

LOUISIANA COMMUNITY & TECHNICAL COLLEGE SYSTEM

Interim Policy

Title: Title IX

Authority: OCR: 2020 Title IX Regulations (34 C.F.R. Part 106)

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*These policies and procedures are implemented on an interim basis for renewable six-month intervals. Should a court strike down, either temporarily or permanently, any terms or provisions of these policies and procedures, the LCTCS or its colleges reserves the right to make immediate modifications to the policies and procedures that take effect upon publication on our website. Further, should any court strike any portion of the 2020 Title IX Regulations (34 C.F.R. Part 106), or should an administration order them suspended or withdrawn, the LCTCS or its colleges reserves the right to withdraw these interim policies and procedures and immediately reinstate previous policies and/or procedures or revise them accordingly. **When this policy conflicts with other policies regarding Title IX regulatory requirements, this interim policy supersedes the policies in conflict.***

I. POLICY

The Louisiana Community and Technical College System (LCTCS) is committed to maintaining an environment free from any type of discrimination, harassment, and retaliation. Pursuant to Title IX of the Education Amendments of 1972, *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 educational program or activity receiving Federal financial assistance.*

LCTCS also prohibits retaliation against any individual who reports discrimination or harassment, or who participates in an investigation into discrimination or harassment. This policy applies to all members of the LCTCS Board of Supervisors, classified and unclassified employees, faculty, vendors, and all other individuals doing business with LCTCS. It is the policy of LCTCS that no member of the LCTCS community may discriminate, harass, or retaliate against another. Additionally, under appropriate circumstances, LCTCS may take action to protect its employees from harassment, on LCTCS property or at LCTCS sponsored events, by individuals who are not employees of LCTCS.

II. DEFINITIONS

- A. **Advisor** means a person chosen by a party or appointed by the institution to accompany the party to meetings related to the resolution process, to advise the party on that process, and to conduct cross-examination for the party at the hearing, if any.

- B. **Complainant** means an individual who is alleged to be the victim of conduct that could constitute harassment or discrimination based on a protected class; or retaliation for engaging in a protected activity.
- C. **Complaint (formal)** means a document filed/signed by a Complainant or signed by the Title IX Coordinator alleging harassment or discrimination based on a protected class or retaliation for engaging in a protected activity against a Respondent and requesting that the LCTCS or its colleges investigate the allegation.
- D. **Confidential Resource** means an employee who is not a Mandated Reporter of notice of harassment, discrimination, and/or retaliation (irrespective of Clery Act Campus Security Authority status).
- E. **Day** means a business day when the LCTCS or its colleges is in normal operation.
- F. **Education program or activity** means locations, events, or circumstances where LCTCS or its colleges exercises substantial control over both the Respondent and the context in which the sexual harassment or discrimination occurs and also includes any building owned or controlled by a student organization that is officially recognized by the LCTCS or its colleges.
- G. **Final Determination:** A conclusion by preponderance of the evidence that the alleged conduct occurred and whether it did or did not violate policy.
- H. **Finding:** A conclusion by preponderance of the evidence that the conduct did or did not occur as alleged.
- I. **Formal Grievance Process** means “Title IX Process,” a method of formal resolution designated by the LCTCS or its colleges to address conduct that falls within the policies included below, and which complies with the requirements of Title IX and its regulations, specifically 34 CFR Part 106.45.
- J. **Grievance Process Pool** includes any investigators, hearing officers, appeal officers, and Advisors who may perform any or all of these roles (though not at the same time or with respect to the same case).
- K. **Hearing Decision-maker or Panel** refers to those who have decision-making and sanctioning authority within the LCTCS or its colleges’ Formal Grievance process.
- L. **Investigator** means the person or persons charged by a LCTCS or its colleges with gathering facts about an alleged violation of this Policy, assessing relevance and credibility, synthesizing the evidence, and compiling this information into an investigation report and file of directly related evidence.
- M. **Mandated Reporter** means an employee of the LCTCS or its colleges who is obligated by policy to share knowledge, notice, and/or reports of harassment, discrimination, and/or retaliation with the Title IX Coordinator.
- N. **Notice** means that an employee, student, or third-party informs the EEO Coordinator, Title IX Coordinator or other Official with Authority of the alleged occurrence of harassing, discriminatory, and/or retaliatory conduct.
- O. **Official with Authority (OWA)** means an employee of the LCTCS or its colleges explicitly vested with the responsibility to implement corrective measures for harassment, discrimination, and/or retaliation on behalf of the LCTCS or its colleges.
- P. **Parties** include the Complainant(s) and Respondent(s), collectively.
- Q. **Title IX Process** Title IX Process means the Formal Grievance Process for cases meeting the regulatory standards detailed herein and in the Title IX Process addendum.
- R. **LCTCS or its Colleges** means a postsecondary education program that is a LCTCS or its member colleges of federal funding.
- S. **Remedies** are post-finding actions directed to the Complainant and/or the community as mechanisms to address safety, prevent recurrence, and restore access to the LCTCS or its colleges’ educational programs.

- T. **Respondent** means an individual who has been reported to be the perpetrator of conduct that could constitute harassment or discrimination based on a protected class; or retaliation for engaging in a protected activity.
- U. **Resolution** means the result of an informal or Formal Grievance Process.
- V. **Sanction** means a consequence imposed by the LCTCS or its colleges on a Respondent who is found to have violated this policy.
- W. **Sexual Harassment** is the umbrella category including the offenses of sexual harassment, sexual assault, stalking, and dating violence and domestic violence. See Appendix A for complete definition.
- X. **Supportive Measures** are non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the parties to restore or preserve access to the LCTCS or its colleges' education program or activity, including measures designed to protect the safety of all parties or the LCTCS or its colleges' educational environment, and/or deter harassment, discrimination, and/or retaliation.
- Y. **Title IX Coordinator** is at least one official designated by the LCTCS or its colleges to ensure compliance with Title IX and associated Title IX programs. The Title IX Coordinator has the primary responsibility for coordinating all Title IX efforts related to intake, investigation, resolution, and implementation of supportive measures to stop, remediate, and prevent discrimination, harassment and retaliation prohibited by this policy. References to the Coordinator throughout this policy may also encompass a designee of the Coordinator for specific tasks.
- Z. **Title IX Team** refers to the Title IX Coordinator, any deputy coordinators, and any member of the Grievance Process Pool.

III. LCTCS COMMITMENT

LCTCS and its colleges are committed to providing a workplace and educational environment, as well as other benefits, programs, and activities that are free from discrimination, harassment, and retaliation. LCTCS and its colleges value and uphold the equal dignity of all members of their community and strive to balance the rights of the parties in the grievance process during what is often a difficult time for all those involved.

IV. SCOPE

Discrimination takes the form of harassment or, in the case of sex-based discrimination, can encompass sexual harassment, sexual assault, stalking, sexual exploitation, dating violence or domestic violence. When an alleged violation of this Title IX policy is reported, the allegations are subject to resolution using LCTCS or its colleges' established processes.

When the Respondent is a member of the LCTCS or its college's community, dependent upon the circumstances, a grievance process may be available regardless of the status of the Complainant, who may or may not be a member of the LCTCS or its college communities. These communities includes, but is not limited to, students,¹ student organizations, faculty, administrators, staff, and third parties such as guests, visitors, volunteers, invitees, and campers. The established procedures may be applied to incidents, to patterns, and/or to the campus climate, all of which may be addressed and investigated in accordance with this policy.

¹ For the purpose of this policy, the LCTCS or its colleges defines "student" as any individual who has accepted an offer of admission, or who is registered or enrolled for credit or non-credit bearing coursework, and who maintains an ongoing relationship with the LCTCS or its colleges.

V. INDEPENDENCE AND CONFLICT OF INTEREST

The Title IX Coordinator manages the Title IX Team and acts with independence and authority free from bias and conflicts of interest. The Title IX Coordinator oversees all resolutions under this policy and these procedures related to Title IX complaints. The members of the Title IX Team are vetted and trained to ensure they are not biased for or against any party in a specific case, or for or against Complainants and/or Respondents, generally.

To raise any concern involving bias or conflict of interest by the Title IX Coordinator, contact the LCTCS President or the appropriate college Chancellor or designee. Concerns of bias or a potential conflict of interest by any other Title IX Team member should be raised with the Title IX Coordinator.

Reports of misconduct or discrimination committed by the Title IX Coordinator should be reported to the LCTCS President or the appropriate college Chancellor or designee. Reports of misconduct or discrimination committed by any other Title IX Team member should be reported to the Title IX Coordinator.

VI. ADMINISTRATIVE CONTACT

Complaints or notice of alleged policy violations, or inquiries about or concerns regarding this policy and procedures, may be made internally to the institution’s Title IX Coordinator, or to:

**LCTCS Chief Human Resources and Development Officer
Louisiana Community and Technical College System
265 South Foster Drive Baton Rouge, Louisiana 70806
Phone Number: 225-922-2800**

LCTCS or its colleges have determined that the following administrators are Officials with Authority to address and correct harassment, discrimination, and/or retaliation. In addition to the Title IX Team members, these Officials with Authority listed below may also accept notice or complaints on behalf of the LCTCS or its colleges.

- System President
- College Chancellor
- Executive Council or Cabinet
- Vice Chancellor
- Dean
- EEO Coordinator
- Other persons as deemed necessary by the institution.

LCTCS or its colleges have also classified all employees as Mandated Reporters of any knowledge they have that a member of the community is experiencing harassment, discrimination, and/or retaliation. The section below on Mandated Reporting details which employees have this responsibility and their duties, accordingly.

Inquiries may be made externally to:
Office for Civil Rights (OCR)
U.S. Department of Education
400 Maryland Avenue, SW
Washington, D.C. 20202-1100
Customer Service Hotline #: (800) 421-3481

Facsimile: (202) 453-6012
TDD#: (877) 521-2172
Email: OCR@ed.gov
Web: <http://www.ed.gov/ocr>

For complaints involving employees: [Equal Employment Opportunity Commission](http://www.eeoc.gov) (EEOC) ²

VII. TITLE IX – NOTICE OR COMPLAINTS

Title IX notice or complaints of discrimination, harassment, and/or retaliation may be made using any of the following options:

- A. **Who to Contact:** File a complaint (written or verbal) to the:
 - a. Title IX Coordinator
 - b. Deputy Title IX Coordinators, or
 - c. Officials with Authority.
- B. **Time of Contact:** Any time, including non-business hours
- C. **How to Contact:** Any of the above by:
 - a. Phone
 - b. Email
 - c. Mail
 - d. Online, using the institution's reporting form.

NOTE: Anonymous reports are accepted but has limitations. The LCTCS or its colleges tries to provide supportive measures to all Complainants, which is impossible with an anonymous report.

VIII. SUPPORTIVE MEASURES

LCTCS or its colleges will offer and implement appropriate and reasonable supportive measures to the parties upon notice of alleged harassment, discrimination, and/or retaliation.

The Title IX Coordinator promptly makes supportive measures available to the parties upon receiving notice or a complaint. At the time that supportive measures are offered, the LCTCS or its colleges will inform the Complainant, in writing, that they may file a formal complaint with the LCTCS or its colleges either at that time or in the future, if they have not done so already. The Title IX Coordinator works with the Complainant to ensure that their wishes are taken into account with respect to the supportive measures that are planned and implemented.

The LCTCS or its colleges will maintain the privacy of the supportive measures, provided that privacy does not impair the LCTCS or its colleges' ability to provide the supportive measures. LCTCS or its colleges will act to ensure as minimal an academic impact on the parties as possible. The LCTCS or its colleges will implement measures in a way that does not unreasonably burden the other party.

These actions may include, but are not limited to:

- Referral to counseling, medical, and/or other healthcare services
- Referral to the Employee Assistance Program (if available at the college)
- Referral to community-based service providers
- Visa and immigration assistance
- Student financial aid counseling
- Education to the community or community subgroup(s)
- Altering work arrangements for employees or student-employees

² EEOC has jurisdiction over Title IX employment claims. Please consult: <http://www.eeoc.gov/field/index.cfm> to locate your local office's contact info.

- Safety planning
- Providing campus safety escorts
- Providing transportation accommodations
- Implementing contact limitations (no contact orders) between the parties
- Academic support, extensions of deadlines, or other course/program-related adjustments
- Trespass, Persona Non Grata (PNG), or Be-On-the-Lookout (BOLO) orders
- [Timely warnings](#)
- Class schedule modifications, withdrawals, or leaves of absence
- Increased security and monitoring of certain areas of the campus
- Any other actions deemed appropriate by the Title IX Coordinator

Violations of no contact orders will be referred to appropriate student or employee conduct processes for enforcement.

IX. EMERGENCY REMOVAL

The LCTCS or its colleges can act to remove a Respondent entirely or partially from its education program or activities on an emergency basis when an individualized safety and risk analysis has determined that an immediate threat to the physical health or safety of any student or other individual justifies removal.

- Risk Analysis:** Performed in conjunction with any existing Behavioral Intervention Team by the Title IX Coordinator using its standard objective violence risk assessment procedures.
- Notice:** In all cases the student or employee will be given written notice of the action.
- Meeting Request:** The option to meet with the Title IX Coordinator prior to such action/removal being imposed to show cause why the action/removal should not be implemented or should be modified. This meeting is not a hearing on the merits of the allegation(s), but rather is an administrative process intended to determine solely whether the emergency removal is appropriate.
- Advisor:** A Respondent may be accompanied by an Advisor of their choice when meeting with the Title IX Coordinator for the show cause meeting.
- Timing:** When this meeting is not requested in a timely manner, objections to the emergency removal will be deemed waived.
- Appeals:** There is no appeal process for emergency removal decisions.

The Title IX Coordinator has sole discretion under this policy to implement or stay an emergency removal and to determine the conditions and duration. Violation of an emergency removal under this policy will be grounds for discipline, which may include expulsion or termination.

The LCTCS or its colleges will implement the least restrictive emergency actions possible in light of the circumstances and safety concerns. As determined by the Title IX Coordinator, these actions could include, but are not limited to:

- Removing a student from a specific class section,
- Temporarily re-assigning an employee,
- Restricting a student's or employee's access to or use of facilities or equipment,
- Allowing a student to withdraw or take grades of incomplete without financial penalty,
- Authorizing an administrative leave, and
- Suspending a student's participation in extracurricular activities,
- Student employment,
- Student organizational leadership, or
- Intercollegiate/intramural athletics

At the discretion of the Title IX Coordinator, alternative coursework options may be pursued to ensure as minimal an academic impact as possible on the parties.

X. PROMPTNESS

All allegations are acted upon promptly by LCTCS or its specific LCTCS member college once it has received notice of a formal complaint. Complaints can take 60-90 business days to resolve, typically. There are always exceptions and extenuating circumstances that can cause a resolution to take longer, but the LCTCS or its colleges will avoid all undue delays within its control.

Any time the general timeframes for resolution outlined in LCTCS or its colleges' procedures will be delayed written notice to the parties of the delay, the cause of the delay, and an estimate of the anticipated additional time that will be needed as a result of the delay.

XI. PRIVACY

Every effort is made to preserve the privacy of reports. LCTCS or its colleges will not share the identity of any individual who has made a report or complaint of harassment, discrimination, or retaliation; any Complainant, any individual who has been reported to be the perpetrator of sex discrimination, any Respondent, or any witness, except as permitted by the Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. 1232g; FERPA regulations, 34 CFR part 99; or as required by law; or to carry out the purposes of 34 CFR Part 106, including the conducting of any investigation, hearing, or grievance proceeding arising under these policies and procedures.

The LCTCS or its colleges reserve the right to designate which officials have a legitimate educational interest in being informed about incidents that fall within this policy, pursuant to the Family Educational Rights and Privacy Act (FERPA).

The LCTCS or its colleges may contact parents/guardians to inform them of situations in which there is a significant and articulable health and/or safety risk, but will usually consult with the student first before doing so.

Confidentiality and mandated reporting are addressed more specifically [below](#).

XII. JURISDICTION

A. Location and Activities

This policy applies to the education program and activities of the LCTCS or its colleges to conduct that takes place:

1. On a campus
2. On property or buildings owned or controlled by the LCTCS or its colleges
3. At LCTCS or college-sponsored events (including off campus activities)
4. Online conduct that substantially affects LCTCS or its colleges' interests
5. A substantial LCTCS or its colleges' interests includes an action or situation that:
 - a. Constitutes a criminal offense as defined by law. This includes, but is not limited to, single or repeat violations of any local, state, or federal law;
 - b. Respondent poses an immediate threat to the physical health or safety of any student or other individual;
 - c. Significantly impinges upon the rights, property, or achievements of oneself or others or significantly breaches the peace and/or causes social disorder; and/or

d. Is detrimental to the educational interests or mission of the LCTCS or its colleges.

B. Respondent

1. Member of LCTCS or College:

The Respondent must be a member of LCTCS or its colleges' community, or seeking to become one, in order for its policies to apply.

2. Non-Member of LCTCS or College:

a. If the Respondent is unknown or is not a member of the LCTCS or its colleges' community, the Title IX Coordinator will assist the Complainant in identifying appropriate campus and local resources and support options and/or, when criminal conduct is alleged, in contacting local or campus law enforcement if the individual would like to file a police report.

b. When the Respondent is not a member of the LCTCS or its colleges' community, supportive measures, remedies, and resources may be accessible to the Complainant by contacting the Title IX Coordinator.

c. The LCTCS or its colleges may take other actions as appropriate to protect the Complainant against third parties, such as barring individuals from LCTCS or its colleges' property and/or events.

3. Vendors: Vendors serving the LCTCS or its colleges through third-party contracts are subject to the policies and procedures of their employers or to these policies and procedures to which their employer has agreed to be bound by their contracts.

4. Other Institutions: When the Respondent is enrolled in or employed by another institution, the Title IX Coordinator can assist the Complainant in liaising with the appropriate individual at that institution, as it may be possible to allege violations through that institution's policies.

Similarly, the Title IX Coordinator may be able to advocate for a student or employee Complainant who experiences discrimination in an externship, study abroad program, or other environment external to the LCTCS or its colleges where sexual harassment or nondiscrimination policies and procedures of the facilitating or host organization may give recourse to the Complainant.

XIII. REPORTING TIME LIMITS

There is no time limitation on providing notice or complaints to the Title IX Coordinator. However, if the Respondent is no longer subject to the LCTCS or its colleges' jurisdiction and/or significant time has passed, the ability to investigate, respond, and provide remedies may be more limited or impossible. Typically when notice or complaint is not timely the policy in place at the time of the alleged misconduct and the procedures in place at the time of notice or complaint.

Acting on notice or complaints significantly impacted by the passage of time (including, but not limited to, the rescission or revision of policy) is at the discretion of the Title IX Coordinator, who may document allegations for future reference, offer supportive measures and/or remedies, and/or engage in informal or formal action, as appropriate.

XIV. ONLINE HARASSMENT AND MISCONDUCT

While LCTCS or its colleges may not control websites, social media, and other venues in which harassing communications are made, when such communications are reported to the LCTCS or its colleges, it will engage in a variety of means to address and mitigate the effects. Please refer to [LCTCS Policy 6.042](#) on Social Media Use.

XV. MANDATED REPORTING

This policy covers nondiscrimination in both employment and access to educational opportunities. Therefore, any member of the LCTCS or its colleges' community whose acts deny, deprive, or limit the educational or employment access, benefits, and/or opportunities of any member of the LCTCS or its colleges' community, guest, or visitor on the basis of sex is in violation of the LCTCS or its colleges' policy on Title IX.

When brought to the attention of the LCTCS or its colleges, any such discrimination will be promptly and fairly addressed and remedied by the LCTCS or its colleges according to the grievance process described below.

XVI. POLICY ON SEXUAL HARASSMENT

The Department of Education's Office for Civil Rights (OCR), the Equal Employment Opportunity Commission (EEOC), and the State of Louisiana regard Sexual Harassment, a specific form of discriminatory harassment, as an unlawful discriminatory practice.

The LCTCS or its colleges has adopted the definition of Sexual Harassment (Appendix A) in order to address the unique environment of an academic community, which consists not only of employer and employees, but of students as well.

Acts of sexual harassment may be committed by any person upon any other person, regardless of the sex, sexual orientation, and/or gender identity of those involved.

XVII. OTHER CIVIL RIGHTS OFFENSES

In addition to the forms of sexual harassment described above and in Appendix A, which fall within the coverage of Title IX, the LCTCS or its colleges additionally prohibits the following offenses as forms of discrimination outside of Title IX when the act is based upon the Complainant's actual or perceived membership in a protected class.

- Sexual Exploitation, defined as: taking non-consensual or abusive sexual advantage of another for their own benefit or for the benefit of anyone other than the person being exploited, and that conduct does not otherwise constitute sexual harassment under this policy. Examples of Sexual Exploitation include, but are not limited to:
 - Sexual voyeurism (such as observing or allowing others to observe a person undressing or using the bathroom or engaging in sexual acts, without the consent of the person being observed)
 - Invasion of sexual privacy.
 - Taking pictures, video, or audio recording of another in a sexual act, or in any other sexually-related activity when there is a reasonable expectation of privacy during the activity, without the consent of all involved in the activity, or exceeding the boundaries of consent (such as allowing another person to hide in a closet and observe sexual activity, or disseminating sexual pictures without the photographed person's consent), including the making or posting of revenge pornography
 - Prostituting another person
 - Engaging in sexual activity with another person while knowingly infected with human immunodeficiency virus (HIV) or a sexually-transmitted disease (STD) or infection (STI), without informing the other person of the infection

- Causing or attempting to cause the incapacitation of another person (through alcohol, drugs, or any other means) for the purpose of compromising that person's ability to give consent to sexual activity, or for the purpose of making that person vulnerable to non-consensual sexual activity
 - Misappropriation of another person's identity on apps, websites, or other venues designed for dating or sexual connections
 - Forcing a person to take an action against that person's will by threatening to show, post, or share information, video, audio, or an image that depicts the person's nudity or sexual activity
 - Knowingly soliciting a minor for sexual activity
 - Engaging in sex trafficking
 - Creation, possession, or dissemination of child pornography
- Threatening or causing physical harm, extreme verbal, emotional, or psychological abuse, or other conduct which threatens or endangers the health or safety of any person;
 - Discrimination, defined as actions that deprive, limit, or deny other members of the community of educational or employment access, benefits, or opportunities;
 - Intimidation, defined as implied threats or acts that cause an unreasonable fear of harm in another;
 - Hazing, defined as acts likely to cause physical or psychological harm or social ostracism to any person within the LCTCS or its colleges' community, when related to the admission, initiation, pledging, joining, or any other group-affiliation activity (See [LCTCS Policy 2.003 Campus Safety and Hazing](#));
 - Bullying, defined as:
 - Repeated and/or severe
 - Aggressive behavior
 - Likely to intimidate or intentionally hurt, control, or diminish another person, physically and/or mentally
 - That is not speech or conduct otherwise protected by the First Amendment.

Violation of any other The LCTCS or its colleges' policies may constitute a Civil Rights Offense when a violation is motivated by actual or perceived membership in a protected class, and the result is a discriminatory limitation or denial of employment or educational access, benefits, or opportunities.

Sanctions for the above-listed Civil Rights Offenses range from reprimand through expulsion/termination.

XVIII. RETALIATION

Protected activity under this policy includes reporting an incident that may implicate this policy, participating in the grievance process, supporting a Complainant or Respondent, assisting in providing information relevant to an investigation, and/or acting in good faith to oppose conduct that constitutes a violation of this Policy.

Acts of alleged retaliation should be reported immediately to the Title IX Coordinator and will be promptly investigated. The LCTCS or its colleges is prepared to take appropriate steps to protect individuals who fear that they may be subjected to retaliation.

It is prohibited for the LCTCS or its colleges or any member of the LCTCS or its colleges' community to take materially adverse action by intimidating, threatening, coercing, harassing, or discriminating against any individual for the purpose of interfering with any right or privilege secured by law or 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 this policy and procedure.

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 complaint of sexual harassment, for the purpose of interfering with any right or privilege secured by Title IX, constitutes retaliation.

The exercise of rights protected under the First Amendment does not constitute retaliation.

Charging an individual with a code of conduct violation for making a materially false statement in bad faith in the course of a grievance proceeding under this policy and procedure does not constitute retaliation, provided that a determination regarding responsibility, alone, is not sufficient to conclude that any party has made a materially false statement in bad faith.

XIX. MANDATED REPORTING

All LCTCS or its college employees (faculty, staff, and administrators) are expected to report actual or suspected discrimination or harassment to appropriate officials immediately, though there are some limited exceptions.

If a Complainant expects formal action in response to their allegations, reporting to any Mandated Reporter can connect them with resources to report crimes and/or policy violations, and these employees will immediately pass reports to the Title IX Coordinator (and/or police, if desired by the Complainant), who will take action when an incident is reported to them.

The following sections describe the reporting options at LCTCS or its colleges for a Complainant or third-party (including parents/guardians when appropriate):

A. Confidential Resources

If a Complainant would like the details of an incident to be kept confidential, the Complainant may speak with:

1. On-campus:
 - Licensed professional counselors and staff]
 - Health service providers and staff
 - Victim Advocates
 - Members of the clergy/chaplains working within the scope of their licensure or ordination

Campus counselors and/or the Employee Assistance Program are available to help free of charge and may be consulted on an emergency basis during normal business hours.

2. Off-campus (non-employees):
 - Licensed professional counselors and other medical providers
 - Local rape crisis counselors

- Domestic violence resources
- Local or state assistance agencies
- Clergy/Chaplains
- Attorneys

All of the above-listed individuals will maintain confidentiality when acting under the scope of their licensure, professional ethics, and/or professional credentials, except in extreme cases of immediacy of threat or danger or abuse of a minor/elder/individual with a disability, or when required to disclose by law or court order.

LCTCS or its college employees who are confidential will timely submit anonymous statistical information for Clery Act purposes unless they believe it would be harmful to their client.

B. Anonymous Notice to Mandated Reporters

At the request of a Complainant, notice may be given by a Mandated Reporter to the Title IX Coordinator anonymously, without identification of the Complainant. The Mandated Reporter cannot remain anonymous themselves.

If a Complainant has requested that a Mandated Reporter maintain the Complainant’s anonymity, the Mandated Reporter may do so unless it is reasonable to believe that a compelling threat to health or safety could exist. The Mandated Reporter can consult with the Title IX Coordinator on that assessment without revealing personally identifiable information.

Anonymous notice will be investigated by the LCTCS or its colleges to the extent possible, both to assess the underlying allegation(s) and to determine if supportive measures or remedies can be provided. However, anonymous notice typically limits the ability to investigate, respond, and provide remedies, depending on what information is shared.

When a Complainant has made a request for anonymity, the Complainant’s personally identifiable information may be withheld by a Mandated Reporter, but all other details must be shared with the Title IX Coordinator. Mandated reporters may not be able to maintain requests for anonymity for Complainants who are minors, elderly, and/or disabled, depending on state reporting of abuse requirements.

C. Formal Notice or Complaints to Mandated Reporters

All employees of the LCTCS or its colleges (including student employees), with the exception of those who are designated as Confidential Resources, are Mandated Reporters and must promptly share with the Title IX Coordinator all known details of a report made to them in the course of their employment.

Employees must also promptly share all details of behaviors under this policy that they observe or have knowledge of, even if not reported to them by a Complainant or third-party.

Complainants may want to carefully consider whether they share personally identifiable details with non-confidential Mandated Reporters, as those details must be shared with the Title IX Coordinator.

Generally, disclosures in climate surveys, classroom writing assignments or discussions, human subjects research, or at events such as “Take Back the Night” marches or speak-outs do not provide notice that must be reported to the Coordinator by employees, unless the Complainant

clearly indicates that they desire a report to be made or a seek a specific response from the LCTCS or its colleges.

D. Failure to Report by Mandated Reporters

Failure of a Mandated Reporter, as described above in this section, to report an incident of harassment or discrimination of which they become aware is a violation of LCTCS or its colleges policy and can be subject to disciplinary action for failure to comply.

Finally, it is important to clarify that a Mandated Reporter who is themselves a target of harassment or other misconduct under this policy is not required to report their own experience, though they are, of course, encouraged to do so.

XX. COMPLAINANT DOES NOT WISH TO PROCEED

- A. **Complainant Makes Requests:** If a Complainant does not wish for their name to be shared, does not wish for an investigation to take place, or does not want a formal complaint to be pursued, they may make such a request to the Title IX Coordinator, who will evaluate that request in light of the duty to ensure the safety of the campus and to comply with state or federal law.
- B. **Title IX Coordinator Obligation:** The Title IX Coordinator has ultimate discretion over whether the LCTCS or its colleges proceed when the Complainant does not wish to do so. The Title IX Coordinator may sign a formal complaint to initiate a grievance process upon completion of an appropriate violence risk assessment. When the Title IX Coordinator executes the written complaint, they do not become the Complainant. The Complainant is the individual who is alleged to be the victim of conduct that could constitute a violation of this policy.
- C. **Compelling Risk:** The Title IX Coordinator's decision should be based on results of the violence risk assessment that show a compelling risk to health and/or safety that requires the LCTCS or its colleges to pursue formal action to protect the community. A compelling risk to health and/or safety may result from evidence of patterns of misconduct, predatory conduct, threats, abuse of minors, use of weapons, and/or violence. LCTCS or its colleges may be compelled to act on alleged employee misconduct irrespective of a Complainant's wishes.
- D. **Complainants Participation Rights:** When the LCTCS or its colleges proceed, the Complainant (or their Advisor) may have as much or as little involvement in the Title IX Process they wish. The Complainant retains all rights of a Complainant under this Policy irrespective of their level of participation. Typically, when the Complainant chooses not to participate, the Advisor may be appointed as proxy for the Complainant throughout the process, acting to ensure and protect the rights of the Complainant. The goal is to provide the Complainant with as much control over the process as possible, while balancing the LCTCS or its colleges' obligation to protect its community.
- E. **Later Action:** If the Complainant elects to take no action, they can change that decision if they decide to pursue a formal complaint at a later date. Upon making a formal complaint, a Complainant has the right, and can expect, to have allegations taken seriously by The LCTCS or its colleges, and to have the incidents investigated and properly resolved through these procedures.

XXI. FEDERAL TIMELY WARNING OBLIGATIONS

Parties reporting sexual assault, domestic violence, dating violence, and/or stalking should be aware that under the Clery Act, LCTCS or its colleges must issue timely warnings for incidents reported to them that pose a serious or continuing threat of bodily harm or danger to members of the campus community.

The LCTCS or its colleges will ensure that a Complainant's name and other identifying information is not disclosed, while still providing enough information for community members to make safety decisions in light of the potential danger.

XXII. FALSE ALLEGATIONS AND EVIDENCE

Deliberately false and/or malicious accusations under this policy, as opposed to allegations which, even if erroneous, are made in good faith, are a serious offense and will be subject to appropriate disciplinary action.

Additionally, witnesses and parties knowingly providing false evidence, tampering with or destroying evidence after being directed to preserve such evidence, or deliberately misleading an official conducting an investigation can be subject to discipline under LCTCS or its colleges' policies.

XXIII. AMNESTY FOR COMPLAINANTS AND WITNESSES

The LCTCS or its college communities encourages the reporting of misconduct and crimes by Complainants and witnesses. Sometimes, Complainants or witnesses are hesitant to report or participate in grievance processes because they fear that they themselves may be in violation of certain policies, such as underage drinking or use of illicit drugs at the time of the incident. Respondents may hesitate to be forthcoming during the process for the same reasons.

To encourage reporting and participation in the process, LCTCS or its colleges maintain a policy of offering parties and witnesses amnesty from minor policy violations – such as underage consumption of alcohol or the use of illicit drugs – related to the incident.

Amnesty does not apply to more serious allegations such as physical abuse of another or illicit drug distribution. The decision not to offer amnesty to a Respondent is based on neither sex nor gender, but on the fact that collateral misconduct is typically addressed for all students within a progressive discipline system, and the rationale for amnesty – the incentive to report serious misconduct – is rarely applicable to Respondent with respect to a Complainant.

Students: Sometimes, students are hesitant to assist others for fear that they may get in trouble themselves (for example, an underage student who has been drinking or using marijuana might hesitate to help take an individual who has experienced sexual misconduct to the Title IX Coordinator or Campus Police).

The LCTCS or its college maintains a policy of amnesty for students who offer help to others in need. [While policy violations cannot be overlooked, the LCTCS or its colleges may provide purely educational options with no official disciplinary finding, rather than punitive sanctions, to those who offer their assistance to others in need.]

XXIV. FEDERAL STATISTICAL REPORTING OBLIGATIONS

Certain campus officials are deemed Campus Security Authorities and have a duty to report the following for federal statistical reporting purposes (Clery Act):

- A. All "primary crimes," which include homicide, sexual assault, robbery, aggravated assault, burglary, motor vehicle theft, and arson;
- B. Hate crimes, which include any bias motivated primary crime as well as any bias motivated larceny or theft, simple assault, intimidation, or destruction/damage/vandalism of property;

- C. VAWA³-based crimes, which include sexual assault, domestic violence, dating violence, and stalking; and
- D. Arrests and referrals for disciplinary action for weapons-related law violations, liquor-related law violations, and drug abuse-related law violations.

All personally identifiable information is kept private, but statistical information must be passed along to campus law enforcement regarding the type of incident and its general location (on or off-campus or in the surrounding area, but no addresses are given) for publication in the Annual Security Report and daily campus crime log.

Campus Security Authorities (CSAs) include: student affairs/student conduct staff, campus law enforcement/public safety/security, local police, coaches, athletic directors, residence life staff, student activities staff, human resources staff, advisors to student organizations, and any other official with significant responsibility for student and campus activities.

XXV. CAMPUS CLIMATE SURVEYS

To adequately assess perceptions and behaviors of sexual misconduct on the campus, all LCTCS colleges will administer the statewide campus climate survey as developed and required by the Board of Regents, and will submit the results to the Louisiana Community & Technical College System Board by June 1, and to the Board of Regents by June 15 of each survey cycle. The survey will be voluntary, and students will be given the ability to decline to participate.

XXVI. INSTITUTIONAL TASK FORCE

Each LCTCS college will establish a task force to address sexual discrimination and sexual misconduct. All student stakeholder groups will be invited to be represented on the task force through the student body government.

XXVII. PROCESSES

Each LCTCS institution will publish and follow all Title IX processes required by federal regulations.

OTHER REFERENCES:

Act No. 270 – Prevention of Sexual Harassment
LA R.S. 44:51 – Sexual Misconduct

*ATIXA 2020 ONE POLICY, TWO PROCEDURES MODEL
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³ VAWA is the Violence Against Women Act, enacted in 1994 codified in part at 42 U.S.C. sections 13701 through 14040.

Appendix A

DEFINITION OF SEXUAL HARASSMENT

Sexual Harassment, as an umbrella category, includes the offenses of sexual harassment, sexual assault, domestic violence, dating violence, and stalking, and is defined as:

Conduct on the basis of sex that satisfies one or more of the following:

A. Quid Pro Quo:

1. an employee of the LCTCS or its colleges ,
2. conditions the provision of an aid, benefit, or service of the LCTCS or its colleges ,
3. on an individual's participation in unwelcome sexual conduct; and/or

B. Sexual Harassment:

1. unwelcome conduct,
2. determined by a reasonable person,
3. to be so severe, and
4. pervasive, and,
5. objectively offensive,
6. that it effectively denies a person equal access to the LCTCS or its colleges' education program or activity.⁴

C. Sexual assault, defined as:

- a) Sex Offenses, Forcible:
 - i) Any sexual act directed against another person,
 - ii) without the consent of the Complainant,
 - iii) including instances in which the Complainant is incapable of giving consent.
- b) Forcible Rape:
 - i) Penetration,
 - ii) no matter how slight,
 - iii) of private body parts with any body part or object, or
 - iv) oral penetration by a sex organ of another person,
 - v) without the consent of the Complainant.
- c) Forcible Sodomy:
 - i) Oral or anal sexual intercourse with another person,
 - ii) forcibly,
 - iii) and/or against that person's will (non-consensually), or

⁴ Unwelcomeness is subjective and determined by the Complainant (except when the Complainant is below the age of consent). Severity, pervasiveness, and objective offensiveness are evaluated based on the totality of the circumstances from the perspective of a reasonable person in the same or similar circumstances ("in the shoes of the Complainant"), including the context in which the alleged incident occurred and any similar, previous patterns that may be evidenced.

- iv) not forcibly or against the person's will in instances in which the Complainant is incapable of giving consent because of age⁵ or because of temporary or permanent mental or physical incapacity.
- d) Sexual Assault with an Object:
 - i) The use of an object or instrument to penetrate,
 - ii) however slightly,
 - iii) the genital or anal opening of the body of another person,
 - iv) forcibly,
 - v) and/or against that person's will (non-consensually),
 - vi) or not forcibly or against the person's will in instances in which the Complainant is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity.
- e) Forcible Fondling:
 - i) The touching of the private body parts of another person,
 - ii) for the purpose of sexual gratification,
 - iii) forcibly,
 - iv) and/or against that person's will (non-consensually),
 - v) or not forcibly or against the person's will in instances in which the Complainant is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity.
- f) Sex Offenses, Non-forcible:
 - i) Incest:
 - 1) Non-forcible sexual intercourse,
 - 2) between persons who are related to each other,
 - 3) within the degrees wherein marriage is prohibited by Louisiana law.
 - ii) Statutory Rape:
 - 1) Non-forcible sexual intercourse,
 - 2) with a person who is under the statutory age of consent of 17 in Louisiana.

D. Dating Violence, defined as:

1. violence,
2. on the basis of sex,
3. committed by a person,
4. who is in or has been in a social relationship of a romantic or intimate nature with the Complainant.
 1. The existence of such a relationship shall be determined based on the Complainant's statement and with consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship. For the purposes of this definition—
 2. Dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse.
 3. Dating violence does not include acts covered under the definition of domestic violence.

⁵ Per state law.

E. **Domestic Violence**, defined as:

1. violence,
2. on the basis of sex,
3. committed by a current or former spouse or intimate partner of the Complainant,
4. by a person with whom the Complainant shares a child in common, or
5. by a person who is cohabitating with, or has cohabitated with, the Complainant as a spouse or intimate partner, or
6. by a person similarly situated to a spouse of the Complainant under the domestic or family violence laws of Louisiana or
7. by any other person against an adult or youth Complainant who is protected from that person's acts under the domestic or family violence laws of Louisiana.

*To categorize an incident as Domestic Violence, the relationship between the Respondent and the Complainant must be more than just two people living together as roommates. The people cohabitating must be current or former spouses or have an intimate relationship.

F. **Stalking**, defined as:

1. engaging in a course of conduct,
2. on the basis of sex,
3. directed at a specific person, that
 1. would cause a reasonable person to fear for the person's safety, or
 2. the safety of others; or
 3. Suffer substantial emotional distress.

For the purposes of this definition—

- (i) Course of conduct means two or more acts, including, but not limited to, acts in which the Respondent directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with a person's property.
- (ii) Reasonable person means a reasonable person under similar circumstances and with similar identities to the Complainant.
- (iii) Substantial emotional distress means significant mental suffering or anguish that may but does not necessarily require medical or other professional treatment or counseling.

See [LCTCS Policy 6.008 on Consensual Relationships](#).

The LCTCS or its colleges reserves the right to impose any level of sanction, ranging from a reprimand up to and including suspension or expulsion/termination, for any offense under this policy.

Force, Coercion, Consent, and Incapacitation

As used in the offenses above, the following definitions and understandings apply:

Force: Force is the use of physical violence and/or physical imposition to gain sexual access. Force also includes threats, intimidation (implied threats), and coercion that is intended to overcome resistance or produce consent (e.g., "Have sex with me or I'll hit you," "Okay, don't hit me, I'll do what you want.").

Sexual activity that is forced is, by definition, non-consensual, but non-consensual sexual activity is not necessarily forced. Silence or the absence of resistance alone is not consent. Consent is not demonstrated by the absence of resistance. While resistance is not required or necessary, it is a clear demonstration of non-consent.

Coercion: Coercion is unreasonable pressure for sexual activity. Coercive conduct differs from seductive conduct based on factors such as the type and/or extent of the pressure used to obtain consent. When someone makes clear that they do not want to engage in certain sexual activity, that they want to stop, or that they do not want to go past a certain point of sexual interaction, continued pressure beyond that point can be coercive.

Consent is:

- knowing, and
- voluntary, and
- clear permission
- by word or action
- to engage in sexual activity.

Since individuals may experience the same interaction in different ways, it is the responsibility of each party to determine that the other has consented before engaging in the activity.

If consent is not clearly provided prior to engaging in the activity, consent may be ratified by word or action at some point during the interaction or thereafter, but clear communication from the outset is strongly encouraged.

For consent to be valid, there must be a clear expression in words or actions that the other individual consented to that specific sexual conduct. Reasonable reciprocation can be implied. For example, if someone kisses you, you can kiss them back (if you want to) without the need to explicitly obtain *their* consent to being kissed back.

Consent can also be withdrawn once given, as long as the withdrawal is reasonably and clearly communicated. If consent is withdrawn, that sexual activity should cease within a reasonable time.

Consent to some sexual contact (such as kissing or fondling) cannot be presumed to be consent for other sexual activity (such as intercourse). A current or previous intimate relationship is not sufficient to constitute consent.

Proof of consent or non-consent is not a burden placed on either party involved in an incident. Instead, the burden remains on the LCTCS or its colleges to determine whether its policy has been violated. The existence of consent is based on the totality of the circumstances evaluated from the perspective of a reasonable person in the same or similar circumstances, including the context in which the alleged incident occurred and any similar, previous patterns that may be evidenced.

Incapacitation: A person cannot consent if they are unable to understand what is happening or is disoriented, helpless, asleep, or unconscious, for any reason, including by alcohol or other drugs. As stated above, a Respondent violates this policy if they engage in sexual activity with someone who is incapable of giving consent.

It is a defense to a sexual assault policy violation that the Respondent neither knew nor should have known the Complainant to be physically or mentally incapacitated. "Should have known" is an objective, reasonable person standard which assumes that a reasonable person is both sober and exercising sound judgment.

Incapacitation occurs when someone cannot make rational, reasonable decisions because they lack the capacity to give knowing/informed consent (e.g., to understand the "who, what, when, where, why, or how" of their sexual interaction).

Incapacitation is determined through consideration of all relevant indicators of an individual's state and is not synonymous with intoxication, impairment, blackout, and/or being drunk.

This policy also covers a person whose incapacity results from a temporary or permanent physical or mental health condition, involuntary physical restraint, and/or the consumption of incapacitating drugs.