing access to tutoring or other academic support.
- Issuing an administrative no contact (“stay-away”) order.
- Interim suspension of a party.

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

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

## **VIII. Withdrawal of a Complaint**

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Prior to the conclusion of a sexual and interpersonal misconduct investigation, the complainant may withdraw their complaint. Withdrawal of the complaint will ordinarily end the complaint investigation and resolution process. However, the University reserves the right to proceed with the complaint, even after the complainant withdraws it, in order to protect the interests and safety of the Nicholls community.

## **IX. Complainant Request for Confidentiality**

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If the complainant is willing to participate in the review and investigation process, Office of Compliance, Conduct Accountability and Ethical Development will proceed as described in the Investigation section below.

If the complainant 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.

## **X. Responding to a Complaint**

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### **A. Notification of Respondent.**

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The person alleged to have committed sexual and interpersonal misconduct is called the respondent. Unless the complainant requests and is granted confidentiality, the respondent will be notified in writing that a complaint alleging sexual and interpersonal misconduct has been filed against them. The respondent will be advised that they may have an Adviser accompany them to any meeting or interview related to the investigation and complaint resolution process.

### **B. Summoning a Respondent.**

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The Director of Conduct and Accountability may summon a student to appear in connection with an alleged violation either orally, or by sending a written notice, or by serving the student with a University summons. The summons shall direct the student to appear at a specified date, time, and place.

If the student fails to comply with the summons, discipline charges may be filed against the student. The student who fails, without good cause, to comply with a summons or letter of notice issued may be placed on disciplinary probation, temporarily suspended or barred against readmission.

### **C. Information for Respondent.**

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Within seven (7) calendar days of receiving notice of the complaint, the respondent must arrange to meet with Office of Compliance, Conduct Accountability and Ethical Development. At that meeting, Office of Compliance, Conduct Accountability and Ethical Development will:

- Provide the respondent with information regarding the Rights of the Parties.

- Provide the respondent with a copy of the complaint.
- Explain the prohibition against retaliation.
- Discuss the nature of the complaint.
- Explain the rights and responsibilities of the complainant and respondent. Explain the process for investigating and resolving the complaint (including the available appeal procedures).
- Instruct the respondent not to destroy any potentially relevant documentation in any format.
- Give the respondent a copy of the relevant policies.
- Provide the respondent with a list of on-campus and off-campus support resources.

If the respondent fails to meet or cooperate with the Office of Compliance, Conduct Accountability and Ethical Development, the investigation and resolution of the complaint will proceed without input from the respondent. If interim measures have been imposed, Office of Compliance, Conduct Accountability and Ethical Development will explain the scope of those measures and the respondent's duty to comply with the interim measures.

## **D. Acceptance of Responsibility.**

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After reviewing the complaint and meeting with Office of Compliance, Conduct Accountability and Ethical Development and/or the Dean of Students, the respondent may choose to end the complaint resolution process by accepting responsibility for the conduct alleged in the complaint. If the respondent accepts responsibility for the conduct alleged in the complaint, the Director of Conduct and Accountability will determine an appropriate sanction for the respondent. If the respondent disputes the allegations of the complaint, the matter will proceed to an investigation.

At any point in the process, the respondent may accept responsibility for the conduct alleged in the complaint. In such cases, the Director of Conduct and Accountability may impose sanctions for violations of the [Sexual and Interpersonal Misconduct Policy](#).

## **XI. Investigation of a Complaint**

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### **A. Investigation Timelines.**

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The University will make every effort to complete its investigations within 60 calendar days, although this timeframe may be extended for good cause. Good cause may exist for a variety of factors, including but not limited to the complexity of the circumstances of each allegation, the integrity and completeness of the investigation, to comply with a

request by law enforcement, to accommodate the availability of witnesses, to account for University breaks or vacations, or to address other legitimate reasons. In the event a time frame is extended, both the complainant and the respondent will be notified of any delay and the anticipated length of the delay.

## **B. Time Limits.**

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In the absence of a good cause, the complainant must file a complaint within six months of the alleged incident; except in cases of sexual misconduct and sexual assault, stalking, dating and relationship violence which can be filed at any time.

## **C. Standard of Proof.**

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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. Fairness.**

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Student conduct proceedings are conducted with fairness but do not include the same protections afforded by courts. Specifically, Nicholls State University agrees to provide all of those accused of violating these Standards of Conduct with written notice of the provision of the Standards they are accused of violating, a right to provide their version of events, and the right to appeal as described within these procedures. Deviation from the prescribed procedures below does not necessarily invalidate a decision or proceeding.

## **D. Due Process.**

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The process that is due: Preponderance of evidence (the greater weight of the evidence favors either the finding of a student responsible or not responsible) as the standard of proof. **Substantive due process** relates to the content of a violation, while **procedural due process** relates to how the violations are implemented and enforced.

## **E. Investigation Finding.**

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The focus of the inquiry in conduct proceedings shall be to determine if the individual, group, or organization is “responsible” or “not responsible” for violation of the

Standards of Conduct. The student conduct process is fundamentally different from criminal and civil court procedures.

## **XII. Resolution of a Complaint**

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### **A. Informal Resolution.**

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A complainant and a respondent may choose to resolve a complaint through an informal resolution process. Informal resolution may include conflict mediation or a restorative conference with a University community member. However, informal resolution may only be used:

1. Prior to a decision by Director of Conduct and Accountability being issued;
2. When the Director of Conduct and Accountability and/or the Dean of Students determines this is a suitable option for resolving the complaint, and both the complainant and respondent agree to use the process;
3. When the complaint does not involve sexual assault, as defined in Section II.B of the [Sexual and Interpersonal Misconduct Policy](#).

Either the complainant or respondent may choose to end the informal resolution process at any time and commence or resume the formal complaint resolution process.

Because the outcome of informal resolution process is mutually developed and agreed upon by the parties, an appeal of the process and its result is not permitted. If the parties are unable to agree on a voluntary resolution, the matter will be referred by the Dean of Students for investigation by the Office of Compliance, Conduct Accountability and Ethical Development.

### **B. Initiation of Conduct Proceedings.**

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When the Director of Conduct and Accountability receives information alleging that a student has violated the Standards of Conduct, the Director shall investigate the alleged violation.

Violations of the Standards of Conduct must be reported within six months of the discovery of the alleged violation.

1. After completing a preliminary investigation, the Director may:
  - a. Dismiss the allegation as unfounded; or
  - i. Summon the student for a conference, after conferring with the student, dismiss the allegation; or

- ii. proceed administratively if it is determined that the alleged violation is of a nature requiring discipline action;
- b. If the violation warrants suspension or dismissal, prepare a written charge and proceed to notify the student of his or her due process.
- c. If the alleged violation is not a discipline matter but needs attention, the Director will refer the matter to the proper University department or official.

## **C. Disposition of Violations**

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### **Administrative Disposition of Violations**

1. The Director of Conduct and Accountability, at the completion of an administrative hearing, may administratively dispose of a violation.
2. If this course of action is pursued, the Director of Conduct and Accountability will issue a Letter of Notification to the student. The Letter of Notification will state the findings and discipline sanctions imposed, if applicable. The letter will also inform the student that they have the right to appeal, that is, request a hearing by the Discipline Committee on the charges and/or discipline sanctions imposed. However, the terms of the discipline sanctions imposed will remain in effect.
3. The Director may take action other than by judicial proceedings in any case of student conduct involving health, psychological or mental disturbance, or other unusual circumstances which could demonstrably endanger the health or safety of the student or others, or cause disruption of University activities or services.
4. In administratively disposing of a violation, sanctions may be imposed by the Director of Conduct and Accountability. Any appeal of the sanctions must follow the appropriate appeal procedures.
5. The Director of Conduct and Accountability may enter into an agreement with any student to impose sanctions for a period not greater than two years. Any appeal of the agreement must follow the appropriate appeal procedures.
6. Educational Records of administrative disposition of violations are confidential in accordance with federal and state laws. The contents of the student's record may not be revealed to anyone not associated with campus discipline except upon written request of the student or a court-ordered subpoena. In cases of sexual offenses and crimes of violence the student respondent and the complainant will be notified of the outcome of the administrative disposition of the matter and subsequent appeals.

## **Discipline Committee**

The Discipline Committee is responsible for hearing unresolved cases involving violations of the Standards of Conduct and appeals filed by students as a result of discipline actions taken administratively.

The Discipline Committee consists of one faculty member from each Academic College appointed by the Vice President for Student Affairs, two representatives from Student Affairs appointed by the Vice President for Student Affairs, and seven student members of the Student Government Association Student Supreme Court. The Committee elects the Chair. The Committee will also elect a Vice-Chair, who shall conduct the meeting in the absence of the Chair. In the absence of the chair and vice-chair, the longest serving member of the committee attending the hearing shall act as chair.

A quorum consists of five members of the committee, of which two must be student members and two must be faculty members. The Committee, at the request of the student respondent, may waive this quorum requirement.

## Hearing Procedures

1. The purpose of the hearing is to search for the truth, therefore the hearing is informal and the chair shall provide reasonable opportunities for witnesses to be heard.
2. The hearing is closed. Upon request of the student respondent, the Committee may, but is not required to, permit the hearing to be open; however, if the complainant wishes it to be closed, it will be closed.
3. The following persons may attend: members of the Committee, the Student Judicial Officer and appropriate staff; the student respondent and an attorney, advisor, or friend; the complainant and an attorney, advisor, or friend; and the SGA Director of Student Rights and Grievances. The respondent or the complainant may choose the SGA Director of Student Rights and Grievances as their advisor or friend.
4. The hearing may proceed if a student respondent fails without good cause to comply with a letter of notice. Failure to appear at the hearing may result in the right of the student to appeal the Committee's decision.
5. **The committee shall proceed generally as follows during the hearing:**
  - a. The Chair calls the meeting to order.
  - b. The Director of Conduct and Accountability reads the complaint.
  - c. The Chair informs the student of their rights.
  - d. The student enters a plea of guilty or not guilty. If guilty proceed to "m".
  - e. The Director of Conduct and Accountability or other appointed staff member presents the evidence regarding the complaint.
  - f. The student respondent presents their defense. The respondent's attorney, advisor, or friend may advise the respondent but may not address the committee, witnesses, or other parties.



- g. The Director of Conduct and Accountability, respondent and Committee members will have an opportunity to question all witnesses. The complainant may suggest questions for the Director of Conduct and Accountability to ask.
- h. The Director of Conduct and Accountability and the student respondent may present rebuttal evidence and argument.
- i. Summations will be presented in the following order: student respondent and the Director of Conduct and Accountability.
- j. The committee deliberates in private and decides the issue of guilt or innocence based on the evidence presented following examination of each issue presented by the case before it. Notes and copies of documentary evidence may be brought into the private session to assist in the deliberations. All individual notes taken must be destroyed at the conclusion of the hearing.
- k. The standard of guilt is whether it is more likely than not that the respondent committed the violation charged. The issue will be determined by simple majority vote of the Discipline Committee members present.
- l. In the hearing room, the committee announces its decision as to guilt or innocence to all of the parties and their advisors. Where there is more than one respondent, they will be addressed individually in a serial manner unless each individual request group notification.
- m. If the student pleads guilty or the committee finds the student respondent guilty, the Director of Conduct and Accountability, complainant, and the student respondent may present evidence and argument on an appropriate penalty.
- n. The committee then deliberates in private and determines appropriate sanctions by examining the issues specific to the case. Notes and copies of documentary evidence may be brought into the private session to assist in the deliberations where the appropriate sanctions are determined.
- o. In the hearing room, the Committee Chair announces the Committee's recommendations to all parties and their advisors. Where there is more than one respondent, they will be addressed individually in a serial manner. All parties will be advised against releasing educational discipline record information.
- p. The Committee Chair gives the decision and/or recommended sanctions in writing to the Vice President for Student Affairs for procedural and substantive review, implementation, notification or other appropriate action, including rejection, modification or referral to the Committee for further consideration.

## **2. Sanctions.**

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In general, sanctions will be proportionate to the severity of the violation(s) as determined in the discretion of the University.

## Possible Sanctions

The following sanctions may be meted out for violations of the *Standards of Conduct*:

1. **Admonition** – written reprimand from the Dean to the Students, on whom the penalty is imposed, placed in the student’s permanent discipline record.
2. **Warning Probation** – written notification that further violations of any of the standards will result in more severe discipline action. Warning probation may be imposed for a period of not more than one calendar year, and the student shall be removed automatically from probation when the imposed period expires.
3. **Disciplinary Probation** – written notification that further violations of any section of these standards may result in further disciplinary action including but not limited to suspension.
4. **Bar against Readmission** – written notification issued to a student who has left the University that he/she will not be allowed to re-enroll at the University until a pending discipline matter has been resolved. In the case of a serious violation, a notation of the discipline matter will be placed on a student’s transcript until it is cleared. The penalty terminates on clearance of the discipline matter. Bar against readmission may also be imposed for a period of not more than two years.
5. **Restitution** – reimbursement for damages caused by the student’s conduct. Restitution may be monetary reimbursement or may take the form of appropriate service to repair or otherwise compensate for damages.
6. **Disciplinary Fine** – The appropriate administrative party may impose monetary fines to fit the particular case. If the fine is not paid, it remains on the student’s record as indebtedness to the University which renders the student ineligible to register for subsequent semesters.
7. **Service Hours** – The appropriate administrative party may assign community service work to fit the particular case.
8. **Suspension of Rights and Privileges** – an elastic penalty. The Director of Conduct and Accountability or Discipline Committee may impose limitations to fit the particular case, which could include eviction from the residence facilities and/or prohibition from entry or visiting any area of the campus.
9. **Suspension of eligibility for official athletic and non-athletic extracurricular activities** – The Director of Conduct and Accountability or Discipline Committee may prohibit the student on whom this penalty is imposed from joining a registered organization; taking part in a registered organization’s activity, or attending its meetings or functions; and from participating in an official athletic or nonathletic extracurricular activity. A suspension may be imposed under this Sub-section for more than one calendar year.
10. **Failing Grade/removal from class/lab** – may be assigned in a course in which the student was found responsible for academic dishonesty or severe or repeated disruption of class/lab activities. The student will be banned from attending the class/lab activities.

11. **Denial or Revocation of Degree** – a student found responsible for academic dishonesty may be denied a degree, or, if the dishonesty is discovered and proven after the degree is awarded, it may be revoked.
12. **Cancellation of registration or denial of credit** – may be imposed in cases where the student is found responsible for withholding information relating to the student's admission, transfer credits, academic status, records, etc.
13. **Suspension from the University** – the student is suspended for a specified period of time. During the period of suspension the University may prohibit the student on whom this penalty is imposed from taking or completing classes, from living in campus housing, from visiting the University campus without prior written approval of the Director of Conduct and Accountability, from being initiated into an honorary, social or service organization, and from receiving credit from any college or university, public or private, for academic work done in residence or by correspondence or extension. A discipline suspension message will appear on the grade label of any student suspended for discipline reasons, and the student will receive F's for all courses in which he/she is enrolled. The discipline message is removed at the end of the suspension period; however, the failing grades will remain.
14. **Temporary Suspension until administrative hearing can be held** – may be used in the event of a threat of safety to the University community, if a student refuses to answer a summons or in any case of student conduct which disrupts or may disrupt university activities or services. Any or all prohibitions listed in Sanction 9 may be imposed.
15. **Dismissal from the University** – A student is suspended for an indefinite period of time and may be readmitted only by action of the Discipline Committee. After a reasonable or specified period of time has passed, the student must petition the University Discipline Committee for readmission. A letter addressed to the Committee chair must prove to the Committee that the actions for which the student was dismissed will not occur again, with documentation in support thereof. The Committee may ask the student to appear in person. The Committee may take any of the following actions: (1) deny the student's readmission; (2) readmit the student on probation and with restrictions upon his/her campus privileges; (3) readmit the student on probation only. If readmitted, no credit will be given for academic work done elsewhere during the suspension period. The Discipline Committee may impose any or all prohibitions listed in Sanction 9.

### 3. Appeal Process.

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Should the student respondent wish to appeal the decision of the Director of Conduct, a letter must be written to the Chairperson of the Discipline Committee within ten (10) days of the decision. The validity of the appeal will be determined by the Chairperson of the Discipline Committee. If the appeal is valid it will be considered by the Discipline Committee. The appeal letter must indicate the basis from one of the following:

1. Published procedures were not followed.
2. There was insufficient evidence to support the charge.
3. Sanction(s) imposed were inappropriate.

4. Subsequent to the hearing, information was discovered which indicates that member(s) of the committee were not impartial (Discipline Hearing).
5. No new evidence may be presented.

Retaliatory action by any party involved is subject to disciplinary action.

## **XIII. Appeals to the University Vice President of Student Affairs**

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### **A. Procedure for Appeal.**

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The complainant and the respondent each have the right to appeal the Hearing Panel's decision to the Vice President of Student Affairs. An appeal to the Vice President of Student Affairs must be in writing and received by the Vice President of Student Affairs within ten (10) calendar days of receipt of the Dean of Student's decision. The only grounds for appeal to the Provost are:

1. Procedural irregularity that affected the outcome of the Investigation/Hearing.
2. The sanction 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 prior to the Hearing Panel that could reasonably affect the outcome of the case.
4. Prejudicial bias on the part of the Hearing Panel.

The Vice President of Student Affairs will provide a copy of the appeal petition to the other party. If the non-appealing party chooses to respond to the appeal, they must do so in writing to the Vice President of Student Affairs within ten (10) calendar days after receiving the appeal petition.

Upon receipt of a timely appeal petition, the Dean of Students will forward to the Vice President of Student Affairs the relevant record of the matter. The Vice President of Student Affairs will limit their review of Hearing Panel decisions to a review of the record of the original Hearing (including the audio recording), supporting documents, and statements made by one or both parties in the appeal petition.

The Vice President of Student Affairs will review the record and the statements submitted. The decision of the Vice President of Student Affairs will be in writing, with copies provided to the complainant, respondent, and the Dean of Students, and will be communicated within fourteen (14) calendar days after receiving the appeal petition or any response.

## **B. Impact of an Appeal Petition on Imposed Sanctions.**

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The filing of an appeal petition will not operate to stay the effect of sanctions imposed. However, the appeal petition may seek a stay or modification of the sanctions pending the Vice President of Student Affairs' decision on the appeal. The Dean of Students or the Vice President of Student Affairs, in their discretion, may suspend, stay, or modify sanctions imposed, subject to such conditions as either may deem appropriate.

## **C. Vice President of Student Affairs' Decision on Appeal.**

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The University Vice President of Student Affairs may:

1. Affirm, modify, or reverse the Hearing Panel's decision.
2. Affirm or modify (either to increase or decrease) the sanctions imposed.
3. Remand the matter to the OJA for a new Hearing. This shall normally be done when there is a procedural irregularity that could be corrected in a rehearing.

If the Vice President of Student Affairs remands the matter, they will specify whether the sanctions are to be maintained, modified, suspended, or reversed pending completion of the matter on remand.

Any act authorized by this procedure to be performed by the Vice President of Student Affairs may also be done by an authorized designee of the Vice President of Student Affairs.

The decision of the Vice President of Student Affairs will be final.

## **XIV. Disciplinary Records, Withdrawal, and Readmission**

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### **A. Disciplinary Records.**

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A sanction of expulsion or suspension from the University or a program of the University will be entered on the student's permanent record unless this provision is waived by the Vice President of Student Affairs concurs.

The University Registrar will be informed of all sanctions involving suspension or expulsion from the University or from a program of the University, and no student will be permitted to re-enroll in the University following such sanction unless they present

evidence to the Registrar of satisfaction of the sanction and of appropriate permission for re-enrollment.

## **B. Withdrawal and Readmission.**

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If a student voluntarily withdraws from the University or a program of the University while charges against them are pending, or as part of a negotiated settlement of such charges, this fact will be communicated to the University Registrar and the student will not be permitted to re-enroll unless they present evidence that appropriate permission for re-enrollment has been obtained. Such permission shall be granted solely at the discretion of the Dean of Students or the Vice President of Student Affairs. If the student withdrew while charges against them were pending, permission for readmission will be granted only after the charges have been resolved.

If permission to re-enroll is not granted, the student may petition the Provost for permission, setting forth in his or her petition the relevant facts and the basis upon which the petition is made. The decision of the Provost will be final.

Failure of a student to comply with a sanction or condition imposed or to obtain permission for re-enrollment in accordance with the above requirements may be a basis for denial of re-enrollment.

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.