



Nicholls State University

Sexual & Interpersonal Misconduct (Power-based Violence) Policy

**Note: This Sexual & Interpersonal Misconduct Policy is effective August 14, 2020, and replaces the University's Sexual and interpersonal misconduct/Title IX Policy in its entirety. The new Sexual & Interpersonal Misconduct Policy and its three corresponding Complaint Procedures 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 two corresponding Complaint Procedures.*

Executive Summary

This policy affirms Nicholls State University's (Nicholls's) strong commitment to fostering an environment free from sexual and interpersonal misconduct. Sexual and interpersonal misconduct may take many forms, such as sexual assault (including rape), sexual harassment, dating and domestic violence, and stalking.

Federal and state laws affect how Nicholls defines and addresses sexual and interpersonal misconduct, and the process may seem complex and overwhelming. This policy contains a wide-ranging list of resources in Sections V and XI to assist the Nicholls community in understanding both this policy and the applicable procedures.

This policy classifies sexual and interpersonal misconduct into two categories: (i) sexual and interpersonal misconduct that is covered by Title IX, a federal law (defined in Section III.A); and (ii) sexual and interpersonal misconduct generally (defined in Section III.B). **If conduct falls under both categories, Title IX and its procedures govern.** The distinction between sexual and interpersonal misconduct governed by Title IX and other sexual and interpersonal misconduct is relevant because the procedures for resolving complaints differ in important ways whether Title IX applies or not.

This Policy is effective August 14, 2020, and applies to conduct that occurs on or after August 14, 2020. Conduct that occurred on or before August 13, 2020 will be addressed under the University's Title IX/Sexual & Interpersonal Misconduct Policy and its accompanying sets of procedures.

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Article I. Introduction

Section 1.01 Statement of University Values

Nicholls State University is committed to fostering an environment that is free from all forms of sexual and interpersonal misconduct, including sexual assault and sexual harassment. In support of that commitment, Nicholls takes steps to increase awareness of such misconduct, eliminate its occurrence on campus, provide support for survivors, diligently investigate all reports of sexual and interpersonal misconduct, and deal fairly and firmly with offenders. Creating a safe campus environment and a culture of respect is the shared responsibility of all members of the Nicholls community, individually and collectively.

Section 1.02 Notice of Non-Discrimination

Nicholls State University is committed to establishing and maintaining an environment free of all forms of discrimination and harassment for all members of the University community. The University prohibits discrimination against any person on the basis of race, color, religion, sex, age, national origin, physical or mental disability, sexual orientation, gender identity or expression, genetic information, military service, or because of marital, parental, veteran status, or any other protected class.

The University does not discriminate on the basis of sex in its educational, extracurricular, athletic, or other programs, or in the context of employment. Sexual and interpersonal misconduct, including sexual harassment as defined in this Policy, is a form of sex discrimination prohibited by Title IX of the Education Amendments of 1972, a federal law that provides:

No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance.

Section 1.03 Compliance with Anti-Discrimination Laws

The University complies with all state and federal discrimination laws, including but not limited to Title IX of the Higher Education Amendments of 1972, the federal law that prohibits discrimination on the basis of sex in education programs and activities; Title VII, the federal law that prohibits unlawful discrimination in employment, including that based on sex; and the state of Louisiana laws that prohibit unlawful discrimination in employment and education, including that based on sex, respectively.

The Nicholls State University Policy on Sexual and Interpersonal Misconduct (“Policy”) is intended to ensure a safe and non-discriminatory educational and work environment, free from all forms of sex-based discrimination and harassment.

Section 1.04 Coordination with Nicholls State University’s Non-Discrimination Policy

Nicholls State University recognizes that discrimination and harassment related to a person’s sex can occur in connection with misconduct related to a person’s sexual orientation, gender identity, gender expression, race, color, ethnicity, national origin, religion, age, disability, or other protected class. Targeting a person on the basis of these characteristics is a violation of state and federal law and University policy. Under these circumstances, the University will endeavor to coordinate the investigation and resolution of sexual and interpersonal misconduct complaints with the investigation and resolution of complaints of discrimination or harassment based on other protected classes.

Article II. Scope of the Policy and Procedures

This Policy is intended to provide the Nicholls State University community with a clearly articulated set of behavioral standards, definitions of prohibited conduct, and key concepts. The Policy applies to all community members, including students, faculty, staff, affiliates, visitors, applicants for admission or employment, and independent contractors. Vendors and others who conduct business with the University or on Nicholls' property are also expected to comply with this Policy. The Policy applies regardless of a person's gender, gender identity, gender expression, sexual orientation, age, race, nationality, class status, religion, or other protected status.

This Policy addresses sexual harassment as defined under Title IX, or other sexual and interpersonal misconduct prohibited by federal or state laws. It sets forth the University's definitions of and approaches to addressing sexual harassment and other sexual and interpersonal misconduct. Separate definitions and procedures are provided for addressing conduct falling under Title IX ("Title IX Sexual and Interpersonal Misconduct") and conduct falling under other laws or this Policy prohibiting discrimination and harassment based on sex ("Non-Title IX Sexual and Interpersonal Misconduct").

This Policy covers Title IX Sexual and Interpersonal Misconduct, as defined below, against a person in the United States, occurring within the context of a University education program or activity. An "education program or activity" includes locations, events, or circumstances over which the University exercises substantial control over both the respondent and the context in which the sexual harassment occurs, and also includes any building owned or controlled by a student organization that is officially recognized by Nicholls State University. In order to bring a complaint under Title IX, the complaining party must be participating in, or attempting to participate in, an educational program or activity at the time of filing a formal complaint.

This Policy also covers Non-Title IX Sexual and Interpersonal Misconduct occurring both on-campus and off-campus, if the conduct was in connection with a University or University-recognized education program or activity, or if the conduct may have the effect of creating a hostile learning, working, or living environment for a member of the Nicholls community.

Section 2.01 Summary of Policy Sections

Sections III and IV define prohibited conduct and include scenarios illustrating Title IX Sexual and Interpersonal Misconduct and Non-Title IX Sexual and Interpersonal Misconduct, and provide additional definitions of important concepts such as consent,

incapacitation, and force. Section V identifies on- and off-campus resources for all members of the Nicholls community, including information about where to access resources in a confidential manner. Sections VI and VII describe how a member of the University community can report Title IX sexual and interpersonal misconduct or Non-Title IX sexual and interpersonal misconduct and describes available supportive measures. Section VIII explains the role of the Title IX Coordinator, Deputy Title IX Coordinators, and Title IX Liaisons, and describes the procedures used to review allegations of Title IX Sexual and Interpersonal Misconduct and Non-Title IX Sexual and Interpersonal Misconduct. Sections IX and X outline the University's prevention, education, and training efforts.

Nicholls State University recognizes that sexual assault, harassment, discrimination and other forms of sexual and interpersonal misconduct can have a profound impact on a person's personal, academic, and work life. The University encourages anyone coping with such a situation to seek help and support. Sections XI and XII include a list of on-campus resources available to those affected by sexual and interpersonal misconduct and the extent to which such resources have reporting obligations or may maintain the confidentiality of a report of sexual and interpersonal misconduct. These services are free of charge to members of the Nicholls community.

Section 2.02 Summary of Sexual and Interpersonal Misconduct Procedures

The University has three distinct processes to address sexual and interpersonal misconduct. Which process is used depends on the nature of the misconduct that is alleged (Title IX and Non-Title IX Sexual and Interpersonal Misconduct) and the status of the person against whom the complaint is asserted (University student, faculty, staff, affiliate, or non-affiliate).

- For complaints involving Title IX Sexual and Interpersonal Misconduct against a University student, faculty, staff, affiliate or non-affiliate, the following procedures are used: <https://www.nicholls.edu/titleix/policies-procedures/>
- For complaints involving Non-Title IX Sexual and Interpersonal Misconduct against a University student, the following procedures are used: <https://www.nicholls.edu/titleix/policies-procedures/>
- For complaints involving Non-Title IX Sexual and Interpersonal Misconduct against a University faculty or staff member, or affiliate or non-affiliate, the following procedures are used: <https://www.nicholls.edu/titleix/policies-procedures/>

All of the University's sexual and interpersonal misconduct procedures provide at a minimum the following rights and process to the parties:

- The parties will receive copies of the Sexual & 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, who may be an advocate or counsel, or a confidential resource advisor 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 does not have a conflict of interest or bias and who will have not less than annual training on the University's Sexual & 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 & Interpersonal Misconduct Policy and Procedures.
- 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 & 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 & Interpersonal Misconduct Policy and Procedures or as permitted under state or federal law.

Section 2.03 Disciplinary Process for Violations of University Sexual and Interpersonal Misconduct Procedures

The University applies different disciplinary processes for violations of its Sexual & Interpersonal Misconduct Policy. Which disciplinary process is applied depends on the nature of the misconduct that is alleged (Title IX or Non-Title IX Sexual and Interpersonal Misconduct) and the status of the person against whom the complaint is asserted (University student, faculty, staff, affiliate, or non-affiliate).

- Section VIII.B, Title IX/Sexual and Interpersonal Misconduct Review provides the review processes applied for Title IX Sexual & Interpersonal Misconduct Policy violations by a University student, faculty, staff, affiliate or non-affiliate.
- Section VIII.B, Title IX/Sexual and Interpersonal Misconduct Review provides the review processes applied for Non-Title IX Sexual and Interpersonal Misconduct violations by a University student.
- Section VIII.B, Title IX/Sexual and Interpersonal Misconduct Review provides the review processes applied for Non-Title IX Sexual and Interpersonal Misconduct violations by a University faculty or staff member, or affiliate or non-affiliate.

In general, the disciplinary processes mentioned above will involve the following:

Where a faculty or staff member is found to have violated the University's Sexual & Interpersonal Misconduct Policy, the applicable dean of a school or college or vice president of an administrative unit will determine sanctions and remedies in consultation with appropriate University administrators. Disciplinary sanctions involving the suspension or termination of staff or faculty members will be conducted pursuant to the procedures outlined in the University Policy & Procedure Manual.

Where a student is found to have violated the University's Sexual & Interpersonal Misconduct Policy, the Dean of Students will determine sanctions and remedies. For violations of the Sexual & Interpersonal Misconduct Policy for faculty and staff, disciplinary sanctions may include (but are not limited to) the following:

- Counseling or other forms of corrective action
- Educational programs

- Demotion
- Administrative leave of absence (without pay)
- Suspension
- Termination

For violation of the Sexual & Interpersonal Misconduct Policy by University students, disciplinary sanctions may include (but are not limited to) the following:

- Warning
- Educational programs
- Disciplinary probation
- Denial or deferral of degree
- Suspension
- Expulsion
- Limitations on ability to participate in University program or activities

Article III. Prohibited Conduct and Definitions

This section describes prohibited sexual and interpersonal misconduct and definitions under Title IX (Title IX Sexual and Interpersonal Misconduct), this Policy, or other laws or regulations (Non-Title IX Sexual and Interpersonal Misconduct).

The Title IX regulations issued by the United States Office for Civil Rights provide definitions of specific conduct prohibited under Title IX. The University's commitment to eliminating sexual and interpersonal misconduct extends to other conduct that does not fall within those definitions.

Section 3.01 Title IX Sexual and Interpersonal Misconduct

Title IX Sexual and Interpersonal Misconduct is conduct on the basis of sex against a person in the United States, occurring within the context of an education program or activity, which satisfies one or more of the following definitions:

- **Dating Violence** – Violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim; and where the existence of such a relationship shall be determined based on a consideration of (a) the length of the relationship, (b) the type of relationship, and (c) the frequency of interaction between the persons involved in the relationship.
- **Domestic Violence** – Felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim, by a person with

whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction.

- **Quid Pro Quo Sexual Harassment:** A University employee conditions the provision of an aid, benefit, or service of the University on a person's participation in unwelcome sexual conduct.
- **Stalking** - Engaging in a course of conduct directed at a specific person that would cause a reasonable person to (a) fear for his, her or their safety or the safety of others; or (b) suffer substantial emotional distress.
- **Title IX Sexual Assault:** Any sexual act directed against another person, without that person's consent (including instances where the victim is incapable of giving consent), and includes, but is not limited to, the following:
 - **Forcible Rape** - (i) sexual intercourse, or (ii) oral or anal sexual intercourse, or (iii) use of an object or instrument to unlawfully penetrate, however slightly, the genital or anal opening of the body of another person, either (A) forcibly and/or against that person's will, or (B) against the person's will in instances where the victim is incapable of giving consent because of his/her youth or because of his/her temporary or permanent mental or physical incapacity.
 - **Fondling** - touching of the private body parts of another person for the purpose of sexual gratification, forcibly and/or against that person's will or not forcibly or not against the person's will in instances where the victim is incapable of giving consent because of his/her youth or because of his/her temporary or permanent mental or physical incapacity.
 - **Incest** - non-forcible sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.
 - **Statutory Rape** - non-forcible sexual intercourse with a person who is under the statutory age of consent.
- **Title IX Sexual Harassment:** For the purposes of determining whether power-based violence will be treated as a potential violation of Title IX in accordance with the Title IX Grievance Procedure, Title IX sexual harassment means conduct on the basis of sex that satisfies one or more of the following:
 - An employee of the Institution conditioning the provision of an aid, benefit, or service of the recipient on an individual's participation in unwelcome sexual conduct;
 - Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the recipient's education program or activity; or

- “Sexual assault” as defined in 20 U.S.C. 1092(f)(6)(A)(v), “dating violence” as defined in 34 U.S.C. 12291(a)(10), “domestic violence” as defined in 34 U.S.C. 12291(a)(8), or “stalking” as defined in 34 U.S.C. 12291(a)(30).

Section 3.02 Non-Title IX Sexual and Interpersonal Misconduct

“Non-Title IX Sexual and Interpersonal Misconduct” is a broad, non-legal term that encompasses a wide range of behaviors that are prohibited by this Policy or federal and state law, including but not limited to, sexual harassment, sexual assault, rape, acquaintance rape, stalking, and relationship violence (including dating and domestic violence). Non-Title IX Sexual and Interpersonal Misconduct includes conduct occurring both on-campus and off-campus, if the conduct was in connection with a University or University-recognized education program or activity, or if the conduct may have the effect of creating a hostile environment for a member of the Nicholls community.

It is a violation of University Policy and/or applicable law to commit or to attempt to commit any of the acts listed below.

- **Power-based Violence:** Any form of interpersonal violence intended to control or intimidate another person through the assertion of power over the person, to include the following:
 - Dating violence (R.S. 46:2151(C)).
 - Domestic abuse and family violence (R.S. 46:2121.1(2) and 2132(3)). For the purpose of this Part, domestic abuse shall also include any act or threat to act that is intended to coerce, control, punish, intimidate, or exact revenge on the other party, for the purpose of preventing the victim from reporting to law enforcement or requesting medical assistance or emergency victim services, or for the purpose of depriving the victim of the means or ability to resist the abuse or escape the relationship.
 - Nonconsensual observation of another person's sexuality without the other person's consent, including voyeurism (R.S. 14:283.1), video voyeurism (R.S. 14:283), nonconsensual disclosure of a private image (R.S. 14:283.2), and peeping tom activities (R.S. 14:284).
 - Sexual assault means any sexual act directed against another person, without that person's consent (including instances where the victim is incapable of giving consent), and includes each of the following: (R.S. 14:41, 42 through 43.5, 89, 89.1, and 106).
 - Sexual Battery (14:43.1)
 - Misdemeanor sexual battery (14:43.1.1)
 - Second degree sexual battery (14:43.2)
 - Oral sexual battery (14:43.3)

- Female genital mutilation (14:43.4)
 - Intentional exposure to HIV (14:43.5)
 - Crime against nature (14:89)
 - Aggravated Crime against nature (14:89.1)
 - Obscenity (14:106)
- Sexual exploitation means an act attempted or committed by a person for sexual gratification, financial gain, or other advancement through the abuse of another person's sexuality including prostituting another person (R.S. 14:46.2 and 82 through 86).
 - Human trafficking (14:46.2)
 - Prostitution (14:82)
 - Prostitution of person under 18 (14:82.1)
 - Purchase of commercial sexual activity (14:82.2)
 - Solicitation for prostitutes (14:83)
 - Inciting prostitution (14:83.1)
 - Promoting prostitution (14:83.2)
 - Prostitution by massage (14:83.3)
 - Sexual massages (14:83.4)
 - Pandering (sexual) (14:84)
 - Letting premises for prostitution (14:85)
 - Enticing persons into prostitution (14:86)
- Sexual harassment means unwelcome sexual advances, requests for sexual favors, and other verbal, physical, or inappropriate conduct of a sexual nature when the conduct explicitly or implicitly affects an individual's employment or education, unreasonably interferes with an individual's work or educational performance, or creates an intimidating, hostile, or offensive work or educational environment and has no legitimate relationship to the subject matter of a course or academic research.
- Stalking (R.S. 14:40.2) and cyberstalking (R.S. 14:40.3).
- Unlawful communications (R.S. 14:285).
- Unwelcome sexual or sex- or gender-based conduct that is objectively offensive and has a discriminatory intent.
- **Sexual Assault:** Actual or attempted sexual contact with another person without that person's consent that includes, but is not limited to:
 - Intentional touching of another person's intimate parts without that person's consent; or
 - Other intentional sexual contact with another person without that person's consent; or
 - Coercing, forcing, or attempting to coerce or force a person to touch another person's intimate parts without that person's consent; or
 - Rape, which is penetration, no matter how slight, of (1) the vagina or anus of a person by any body part of another person or by an object, or (2) the

mouth of a person by a sex organ of another person, without that person's consent.

See Section III for the definitions of consent, incapacitation, and force.

- **Sexual Harassment:** Unwelcome conduct of a sexual nature that has the effect of creating a hostile or stressful living, learning, or working environment, or whenever toleration of such conduct or rejection of it is the basis for an academic or employment decision affecting an individual. Conduct is considered "unwelcome" if the person did not request or invite it and considered the conduct to be undesirable or offensive.

Sexual harassment includes any conduct or incident that is sufficiently serious that it is likely to limit or deny a student's ability to participate in or benefit from the University's educational program or activity or a faculty or staff member's ability to work, which may include a single incident of sexual assault or other serious sexual and interpersonal misconduct.

Sexual harassment can take many forms, and can:

- Occur between equals, such as student to student, faculty member to faculty member, staff to staff, or visitor/contracted employee to staff.
- Occur between persons of unequal power status, such as supervisor to subordinate, faculty member to student, coach to student-athlete, or student leader to first-year student. Although sexual harassment often occurs in the context of an exploitation of power by the person with the greater power, a person who appears to have less power in a relationship can also commit sexual harassment (such as a student harassing a faculty member).
- Be committed by an acquaintance, a stranger, or someone with whom the complainant has or has had a personal, intimate, or sexual relationship.
- Occur by or against a person of any sex, gender identity or expression, or sexual orientation.

The following non-exhaustive list includes examples of behavior that could be considered sexual harassment:

- Unwelcome sexual innuendo, propositions, sexual attention, or suggestive comments and gestures.
- Unwelcome physical contact of a sexual nature, such as touching, hugging, kissing, patting, or pinching, that is uninvited and unwanted or unwelcome by the other person.

- Humor and jokes about sex or gender-specific traits; sexual slurs or derogatory language directed at another person's sexuality or gender.
- Insults and threats based on sex or gender; and other oral, written, or electronic communications of a sexual nature that a person communicates are unwelcome.
- Written graffiti or the display or distribution of sexually explicit drawings, pictures, or written materials; sexually charged name-calling; sexual rumors or ratings of sexual activity/performance; the circulation, display, or creation of e-mails or Web sites of a sexual nature. (For more information on misconduct using the University's computing facilities, please see the Conditions of Use and Policy on Computing Ethics.)
- Non-academic display or circulation of written materials or pictures degrading to a person(s) or gender group.
- Unwelcome attention, such as repeated inappropriate flirting, inappropriate or repetitive compliments about clothing or physical attributes, staring, or making sexually oriented gestures.
- Change of academic or employment responsibilities (increase in difficulty or decrease of responsibility) based on sex, gender identity, gender expression, or sexual orientation.
- Use of a position of power or authority to: (i) threaten or punish, either directly or by implication, for refusing to tolerate harassment, for refusing to submit to sexual activity, or for reporting harassment; or (ii) promise rewards in return for sexual favors.
- Acts of verbal, nonverbal, or physical aggression, intimidation, or hostility based on sex or sex-stereotyping.

Hostile Environment

A hostile environment exists when sexual or sex-based harassment is sufficiently serious to deny or limit a student's ability to participate in or benefit from the University's programs or activities or has the effect of unreasonably interfering with an employee's work performance or altering the terms and conditions of the employee's employment. A hostile environment can be created by anyone involved in a University program or activity (e.g., administrators, faculty members, students, and campus visitors).

In determining whether sex-based harassment has created a hostile environment, the University considers the conduct in question from both a subjective and objective perspective. It will be necessary, but not enough, that the conduct was unwelcome to the student who was harassed. The University will also need to find that a reasonable person in the student's position would have perceived the conduct as undesirable or offensive in order for that conduct to create or contribute to a hostile environment.

To determine whether a hostile environment exists for a student or employee, the University will consider a variety of factors related to the severity, persistence, or pervasiveness of the sex-based harassment, including: (1) the type, frequency, and duration of the conduct; (2) the identity and relationships of persons involved; (3) the number of individuals involved; (4) the location of the conduct and the context in which it occurred; and (5) the degree to which the conduct affected the student's education or the employee's employment.

The more severe the sex-based harassment, the less need there is to show a repetitive series of incidents to find a hostile environment. Indeed, a single instance of sexual assault may be sufficient to create a hostile environment. Likewise, a series of incidents may be sufficient even if the sex-based harassment is not particularly severe.

- **Sexual Exploitation:** Occurs when a person takes sexual advantage of another person for the benefit of anyone other than that person, without that person's consent.

Examples of sexual exploitation:

- Prostituting another person;
 - Recording images (e.g., video, photograph) or audio of another person's sexual activity, intimate body parts, or nakedness without that person's consent;
 - Distributing images (e.g., video, photograph) or audio of another person's sexual activity, intimate body parts, or nakedness, if the individual distributing the images or audio knows or should have known that the person depicted in the images or audio did not consent to such disclosure and objects to such disclosure; and,
 - Viewing another person's sexual activity, intimate body parts, or nakedness in a place where that person would have a reasonable expectation of privacy, without that person's consent, and for the purpose of arousing or gratifying sexual desire.
- **Stalking** - A course of conduct involving more than one instance of inappropriate and unwanted attention, harassment, threatening or intimidating physical or verbal contact, or any other course of conduct directed at a person that could be reasonably regarded as likely to alarm or place that person in fear of harm or injury, including physical, emotional, or psychological harm. This includes the use of technology to pursue, harass, threaten, intimidate, or otherwise make unwelcome contact with another person. Stalking may involve people who are known to one another or have an intimate or sexual relationship, or may involve people not known to one another.

Stalking is prohibited by Louisiana law. Stalking can also constitute a violation of this Policy when the conduct involves a Nicholls State University student or employee and is gender-based.

Examples of Stalking.

The following persistent, unwanted, and repeated harassing conduct may constitute stalking:

- Every time Rita went to class, Tom, another student, would sit next to her. Tom kept trying to talk to Rita even though she told him she was not interested in him. Tom then started showing up everywhere that Rita went – in the lobby of her residence hall, in the Bollinger Student Union, and at her work-study job. Tom was persistent and threatened to “make” Rita go out with him. If Tom continues to pursue this conduct, his action may constitute stalking in violation of this Policy.
- Stedman dated Oprah, a graduate student, a couple of times but eventually stopped seeing her. Then Oprah began sending Stedman several e-mails a day, messaging him on Instagram, and sending text messages to his cell phone. Stedman changed his e-mail address and cell phone number, but somehow Oprah discovered his new e-mail address and cell phone number and began sending even more e-mails and texts. Stedman really wants Oprah to stop contacting him, but he is not sure what to do. Oprah’s conduct toward Stedman may constitute stalking in violation of this Policy.
- **Relationship Violence (Dating and Domestic)** - Abuse, violence, or intentionally controlling behavior between partners or former partners involving one or more of the following elements: (i) battering that causes bodily injury; (ii) purposely or knowingly causing reasonable apprehension of bodily injury; (iii) emotional abuse creating apprehension of bodily injury or property damage; (iv) repeated telephonic, electronic, or other forms of communication – anonymously or directly – made with the intent to intimidate, terrify, harass, or threaten. Relationship violence can occur in all types of relationships (e.g., heterosexual, same sex, or any other type of relationship). Relationship violence may constitute a violation of this Policy when it involves a Nicholls State University student, faculty or staff member, and the conduct is gender-based.

Examples of Relationship Violence

- Goldie's boyfriend Kurt yelled at her today because she was late meeting him for lunch. Kurt grabbed Goldie's arm and pulled her out of the dining hall. Goldie was embarrassed. Later Kurt said he was so sorry for humiliating her. Goldie says things are okay now, but she wonders when it will happen again.
- Noah and Wade have been dating for a month. Noah, a student, has always been jealous, but now he becomes angry when he does not know where Wade is. He tells Wade that he will kill him if he ever cheats on him. Noah also told Wade that he would kill himself if Wade ever left him. The other day, Noah slapped Wade when he was mad at him. Wade is becoming more and more afraid of Noah, but he feels trapped and does not know what to do.

Section 3.03 Retaliation

As described below, it is a violation of Louisiana and federal law, including Title IX, and a violation of this Policy to retaliate against a person for making a report or complaint of Title IX Sexual and Interpersonal Misconduct or Non-Title IX Sexual and Interpersonal Misconduct or for participating in or declining to participate in an investigation or grievance procedure related to such a report or complaint.

Neither the University nor any person may intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by Title IX or this Policy, or because the individual has made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under Title IX or this Policy.

Retaliation: retaliation under Title IX, this Policy, or applicable law includes intimidation, threats, coercion, or discrimination, including charges against an individual for code of conduct violations that do not involve sex discrimination or sexual harassment, but arise out of the same facts or circumstances as a report or complaint of sex discrimination, or a report or formal complaint of sexual harassment, for the purpose of interfering with any right or privilege secured by Title IX.

Retaliation exception: It does not constitute retaliation under Title IX or this policy to charge an individual with a code of conduct violation for making a materially false statement in bad faith in the course of a Title IX grievance proceeding, provided, however, that a determination regarding responsibility, alone, is not sufficient to conclude that any party made a materially false statement in bad faith.

Examples of Retaliation

- Kristine reported to the Dean of Students that she felt her ex-boyfriend, Russell, was harassing her on the basis of her sex. The Judicial Affairs Office investigated and held Russell responsible for the behavior reported. Russell was suspended for one semester. A week after the disciplinary decision was issued, Russell's friends excluded Kristine from the invitation list of a unique educational conference because she had "ratted out" Russell to the Dean.
- Rita accused Ida of stalking. Rita told Judicial Affairs that she had four witnesses, including Katrina who was Ida's roommate. Ida found out that Katrina was a witness in the investigation and had provided information supportive of Rita. Ida confronted Katrina in the Bollinger Student Union and told her that because Katrina didn't support Ida during the investigation, they were no longer friends and Ida would no longer lend Katrina her car.

Article IV. Other Important Concepts and Definitions

These concepts and definitions are applicable to cases involving Title IX Sexual and Interpersonal Misconduct and Non-Title IX Sexual and Interpersonal Misconduct.

Section 4.01 Consent

Consent must be informed and voluntary, and can be withdrawn at any time. Consent can be given by words or actions as long as those words or actions create mutually understandable permission regarding the scope of sexual activity. There is no consent when there is force, expressed or implied, or when coercion, intimidation, threats, or duress is used. Whether a person has taken advantage of a position of influence over another person may be a factor in determining consent.

Silence or absence of resistance does not imply consent. Past consent to sexual activity with a person does not imply ongoing future consent with that person or consent to that same sexual activity with another person.

If a person is mentally or physically incapacitated or impaired so that they cannot understand the fact, nature, or extent of the sexual situation, there is no consent; this includes impairment or incapacitation due to alcohol or drug consumption that meets this standard, or being asleep or unconscious.

Effect of drugs and alcohol on consent:

Individuals should be aware of, and carefully consider, the potential consequences of the use of alcohol or drugs. Alcohol and other drugs can lower inhibitions and create an atmosphere of confusion over whether consent is freely and affirmatively given. If there is a question about whether someone consented to sexual activity after consuming drugs or alcohol, the University will examine the issue from the perspective of a reasonable person. Specifically, the University will consider whether the respondent reasonably should have known about the impact of alcohol and other drugs on the complainant's ability to give consent.

Section 4.02 Incapacitation

Incapacitation is the inability, temporarily or permanently, to give consent, because the person is mentally and/or physically helpless due to drug or alcohol consumption, either voluntarily or involuntarily, or the person is unconscious, asleep, or otherwise unaware that the sexual activity is occurring. Some signs of incapacitation may include, but are not limited to, lack of control over physical movements (e.g., stumbling, falling down), lack of awareness of circumstances or surroundings, inability to speak or communicate orally, or the inability to communicate for any reason.

It is a violation of this Policy and/or federal and/or Louisiana laws, to engage in sexual activity with a person who is incapacitated, regardless of whether the person appeared to be a willing participant. It is especially important, therefore, that anyone engaging in sexual activity be aware of the other person's level of intoxication.

Section 4.03 Force

The use of force to cause someone to engage in sexual activity is, by definition, non-consensual contact, and is prohibited. Force may include words, conduct, or appearance. Force includes causing another's intoxication or impairment through the use of drugs or alcohol. Under this Policy, force includes the use of any of the following:

1. Physical Force, Violence, or a Weapon

Example: Dwayne and Gabrielle return to his room after a party. They consensually begin kissing and touching each other. Dwayne wants to have sex, but Gabrielle tells him that she does not want to go that far. When Gabrielle tries to get off the bed and leave the room, Dwayne holds her down and they have sex. Dwayne's use of force renders the sexual intercourse non-consensual and violates this Policy.

2. Threats

Example: Neil and David meet at a party. Neil confides in David that he has recently “come out” to a few close friends, but most people do not know he is gay. Neil worries how people will react if they knew. As the evening progresses, David and Neil start kissing. David wants to have sex, but Neil tells him he is not ready for that. David threatens to “out” Neil on Instagram and Twitter if he does not have sex with him. Out of fear for his reputation, Neil submits to David even though he really does not want to. Any sexual activity that then occurs is forced sexual contact and violates this Policy.

3. Intimidation and Implied Threats

Example: Will is a popular senior and the captain of a sports team on campus. He has brought Grace, who is a first-year female athlete at school, to a fraternity party. Grace would not have been able to get into the party if it was not for Will’s influence. Later in the evening, Grace wants to leave, but Will blocks her way with his body. He is significantly bigger than she is and she cannot get around him. Will starts to kiss and touch Grace, but she tells him to stop. Will tells Grace he can make sure she gets into all the big parties on campus this year, which would help her relationship with her new teammates (implying he could turn the team against her). Grace does not want to be with Will, but she is worried about the impact he could have on her social and athletic life if she refuses. If Grace submits to Will out of his implied threats and abuse of his status, it may constitute forced sexual contact in violation of this Policy.

4. **Coercion.** Coercion is to force one to act based on fear of harm to self or others. Means of coercion may include, but is not limited to, pressure, threats, or emotional intimidation.

Example: Blake’s parents both died recently and she has been having a hard time focusing this semester. Ryan, a friend of Blake’s, comes to her room to watch a movie with her. When Blake starts crying and becomes upset, Ryan hugs and comforts her. Eventually Blake and Ryan start kissing and touching one another. Blake wants to stop, but Ryan tells her “you’ve made me so hot, how can you stop now?” When Blake tells Ryan she wants to be alone, Ryan tells Blake that it isn’t cool to leave him like this, especially when he came over to help her. Blake is confused and emotionally vulnerable. Ryan implies that Blake “owes him sex” after all he has done to support her. Ryan continues to pressure Blake until she eventually submits to his advances. Ryan’s conduct constitutes coercion in that he pressured Blake into additional sexual contact that was not freely chosen, in violation of this Policy.

Section 4.04 Miscellaneous Definitions

- **Complainant(s):** The person(s) making the allegations of sexual and interpersonal misconduct.
- **Respondent(s):** The person(s) against whom a complaint of sexual and interpersonal misconduct has been made.
- **Reporter:** A person who has information that sexual and interpersonal misconduct may have been committed and who initiates a complaint.

Article V. Campus and Community Resources

As outlined here and in the “Resources and Support” section at the end of this Policy, a variety of support and counseling resources are available to students and employees of the Nicholls State University community affected by Title IX Sexual and Interpersonal Misconduct and Non-Title IX Sexual and Interpersonal Misconduct. Contact information for the resources described here is available in Section XI.

Section 5.01 Emergency / Immediate Assistance

For emergency assistance, community members should call the Nicholls Police Department at 985-448-4746 or by dialing 4911 on campus.

The University encourages all community members affected by Title IX Sexual and Interpersonal Misconduct and Non-Title IX Sexual and Interpersonal Misconduct to seek immediate assistance. Doing so promptly may be important to ensure the person’s physical safety or to obtain medical care or other support. It may be helpful to preserve evidence, which can assist the University and/or law enforcement in proving that the alleged criminal offense occurred or may be helpful in obtaining a protective order. Confidential assistance is available to Nicholls students through the University Counseling Center (985-448-4080) or University Health Services (985-493-2600).

Students or employees who wish to obtain information or notify law enforcement are encouraged to contact the Nicholls State University Police Department (University Police). University Police will assist or provide information to members of the University community about how to obtain a court-issued protective order. University Police will also provide information on law enforcement investigations, and civil or criminal processes available to students and employees. University Police, the University Title IX Coordinator or their designee will advise students and employees on how to obtain a lawful court-issued protective order or an institution-issued no-contact directive or a No Trespass Order against an alleged perpetrator of the sexual and

interpersonal misconduct. The institution's process for investigating sexual and interpersonal misconduct complaints and external civil and criminal processes may run concurrently.

Members of the University community who have obtained a court issued protective order are encouraged to inform University Police of that order at the earliest possible time, by contacting UPD directly.

Section 5.02 Privacy and Confidentiality

Nicholls State University values the privacy of its students and employees. Nicholls wants all students and employees to seek the assistance they need without fear that the information they provide will be shared more broadly than they would like. Federal and state laws, however, impose reporting obligations on most University employees that require them to disclose information from a report of Title IX Sexual and Interpersonal Misconduct and Non-Title IX Sexual and Interpersonal Misconduct with those University employees responsible for responding to such a report. However, there are individuals at Nicholls State University who are not subject to these reporting requirements, with whom students, faculty, and staff can speak in complete confidence. The table in Section XI summarizes the confidentiality protections and reporting obligations of various Nicholls employees and offices.

Even when University employees have an obligation to report to others, which means their office is described as "non-confidential" under this Policy, they will protect and respect an individual's privacy to the greatest extent possible and share information only on a need-to-know basis. Any of the staff listed as Resources will be able to explain their respective reporting obligations in more detail.

Section 5.03 Confidential Campus Resources and Support

The University encourages all members of the Nicholls community to report any incident of Title IX Sexual and Interpersonal Misconduct or Non-Title IX Sexual and Interpersonal Misconduct. The University recognizes, however, that not every person will choose to make a formal report with the University or with local law enforcement. For those who are not prepared to make a report or pursue a complaint, the University provides access to confidential advocacy, crisis and pastoral counseling, and medical services. Conversations with these individuals are confidential (except as described in Section XI). They can explain options for obtaining additional support from the University and off-campus resources. They can also arrange for medical care and accompany complainants, or arrange for someone to accompany complainants, to seek such care. Complainants may use these resources to talk to someone about an incident of Title IX Sexual and Interpersonal Misconduct or Non-Title IX Sexual and Interpersonal Misconduct in a confidential manner whether or not they decide to make

an official report or to participate in the University complaint resolution process or the criminal justice system. Conferring with these resources will not trigger an investigation by the University or law enforcement. However, these offices are familiar with the University's complaint resolution processes, can explain what to expect, and can provide support while University or criminal processes are pending.

Section 5.04 Non-Confidential Campus Resources

In addition to the confidential resources discussed above, all members of the Nicholls community have access to a variety of individuals who are trained to support those affected by Title IX Sexual and Interpersonal Misconduct or Non-Title IX Sexual and Interpersonal Misconduct and to coordinate with the Title IX Coordinator consistent with the University's commitment to a safe and healthy campus environment. While not bound by confidentiality, these resources will nevertheless maintain the privacy of a person's information within the limited circle of those involved in the Title IX Sexual and Interpersonal Misconduct or Non-Title IX Sexual and Interpersonal Misconduct investigation and resolution processes.

1. **Title IX Coordinator.** The Title IX Coordinator is responsible for overseeing the University's response to Title IX reports and complaints, and identifying and addressing any patterns or systemic problems revealed by such reports and complaints. The University Title IX Coordinator's contact information is in Section XI.
2. **Deputy Title IX Coordinators.** The Deputy Title IX Coordinators are individuals who are trained to assist students and employees with complaints or concerns about sexual and interpersonal misconduct, and direct them to the resources they need. They report all complaints and concerns to the University Title IX Coordinator, and work closely with the Title IX Coordinator in promptly responding to a person's concerns. The Deputy Coordinators may oversee the University's response to Title IX reports and complaints. Contact information for the Deputy Title IX Coordinators is in Section XI.
3. **Title IX Liaisons.** Title IX Liaisons are individuals located in academic departments and administrative departments, who are trained to assist students and employees in their divisions with information and/or concerns about sexual and interpersonal misconduct, and direct them to the resources they need. They report all complaints and concerns to the University Title IX Coordinator. Contact information for the Title IX Liaisons is in Section XI.

4. **Nicholls State University Police Department.** Complainants may report Title IX Sexual and Interpersonal Misconduct or Non-Title IX Sexual and Interpersonal Misconduct to the Nicholls State University Police Department (“University Police”), the Thibodaux Police Department, the Lafourche Parish Sheriff’s Office, the Terrebonne Parish Sheriff’s Office, and/or the local law enforcement agency or District Attorney’s office where the misconduct occurred. The University complaint resolution procedures and the criminal justice system work independently from one another and neither Nicholls State University Police Department nor other law enforcement officials determine whether a violation of this Policy has occurred. Confidential resources, the Dean of Students Office, the Judicial Affairs Office, and University Police Department can explain how to report sexual assault and other forms of sexual and interpersonal misconduct to law enforcement. Although confidential resources or University Police personnel may accompany any student requesting support to the appropriate Police Department or District Attorney’s Office, they are not able to provide legal advice on these matters.

Section 5.05 Off-Campus Resources

Students or employees may also access resources located in the local community. The organizations and agencies listed in Section XI can provide crisis intervention services, counseling, medical attention, and legal assistance. All members of the Nicholls community are encouraged to utilize the resources that are best suited to their needs, whether on or off campus. In general, off-campus resources can aid those who wish to make a report to the University, but will not notify the University without the consent of the complainant.

Article VI. Reporting Sexual and Interpersonal Misconduct

Nicholls State University encourages all students or employees to report incidents of Title IX Sexual and Interpersonal Misconduct and Non-Title IX Sexual and Interpersonal Misconduct as promptly as possible so that the University can respond effectively. Students may report Title IX Sexual and Interpersonal Misconduct and Non-Title IX Sexual and Interpersonal Misconduct to the Dean of Students, the Judicial Affairs Office, the Title IX Coordinator, a Deputy Title IX Coordinator or Nicholls University Police Department. Faculty and staff may report incidents to the Title IX Coordinator, a Deputy Title IX Coordinator, a supervisor, a Dean, or a department head. All such reports will be disclosed to the Title IX Coordinator.

The University recognizes that student complainants may be most comfortable disclosing Title IX Sexual and Interpersonal Misconduct or Non-Title IX Sexual and Interpersonal Misconduct to a University employee they know well, such as a faculty

member, coach, or resident assistant (“RA”). Students are welcome to speak with them, but should understand that if they disclose an incident of Title IX Sexual and Interpersonal Misconduct or Non-Title IX Sexual and Interpersonal Misconduct to these individuals, they are required to inform the Title IX Coordinator about the incident. However, employees whose positions legally require confidentiality (e.g., counseling staff and clergy and others who are confidential resources identified in Section XI) are not required to make a disclosure to the Title IX Coordinator.

Similarly, faculty and staff members may be most comfortable disclosing Title IX Sexual and Interpersonal Misconduct or Non-Title IX Sexual and Interpersonal Misconduct to a trusted supervisor or manager. Faculty and staff should keep in mind that supervisors and managers must share this information with the Title IX Coordinator.

Before an individual discloses an incident of Title IX Sexual and Interpersonal Misconduct or Non-Title IX Sexual and Interpersonal Misconduct, University faculty and staff will try to ensure that the individual understands their reporting obligations – and, if the individual wishes to maintain confidentiality, direct them to confidential resources. Section X identifies the confidential resources available to students, faculty, and staff who do not wish to file a complaint or initiate an investigation, or who would like to better understand their options.

Section 6.01 Reports to a Non-Confidential Resources: Requests for Confidentiality

The University has designated the Title IX Coordinator and a small number of other University administrators to evaluate requests for confidentiality and oversee the University’s response to reports of Title IX Sexual and Interpersonal Misconduct or Non-Title IX Sexual and Interpersonal Misconduct where the complainant has disclosed an incident of Title IX Sexual and Interpersonal Misconduct or Non-Title IX Sexual and Interpersonal Misconduct to an employee who must report the incident and also requested that their identity not be disclosed or that no action be taken.

In the case of sexual and interpersonal misconduct complaints, the Title IX Coordinator, in consultation with a small number of key University administrators, will weigh the request against the University’s obligation to provide a safe, non-discriminatory environment for all students, including the complainant. When weighing a request that no investigation be pursued or that the complainant’s identity not be disclosed, the Title IX Coordinator and the appropriate University administrators will consider a range of factors, including, but not limited to, whether:

- The respondent is likely to commit additional acts of sexual or other violence;
- There have been other sexual and interpersonal misconduct complaints about the same respondent;

- The respondent has a history of arrests or records from a prior school indicating a history of violence;
- The respondent threatened further sexual and interpersonal misconduct or other violence against the complainant or others;
- The sexual and interpersonal misconduct was committed by multiple respondents;
- The sexual and interpersonal misconduct was perpetrated with a weapon;
- The complainant is a minor;
- The respondent is a Nicholls State University employee;
- The University possesses other means to investigate the sexual and interpersonal misconduct (e.g., security cameras or personnel, physical evidence);
- The complainant's report reveals a pattern of perpetration (e.g., via illicit use of drugs or alcohol) at a given location or by a particular person or group.

The presence of one or more of these factors could lead the University to investigate and, if appropriate, pursue conduct action against the respondent. If none of these factors are present, the University will likely respect the complainant's request.

If the University honors a request for confidentiality or decision not to participate in an investigation, the University's ability to meaningfully investigate the incident or pursue conduct action against the respondent(s) may be limited.

In some cases, the University may not be able to honor a confidentiality request in order to adhere to its obligation to provide a safe, non-discriminatory environment for the Nicholls community. If the Title IX Coordinator determines that the University cannot maintain a complainant's confidentiality, the Title IX Coordinator will inform the complainant prior to starting an investigation.

Section 6.02 Supportive Measures

Nicholls State University provides a range of supportive measures for complainants and respondents both prior to and after the filing of a formal complaint, or when no formal complaint is filed.

Requests for supportive measures can be made by or on behalf of the complainant or respondent to the University Title IX Coordinator or a Deputy Title IX Coordinator. Students may also seek assistance from the Dean of Students Office. The Title IX Coordinator will work with the appropriate office(s) to ensure that any appropriate supportive measures are promptly provided.

Upon the receipt of a report of Title IX Sexual and Interpersonal Misconduct or Non-Title IX Sexual and Interpersonal Misconduct, and until any investigation into the

report has been completed, the University will provide reasonable supportive measures to restore or preserve equal access to provide a safe educational and work environment and to prevent additional acts of Title IX Sexual and Interpersonal Misconduct or Non-Title IX Sexual and Interpersonal Misconduct, even when there is no specific request for protective action.

The University may impose measures that can be tailored to the parties involved to achieve the goals of this Policy. In addition, the University will maintain as confidential any accommodations or protective measures provided to the extent that maintaining such confidentiality would not impair the ability of the University to provide the accommodations or protective measures, for example, disclosing to a respondent and Nicholls University Police Department the name of the complainant in order to comply with a no-contact order.

The University may remove a respondent from campus on an emergency basis after an individualized safety and risk review. In cases involving Title IX Sexual and Interpersonal Misconduct, the University may also remove an individual from the campus if it determines that there is an immediate threat to the physical health or safety of a student or other person arising from the allegations that justifies removal. In such cases, the respondent will be provided with notice and an opportunity to challenge the decision immediately following the removal.

An individual's failure to comply with restrictions imposed by supportive measures is a violation of this Policy and a basis for disciplinary action.

Outside the University, a complainant may also be entitled to obtain remedies under applicable law, such as a judicial restraining order. The University can assist in contacting law enforcement or legal service organizations to learn about these remedies.

Section 6.03 Protections for Individuals Who Report Sexual and Interpersonal Misconduct ("Amnesty")

Nicholls State University encourages the reporting of all concerns regarding sexual and interpersonal misconduct. In some instances, students may be hesitant to report sexual and interpersonal misconduct because they fear they may be charged with other policy violations, such as underage alcohol consumption or violation of the University's drug policy. Because Nicholls' primary interest is in protecting the well-being of its community and remedying sexual and interpersonal misconduct, a person who reports such misconduct, either as a complainant or a third-party witness, will not be subject to disciplinary sanction for a violation of the University's [Code of Student Conduct](#) to the incident unless the report was not made in good faith or the violation was egregious.

The University recognizes alcohol or drugs may impact consent. Therefore, a student's personal consumption of alcohol or drugs at or near the time of the incident will not be investigated, provided that any 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 conduct prohibited under this Policy 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.

Article VII. Other Information Related to Reporting Sexual and Interpersonal Misconduct

Section 7.01 Time of Reporting

Although all members of the Nicholls State University community are encouraged to report Title IX Sexual and Interpersonal Misconduct and Non-Title IX Sexual and Interpersonal Misconduct immediately in order to maximize the University's ability to respond promptly and equitably, the University does not limit the timeframe for reporting. However, the University's ability to investigate and respond effectively may be reduced with the passage of time.

Section 7.02 Anonymous Reports and Reports from Third Parties

Any person may make an anonymous report concerning an act of Title IX Sexual and Interpersonal Misconduct or Non-Title IX Sexual and Interpersonal Misconduct. A person may report the incident without disclosing his/her/their name, identifying the respondent, or requesting any action. Depending on the level of information available about the incident and the people involved, however, the University's ability to respond to an anonymous report may be limited. Anonymous reports may be made by submitting the [Incident Report Form](#) to the University Title IX Coordinator or one of the Deputy Title IX Coordinators.

A complainant who wishes to file a formal complaint cannot remain anonymous or prevent their identity from being disclosed to the respondent. Where a complainant wishes to remain anonymous, or does not want to participate in the investigation process, the University Title IX Coordinator may determine that it is necessary to initiate an investigation and adjudication process with the information provided but without the involvement of the complainant in order to protect the educational community or to ensure that the University is not being deliberately indifferent to sexual and interpersonal misconduct of which it has actual knowledge.

In cases in which the report was made anonymously or by a third party (such as a friend, roommate, adviser, or faculty member), this Policy will apply in the same manner as if the complainant had made the initial report. The Title IX Coordinator will make every effort to meet with the complainant to discuss available options, including supportive measures, and on-campus and off-campus resources.

Section 7.03 Reporting of Crime and Disciplinary Statistics

The Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (“Clery Act”) is a federal law that requires the University to record and report certain information about campus safety, including the number of incidents of certain crimes on or near campus, some of which constitute sexual and interpersonal misconduct under this Policy. As described in the chart in Section XI, many Nicholls employees who receive reports of sexual and interpersonal misconduct are required by the Clery Act to notify Nicholls University Police Department about such incidents for statistical reporting purposes, without the inclusion of personally identifiable information, as defined by the Violence Against Women Act. These notifications may include the classification and location of the reported crimes, but do not identify the parties involved.

The Clery Act also requires the University to issue a “timely warning” when it receives a report of certain crimes that pose a serious or continuing threat to the University community. This warning will not contain any biographical or other identifying information regarding the victim of the crime. Immediately threatening circumstances include, but are not limited to, recently reported incidents of sexual and interpersonal misconduct that include the use of force, a weapon, or other circumstances that represent a serious and ongoing threat to students or employees.

Section 7.04 Public Awareness Events

The University supports public awareness events that further campus-wide education and prevention efforts. A survivor’s public disclosure of incidents of sexual and interpersonal misconduct at these events will not be considered a report to the University for the purpose of initiating an investigation of a particular incident.

In addition, the University may, from time-to-time, conduct climate surveys to gauge the Nicholls community’s attitudes about sexual and interpersonal misconduct and awareness of campus resources. These voluntary surveys will contribute to the University’s understanding of the campus climate and student safety at Nicholls. The disclosure of incidents of sexual and interpersonal misconduct in response to survey questions will not be considered a report to the University for the purpose of initiating an investigation of a particular incident.

Section 7.05 Filing a Criminal Complaint and Coordination with Law Enforcement

Nicholls State University encourages complainants to pursue criminal action for incidents of sexual harassment or other sexual and interpersonal misconduct that may also be crimes under Louisiana law. In general, the University, through the Chief of the Nicholls State University Police Department, will notify the Thibodaux, Lafourche, Terrebonne or other appropriate local law enforcement agency of allegations of sexual violence. Thibodaux, Lafourche, Terrebonne or other appropriate local law enforcement agencies are also likely to inform Nicholls State University Police Department of sexual and interpersonal misconduct that is reported by Nicholls State University students, faculty or staff, or that took place on Nicholls State University property. When Nicholls State University Police Department learns of sexual and interpersonal misconduct from an outside police department, it will notify the Title IX Coordinator.

The University will also assist a complainant in making a criminal report and will cooperate with law enforcement agencies if a complainant decides to pursue the criminal process to the extent permitted by law. However, a complainant may also choose not to pursue criminal action, and under most circumstances, the Thibodaux, Lafourche, Terrebonne or other appropriate local law enforcement agencies will not force a complainant to pursue criminal charges if they are not willing to do so.

Article VIII. Title IX/Sexual and Interpersonal Misconduct Review

Section 8.01 Role of the Title IX Coordinator

The Title IX Coordinator oversees the University's centralized review, investigation, and resolution procedures for reports of sexual harassment or other sexual and interpersonal misconduct and coordinates the University's compliance with Title IX. The Title IX Coordinator is supported by a team of University administrators who serve as Deputy Title IX Coordinators. Each Deputy Title IX Coordinator is knowledgeable and trained in state and federal laws that apply to matters of sexual and interpersonal misconduct, as well as this Policy and the complaint resolution procedures.

A complete list of the Deputy Title IX Coordinators is available [here](#). Additionally, Nicholls State University has a team of Title IX Liaisons charged with assisting members of the campus identify appropriate Title IX resources. A complete list of Title IX Liaisons is available [here](#).

The Title IX Coordinator, Deputy Title IX Coordinators, and Title IX Liaisons can be contacted by telephone, e-mail, or in person during regular office hours. They can

provide information related to campus and community resources and describe the options available to address concerns related to sexual and interpersonal misconduct.

The duties and responsibilities of the Title IX Coordinator include training, education, climate assessments, and the oversight of procedures that are designed to promptly and equitably end sexual and interpersonal misconduct, prevent its recurrence, and address its effect on persons and the University community as a whole. The Title IX Coordinator, with the assistance of Deputy Title IX Coordinators as appropriate, will:

- Receive and review all reports of Title IX Sexual and Interpersonal Misconduct and Non-Title IX Sexual and Interpersonal Misconduct;
- Oversee investigation and resolution of reports of sexual harassment or other sexual and interpersonal misconduct;
- Ensure prompt and equitable resolutions that comply with all requirements and timeframes specified in the University's complaint procedures;
- Collaborate with other University officials in conducting climate checks to track and monitor sexual harassment or other sexual and interpersonal misconduct allegations on campus; and,
- Coordinate training, education, and prevention efforts.

The Title IX Coordinator and the Deputy Title IX Coordinators will meet with any person, including a complainant, respondent, or third party, to discuss supportive measures, resources, and procedural options for on-campus and off-campus reporting. Any student, faculty, or staff member who has concerns about sexual and interpersonal misconduct, including sexual assault, discrimination, or harassment, is encouraged to seek the assistance of the University's Title IX Coordinator, any of the Deputy Title IX Coordinators, or any of the Title IX Liaisons.

Section 8.02 Procedures for Responding to Title IX Sexual and Interpersonal Misconduct and Non-Title IX Sexual and Interpersonal Misconduct

The Title IX Coordinator oversees the response to and assessment of reports of Title IX Sexual and Interpersonal Misconduct or Non-Title IX Sexual and Interpersonal Misconduct, through the University's sexual and interpersonal misconduct investigation and resolution procedures. The procedure used will be determined by the status of the respondent and the nature of the complaint:

- Complaints of Title IX Sexual and Interpersonal Misconduct against, student, faculty, staff or other respondents will be addressed under the [Procedures for the Resolution of Title IX Sexual and Interpersonal Misconduct Complaints Against Students, Faculty, Staff, Affiliates, and Non-Affiliates.](#)

- Complaints of Non-Title IX Sexual and interpersonal misconduct against undergraduate, graduate and professional student respondents will be resolved under the [Procedures for the Resolution of Non-Title IX Sexual and Interpersonal Misconduct Complaints against Students.](#)
- Complaints of Non-Title IX Sexual and interpersonal misconduct against faculty and staff respondents, affiliates and non-affiliates, will be resolved under the [Procedures for the Resolution of Non-Title IX Sexual and Interpersonal Misconduct Complaints against Faculty, Staff, Affiliates, and Non-Affiliates.](#)

Each process is guided by the same principles of fairness and respect for all parties. Resources are available for both students and employees, whether as complainants or respondents, to provide guidance throughout the investigation and resolution of a complaint.

Article IX. Prevention and Education

Nicholls State University expects all community members to take reasonable and prudent actions to prevent or stop an act of sexual and interpersonal misconduct. Action may include direct intervention, calling law enforcement, or seeking assistance from a person in authority. Members of the Nicholls community who intervene to prevent or stop sexual and interpersonal misconduct will be supported by the University and protected from retaliation.

Article X. Training

In connection with its obligations under Title IX and applicable law, Nicholls State University is committed to ensuring appropriate training for its Title IX Coordinator, Deputy Title IX Coordinators, Title IX Liaisons, advisors, hearing officers, decision-makers, all persons who facilitate an informal resolution process, law enforcement personnel, “responsible employees,” advocates, and others involved in responding to, investigating, or adjudicating sexual and interpersonal misconduct. Training materials will be made publicly available on the University’s website.

In addition, the University has developed a training program for faculty, staff, and students to assist them in recognizing Title IX Sexual and Interpersonal Misconduct and Non-Title IX Sexual and Interpersonal Misconduct, teach them how to respond to reports of such conduct, and ensure that they are aware of available on- and off-campus resources.

Article XI. Resources and Support

Self-care is important when coping with events that would be prohibited under the Title IX Policy. All involved parties have many options and are encouraged to seek confidential counseling and support from offices and/or entities identified below.

The contact information for the resources listed here was confirmed at the time of the Policy's publication in October 2021. Up-to-date contact information can always be found on the University's Safety website.

Section 11.01 Confidential On-Campus Crisis Intervention, Support, and Health Resources

- **University Counseling Center**
224 Elkins Hall
www.nicholls.edu/counseling
985-448-4080
- **University Health Services**
Ayo Hall, 1st Floor
www.nicholls.edu/health
985-493-2600

Section 11.02 Community Resources

Confidential Resource Providers

Confidential Resource Providers will share information on reporting options and the effects of each option, counseling services available on campus and through local, community-based rape crisis or domestic violence centers, medical and health services available on and off-campus. They will also provide a summary of available supportive measures related to academic and residence life, and employment, explain Nicholls' disciplinary process or the legal process carried out through local law enforcement agencies, notify the reporting party of their rights and Nicholls' responsibilities in obtaining a criminal protection order, a Nicholls No Contact Directive, or a Nicholls No Trespass Order.

University Chaplains

University Chaplains can provide spiritual counseling. Each of the University Chaplains comes from a particular religious tradition but are available to members of the community from any tradition.

Section 11.03 Non-Confidential Campus Resources

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

Picciola Hall, Suite 132

985-448-4001

titleix@nicholls.edu

www.nicholls.edu/titleix

- Dr. 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

985-448-4911 (Emergency)

www.nicholls.edu/police

- **SGA Rights and Grievances**
Student Union SGA Suite
985-448-4557
www.nicholls.edu/sga
- **Office of Residential Living**
Brady Complex Clubhouse
985-448-4479
housing@nicholls.edu
- **Office of Human Resources**
Elkins Hall, Suite 179
985-448-4050
HR@nicholls.edu
www.nicholls.edu/human-resources

Section 11.04 Off-Campus Counseling and Advocacy Resources

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://ladv.org/>

Louisiana Foundation Against Sexual Assault (LaFASA)

State Hotline –888-995-7372
<https://www.lafasa.org>

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://ladv.org/>
or call 225-752-1296

Section 11.05 Off-Campus Law Enforcement Resources

Local law enforcement agencies can help students or employees file criminal complaints, refer to resources, conduct criminal investigations, or assist in obtaining protective orders.

Emergency ~ 911

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/>

Section 11.06 Off-Campus Medical/Healthcare Resources

A medical provider can provide emergency and/or follow-up medical services as appropriate, and a person can discuss any related health care concerns in a confidential medical setting. The medical examination has two primary goals: (i) to diagnose and treat the full extent of any injury or physical effect (sexually transmitted infection or pregnancy) and (ii) to properly collect and preserve evidence. There is a limited window of time within which to preserve physical and other forms of evidence (usually within 5 days or 120 hours of the sexual assault). Taking the steps to gather evidence immediately does not commit a person to any course of action.

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

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

Section 11.07 National Resources

The National Domestic Violence Hotline

The National Domestic Violence Hotline provides information, assists with safety planning and referrals for counseling or legal services.

1-800-799-7233
PO Box 90249
Austin, TX 78709

Rape, Abuse & Incest National Network (RAINN)

RAINN (Rape, Abuse & Incest National Network) is the nation's largest anti-sexual violence organization. RAINN created and operates the National Sexual Assault Hotline (800.656.HOPE, online.rainn.org) in partnership with more than 1,000 local sexual assault service providers across the country and operates the DoD Safe Helpline for the Department of Defense. RAINN also carries out programs to prevent sexual violence, help survivors, and ensure that perpetrators are brought to justice.

1-800-656-HOPE (4673)

National Alliance to End Sexual Violence

The National Alliance to End Sexual Violence educates the policy community about federal laws, legislation and appropriations impacting the fight to end sexual violence. Its team of experts and advocates, donating time away from their state and local groups, publish written analysis, track legislation, provide media interviews, and advise members of Congress and the executive branch.

info@endsexualviolence.org

655 15th Street NW
Suite 800
Washington, DC 20005

National Coalition Against Domestic Violence

The National Coalition Against Domestic Violence (NCADV)'s mission is to lead, mobilize and raise voices to support efforts that demand a change of conditions that lead to domestic violence such as patriarchy, privilege, racism, sexism, and classism.

600 Grant Street
Suite 750

Denver, Colorado
303-839-1852 (Phone)

Male Survivor

MaleSurvivor is a 501(c)(3), non-profit, public benefit organization committed to preventing, healing, and eliminating all forms of sexual victimization of boys and men through support, treatment, research, education, advocacy, and activism. MaleSurvivor facilitates dialogue among survivors, as well as between survivors and professional therapists, in [online forums](#) like a vibrant and moderated discussion board, [online 24/7 chat](#) and at in-person events.

350 Central Park West
Suite 1H
New York, NY 10025

National Network to End Domestic Violence

NNEDV projects address the complex causes and far-reaching consequences of domestic violence. Through cross-sector collaborations at the state, national, and international level, NNEDV seeks to change the way society navigates domestic violence.

1325 Massachusetts Avenue NW
7th Floor
Washington, DC 20005-4188
202-543-5566 (Phone)
202-543-5626 (Fax)

National Center for Victims of Crime

The mission of the National Center for Victims of Crime is to force a national commitment to help victims of crime rebuild their lives. The organization is dedicated to serving individuals, families, and communities harmed by crime.

info@victimsofcrime.org
202-467-8700 (Phone)

Pathways to Safety (for Americans abroad)

Pathways offers specialized safety planning, advocacy, and long-term case management for American overseas victims living with an abuser or after the relationship has ended.

Case managers have the tools and knowledge to assist survivors abroad and/or after returning to the U.S.

International Toll-Free: 833-SAFE-833
crisis@pathwaystosafety.org

Section 11.08 Government Resources

The resources listed here may provide additional assistance for those who would like to file an external complaint of sexual and interpersonal misconduct or students with inquiries regarding the application of Title IX and its implementing regulations.

U.S. Department of Education

Office for Civil Rights
Lyndon Baines Johnson Department of Education Bldg.
400 Maryland Avenue, SW
Washington, DC 20202-1100
Phone: 800-421-3481
Email: OCR@ed.gov

U.S. Department of Education

Dallas Office
Renaissance Tower
1201 Elm Street, Suite 1000
Dallas, Texas 75270
Phone: 214-661-9600
Email: OCR.Dallas@ed.gov

U.S. Department of Justice, Office on Violence Against Women

Office on Violence Against Women (OVW)
145 N Street, NE, Suite 10W.121
Washington, DC 20530
Phone: 202-307-6026
Fax: (202) 305-2589
TTY: (202) 307-2277

U.S. Citizenship and Immigration Services

New Orleans Field Office
1250 Poydras Street
Suite 1800
New Orleans, LA 70113

Article XII. Confidentiality, Protections, and Reporting Obligations

As a reminder, confidential resources will not share information with anyone. Non-confidential resources are also required to respect the parties' privacy to the greatest extent possible. They will disclose identifying information to others only on a need-to-know basis.

Office/Personnel	Status	Reporting Obligations
University Chaplains (Clergy)	Confidential	None, if they are operating in their capacity as clergy. If acting in another capacity, see section on other University Personnel below.
University Health Services	Confidential	UHS will report incidents without any identifying information to the Title IX Coordinator to help the University understand the existence and extent of the problem (Title IX). If the incident is a crime on or near campus, UHS will report it without any identifying information to Nicholls Police Department for inclusion in the annual security report and for issuance of any required timely warning (Cleary Act). If there is reasonable cause to suspect that a minor had been sexually assaulted, UHS will notify law enforcement (Louisiana Law).
University Counseling Services	Confidential	The UCS may provide anonymous (De-identified) information to the Title IX Coordinator in an effort to address emerging problems or to prevent recurrence, including information on general trends or patterns of concern (Title IX).
Title IX Coordinator	Not Confidential	Unless a complainant requests otherwise and the request is granted, the Title IX Coordinator will supervise the investigation and response to reported incidents of sexual and

		<p>interpersonal misconduct (Title IX).</p> <p>If the incident is a crime on or near campus, the Title IX Coordinator will report it without any identifying information to Nicholls Police Department for inclusion in the annual security report and for issuance of any required timely warning (Clery Act). The Title IX Coordinator will share information with University Personnel who need to know it in order to carry out University policies and procedures.</p>
Deputy Title IX Coordinators	Not Confidential	<p>Unless a complainant requests otherwise and the request is granted, the Deputy Title IX Coordinators will assist the Title IX Coordinator in the investigation and response to reported incidents of Title IX Sexual and Interpersonal Misconduct or Non-Title IX Sexual and Interpersonal Misconduct, as appropriate (Title IX).</p>
Dean of Students	Not Confidential	<p>Unless a complainant requests otherwise and the request is granted, the Dean's designee (the Judicial Affairs Office) will investigate and respond to reported incidents of sexual and interpersonal misconduct (Title IX).</p> <p>If the incident is a crime on or near campus, the Dean will report it without any identifying information to Nicholls Police Department for inclusion in the annual security report and for issuance of any required timely warning (Clery Act). The Dean will share information with University Personnel who need to know it in order to carry out University policies and procedures.</p>

Nicholls State University Police Department	Not Confidential	<p>Nicholls State University Police Department will report to the Title IX Coordinator all information received about Title IX Sexual and Interpersonal Misconduct and Non-Title IX Sexual and Interpersonal Misconduct incidents so the University can investigate and respond (Title IX). If the incident is a crime, University Police will include it in a crime log and the annual security report without identifying the victim (Clery Act). If the incident is a crime and poses a serious or continuing threat, University Police will issue a timely warning or emergency notification (Clery Act). If there is reasonable cause to suspect that a minor has been sexually abused, University Police will notify University leadership. University Police will share information with University personnel who need to know it in order to carry out University policies and procedures.</p>
Other University Personnel	Not Confidential	<p>Will report to the Title IX Coordinator all information received about Title IX Sexual and Interpersonal Misconduct and Non-Title IX Sexual and Interpersonal Misconduct incidents so the University can investigate and respond (Title IX). If the incident is a crime, a "campus security authority" will report it without any identifying information to Nicholls Police Department for inclusion in the annual security report and for issuance of any required timely warning (Clery Act). If there is</p>

		reasonable cause to suspect that a minor has been sexually abused, other University personnel will notify University leadership. Other University personnel will share information with University personnel who need to know it in order to carry out University policies and procedures.