Policy No. AD-1732.1

POLICY & PROCEDURES MEMORANDUM

TITLE:	**POWER-BASED VIOLENCE/ SEXUAL MISCONDUCT**
EFFECTIVE DATE:	November 30, 2021 **(*LCTCS Policy Update 11/30/21;** *1/10/19; Title Updates 6/7/12, 2/24/05)*
CANCELLATION:	AD-1732.1 (1/10/19) and BA-1733.1A (9/16/2003)
CATEGORY:	Administrative (AD)

INTRODUCTION

Delgado Community College is committed to the highest quality and most impactful educational experiences for all students in its member colleges. These experiences are key to Louisiana's prosperity and growth, and rely on campus environments that are safe, inclusive, and protective for the entire postsecondary education community. Leadership at all levels must collaborate on policy development and take all necessary steps to prevent discrimination, harassment, misconduct, and psychological and physical violence. Ultimately, we must fully commit to building and sustaining a strong culture of respect across the College.

In accordance with LCTCS Policy #9.001 Policy on Power-Based Violence, promulgated pursuant to Act 472 of the 2021 Regular Legislative Session of the Louisiana Legislature, this College policy sets forth processes and procedures to maintain safety and protection for students and employees. Power-based violence is defined as any form of interpersonal violence intended to control or intimidate another person through the assertion of power over the person. It includes but is more expansive than sexual misconduct and Title IX misconduct (see definition in Attachment A, *Definitions.*)

Delgado immediately complies with this policy upon the effective date above. All policies and processes shall be posted on the college website as required in this Policy. The College ensures that its policies comply with applicable federal and state laws and regulations and must be amended to reflect any changes to federal and state laws and regulations. The College will review, evaluate, and make any revisions or amendments to applicable power-based violence policies on an ongoing and as-needed basis.

POLICY STATEMENT

Delgado Community College prohibits discrimination on the basis of sex. This policy applies to all college campuses in accordance with federal and state law, including Act 472 of the 2021 Legislative Session of the Louisiana Legislature (Act 472), Title IX of the Education Amendments of 1972 (Title IX) and Title VII of the Civil Rights Act of 1964 (Title VII), the Violence Against Women Act (VAWA), The Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (Clery Act), and other applicable laws.

The comprehensive scope of this Policy includes procedures to address both power-based violence (which includes sexual misconduct) and Title IX conduct (see Power-Based Violence/ Title IX Formal Grievance Procedures). The College implements policies, procedures, practices, and educational programs to prevent, respond to, and redress incidents involving acts of power-based violence including sexual misconduct and Title IX conduct (see Attachment A, *Definitions.*). This Policy is designed to help Delgado create and maintain safe learning, working and living environments for all individuals who participate in the College's activities and programs, including online instruction. It reflects Delgado's strong commitment to promoting an environment that is free from power-based violence which includes sexual misconduct and Title IX conduct.

Delgado Community College may develop supplementary procedures to further support the implementation of this Policy. However, this Policy establishes various mandatory obligations with which all college policies must comply.

Inquiries about the application of this policy should be directed to the College's Title IX Coordinator, whose contact information is available on Delgado's Title IX website. The College shall provide additional information about Title IX on their Title IX website and provide additional information about the U.S. Department of Education's Office for Civil Rights.

This Policy is not intended to infringe upon or restrict rights guaranteed by the United States Constitution, including the right to free speech under the First Amendment or the due process clauses of the Fifth and Fourteenth Amendments.

NON-DISCRIMINATION

As required by LCTCS Policy #9.001 Policy on Power-Based Violence, Delgado Community College publishes a notice of nondiscrimination in this power-based violence policy. As required, this notice is distributed to all students, employees, applicants for admission and employment, and other relevant individuals, is prominently displayed on the Delgado website, and is included in publications of general distribution that provide information to students and employees.

Title IX is a federal law that prohibits discrimination on the basis of sex in any federally funded education program or activity. Title IX prohibits use of federal money to support sex discrimination in education programs and provides individuals protection against such practices.

In compliance with federal law and USDOE federal guidance, including the provisions of Title VII of the Civil Rights Act of 1964 (Title VII), Title IX of the Education Amendments of 1972 (Title IX), Sections 503 and 504 of the Rehabilitation Act of 1973, the Americans with Disabilities Act (ADA) of 1990, the ADA Amendments Act of 2008, the Age Discrimination in Employment Act of 1967 (ADEA), Executive Order 11246, Executive Order 13988, the Vietnam Era Veterans Readjustment Assistance Act of 1974 as amended by the Jobs for Veterans Act, the Uniformed Services Employment and Reemployment Rights Act, as amended, and the Genetic Information Nondiscrimination Act of 2008, Delgado Community College shall not discriminate against individuals on the basis of their race, sex, sexual orientation, gender identity, gender expression, religion, color, national or ethnic origin, age, disability, military service, covered veteran's status, or genetic information in its administration of education policies, programs, or activities; admissions policies; scholarship and loan programs; athletic or other Institution-administered programs; or employment.

As part of the College's commitment to maintaining a community free of discrimination, and in compliance with Title IX's mandate, Delgado addresses allegations of power-based violence, including sexual harassment and sexual assault, in a timely and effective manner. Further, the college will provide resources as needed for affected persons (Reporters, Complainants, Respondents, and third parties within the College's community- see definitions in Attachment A, *Definitions.*) and will not tolerate retaliation against any person who reports or participates in the investigation of alleged power-based violence or sex/gender discrimination.

PROCEDURES & SPECIFIC INFORMATION

1. **Purpose**

To publish the College's policy and procedures on the prompt handling of complaints related to power-based violence and sexual misconduct.

2. **Scope and Applicability**

This Policy serves as Delgado Community College's overarching policy against power-based violence in all of its forms. It outlines procedures mandated by state law and identifies best practices that address both Title IX Conduct and power-based violence which includes sexual misconduct.

LCTCS Policy #9.001 Policy on Power-Based Violence informs and guides Delgado's policy to address individuals who have been affected by power-based violence, whether

as a Complainant, a Respondent, or a witness, and to provide fair and equitable procedures for all parties. It is applicable to conduct that occurs both on and off campus.

Power-based violence, which is addressed in this overarching Policy, is a broader term that covers gender/sex-based misconduct beyond the Title IX Regulations' "sexual harassment" definition. Power-based violence prohibited by this Policy includes conduct defined in Act 472. (See defined terms in Attachment A, *Definitions.*) Sexual misconduct covers a narrower sub-set of conduct (i.e., Title IX Conduct) that must be addressed under a defined formal grievance process as required by the U.S. Department of Education under new Title IX Regulations, effective August 14, 2020.

"Sexual harassment" is defined in the Title IX Regulations (§106.30) as conduct on the basis of sex that satisfies one or more of the following:

a. A Delgado faculty or staff member/employee conditioning the provision of an aid, benefit, or service on an individual's participation in unwelcome sexual conduct (Quid Pro Quo);

b. Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to education programs or activities; or

c. Sexual assault, dating violence, domestic violence, or stalking. (See defined terms in Attachment A, *Definitions.*)

The Power-Based Violence/ Title IX Grievance Procedure applies to Delgado's education program activity, which is defined by the Title IX Regulations to include locations, events, or circumstances in which the College exercises substantial control over both the Respondent and the context in which the power-based violence or sexual harassment occurs, and also includes any building owned or controlled by a student organization that is officially recognized by the College. Note that Title IX Regulations exclude any education program or activity that does not occur in the United States. [§106.44(a)]. Conduct that does not satisfy the College's jurisdictional requirement, such as off-campus behavior alleged to have an on-campus effect or occurring during a study abroad program, may be addressed under alternative procedures such as the overarching Board of Regents Uniform Policy on Power-Based Violence/ Sexual Misconduct.

Combined, Delgado's policies and procedures are intended to ensure that all students and employees impacted by an incident or Formal Complaint of power-based violence receive appropriate support and fair treatment, and that allegations of power-based violence are handled in a prompt, thorough and equitable manner.

3. **Safety Education**

A. A healthy and prevention-minded campus culture allows students to learn to the best of their abilities on a safe and nurturing campus. Robust education and

training programs for both students and employees are the cornerstone of these efforts and essential to building a culture in which sexual misconduct is rare and both Complainants and Respondents are well supported. Prevention depends on clear and well-communicated guidelines, underpinned by regular education on understanding of sexual misconduct and power-based violence, positive versus harassing behaviors, tools for reporting harassment and adjudicating disputes, and sanctions for violations.

B. Based on LCTCS Policy #9.001, Delgado administration, in consultation with campus or local law enforcement agencies, develops and distributes information to students regarding power-based violence, campus safety, and Internet and mobile device safety and online content that is a potential threat to school safety.

The information includes the following:

1) Instruction on how to identify and prevent power-based violence and how to detect potential threats to school safety exhibited online, including on any social media platform;
2) How to report incidents of power-based violence, crimes on campus, violations of the student code of conduct, and possible threats to campus safety (e.g., through the online Delgado Reporting Form); and
3) Where to find reports regarding campus safety (e.g., the Campus Crime Statistics webpage.)

The information is distributed as part of new student orientation and is available through the Delgado website.

C. The reporting process for possible threats to the campus, at a minimum, includes:

1) A standardized Delgado Reporting Form, through the College's online reporting platform, is used by students, faculty, other personnel, and the public to report potential threats. The form requests at a minimum, the following information:

    1) Name of Institution, person, or group being threatened;
    2) Name of student, individual, or group threatening violence;
    3) Date and time the threat was made; and
    4) Method by which the threat was made, including the social media outlet or website where the threat was posted, a screenshot or recording of the threat, if available, and any printed evidence of the threat.

2) A process for allowing anonymous reporting and for safeguarding the identity of a person who reports an incident of power-based violence or a safety threat.

   This policy requires that for every report of an incident of power-based violence or a safety threat received, the actions taken by the College and the campus law enforcement agency or security officers be documented. If the matter is of a criminal nature, Campus Police is notified immediately by the Title IX Coordinator. Campus Police subsequently reports to appropriate external law enforcement agencies, when deemed applicable.

4. **Retaliation Prohibition**

Retaliation is expressly prohibited under this Policy. Retaliation includes, but is not limited to, intimidation, harassment, threats, or other adverse action or speech against the person who reported the misconduct, the parties, and their witnesses.

Delgado Community College expressly prohibits retaliation against anyone who: 1) in good faith reports what they believe is power-based violence, 2) cooperates with an investigation or proceeding under this Policy, or 3) opposes conduct that they believe to violate this Policy. However, an individual who reports an incident of power-based violence or participates in an investigation or proceeding <u>and</u> has perpetrated or assisted in the perpetration of committing the power-based violence reported, is still subjected to an investigation for a potential violation of this policy and may be subject to disciplinary action

The College will not only take steps to prevent retaliation but will also take strong corrective action if it occurs. Anyone who believes they have been retaliated against should immediately report it to the Title IX Coordinator, who will treat it as a Report. Any individual found to have retaliated against another individual will be in violation of this Policy and will be subject to disciplinary action. Employees who are mandatory reporters (i.e., Responsible Employees) under this Policy are required to report retaliation.

Anyone who knowingly makes a false accusation of unlawful discrimination, harassment, or retaliation of any form will be subject to an investigation for a potential violation of this Policy and may be subject to disciplinary action, up to and potentially including termination for employees and expulsion for students.

5. Reporting Power-Based Violence

A. Guidelines

Anyone can report an incident of power-based violence (to include Sexual Misconduct and Title IX Conduct). A Report can be made by any individual who has:

1) Experienced or been affected by power-based violence (i.e., First-Party Reporter); or

2) Knowledge of or witnessed power-based violence happening to or affecting someone else (i.e., Third-Party Reporter).

The College strongly encourages all individuals to report incidents of power-based violence even if the individual does not intend to pursue a Formal Complaint. In addition, the College takes prompt action to provide Supportive Measures for the safety and well-being of any affected person as well as the campus community.

B. Reporting Incidents of Power-Based Violence

1) To make a Report, a reporting individual should report the incident to the **Title IX Coordinator. Reports may also be made to any Responsible Employee, including Human Resources staff. Responsible Employees must send all reports of alleged Power-Based Violence to the College's Title IX Coordinator.** The contact information for the Title IX Coordinator as well as methods for reporting power-based violence can be found on Delgado's Title IX webpage. Reporting methods include, at a minimum, in-person reporting, reporting by mail, reporting via email, and reporting through an online reporting platform using the Delgado Reporting Form.

2) The alleged victim shall have a right to obtain a copy of any Report made that pertains to the alleged victim.

3) After making a Report, an individual may choose to file or request a Formal Complaint and pursue resolution (under the College's Power-Based Violence/ Title IX Formal Grievance Procedures) or, if applicable, an Informal Resolution involving the Respondent; may choose to be involved or not be involved in the college's investigation and any related proceedings; or may choose to end involvement in the process.

4) *Online Reporting* – Delgado Community College provides an online reporting system using the Delgado Reporting Form, which collects anonymous disclosures of incidents of power-based violence and crimes, and track patterns of power-based violence and crimes on campus. (See additional information about confidential and anonymous reporting in Section *5D, Confidential and Anonymous Reporting*.) The online system includes information regarding how to report an incident of power-based violence or crime to a Responsible Employee and law enforcement, if applicable, and how to contact a Confidential Advisor.

C. **Mandatory Reporting for Employees**

An employee who receives a direct statement regarding or witnesses an incident of power-based violence committed by or against a student is a Responsible Employee (unless they are designated specifically as a Confidential Advisor). A Responsible Employee shall promptly report the incident to Delgado's Title IX Coordinator. (See Attachment A, *Definitions,* for definition of Responsible Employee.)

A Responsible Employee must report the following to the Title IX Coordinator:

1) The identity of the alleged victim;
2) The identity of the alleged perpetrator;
3) The type of power-based violence or retaliation alleged to have been committed;
4) Any other information about witnesses, location, date, and time that the incident occurred; and
5) Any other relevant information.

However, according to state law, a Responsible Employee is **not** required to make a report if information involving power-based violence was received in the following circumstances:

1) During a public forum or awareness event in which an individual discloses an incident of power-based violence as part of educating others;
2) Disclosure made in the course of academic work consistent with the assignment; or
3) Disclosure made indirectly, such as in the course of overhearing a conversation.

If an individual chooses to make an initial report to an employee other than the Title IX Coordinator, that employee must refer the information to the Title IX Coordinator because the Title IX Coordinator bears responsibility for responding to reports of power-based violence. Once the information is received by the Title IX Coordinator, this constitutes a Report.

If an employee believes an individual may intend to share any information regarding an instance of power-based violence, the employee should seek to confirm that the reporting party understands the employee's obligations as a mandatory reporter. If the reporting party would prefer to speak with a confidential resource, the employee should direct the reporting party to a confidential resource. The College provides access to the list of Confidential Advisors in this and all applicable policies, which is published on the College's website.

D. **Confidential and Anonymous Reporting**

In accordance with state law, unless waived in writing by the alleged victim, the identity of an alleged victim of an incident reported under L. R.S. 17:3399.13 is confidential and not subject to disclosure except to:

1) A person employed by or under contract with Delgado Community College to which the report is made, if the disclosure is necessary to conduct the investigation of the report or any related hearings;
2) A law enforcement officer as necessary to conduct a criminal investigation of the report;
3) A person alleged to have perpetrated the incident, to the extent required by law; or
4) A potential witness to the incident as necessary, in order to conduct an investigation of the report.

Note: Consistent with FERPA's prohibition on re-disclosure of confidential information, any person who receives another person's confidential information solely as a result of participation in any investigation or proceeding under this Policy is prohibited from using or disclosing such confidential information outside of such forums without express consent or for any improper purpose. This provision only applies to other people's confidential information, as a party is never restricted from discussing their own experience. This provision does not apply to any information learned outside of an investigation or proceeding under this Policy.

An alleged victim shall be advised of the right to seek a Confidential Advisor. See Section 9B, *Confidential Advisors* for additional information.

E. **Administrative Reporting**

In accordance with state law, Delgado's Title IX Coordinator, Chancellor, System President, and System Management Board are required to submit summarized reports on power-based violence incidents and to publish those reports on their respective websites.

1) **Title IX Coordinator**: Not later than **October Tenth (10)** and **April Tenth (10)** of each year, the Title IX Coordinator submits to the Chancellor of the College a written report on the reports received in accordance with the information required in Appendix B of the LCTCS Policy #9.001 Policy on Power-Based Violence. Delgado's Title IX Coordinator immediately reports to the College Chancellor any incident that the Coordinator has cause to believe as a result of the incident that the safety of any person is in imminent danger.

2) **Chancellor**: The College Chancellor submits a report to the LCTCS and System President within **fourteen (14) days** of receiving the report from the Title IX Coordinator in accordance with the information required in Appendix B of the LCTCS Policy #9.001 Policy on Power-Based Violence. The report is posted on Delgado's website.

3) **System President**: The System President shall submit a system-wide summary report within **fourteen (14) days** of receiving the reports from the Chancellors to the LCTCS Board of Supervisors in accordance with the information required in Appendix B of the LCTCS Policy #9.001 Policy on Power-Based Violence. The report is published on its website.

4) **System Management Board:** The LCTCS shall send an annual system-wide summary report to the Louisiana Board of Regents by **December Thirty-First (31)** in Appendix B of the LCTCS Policy #9.001 Policy on Power-Based Violence. The Louisiana Board of Regents' report is published on its website.

5) **Board of Regents:** The Louisiana Board of Regents shall annually submit a report to the Governor, the president of the Senate, the speaker of the House of Representatives, and the Senate and House Education Committees by **January Fifteenth (15)** which shall include the statewide information. The report shall also include any recommendations for legislation. The report is published on its website.

F. Employee's Failure to Report or False Reporting

A Responsible Employee who is determined by the College's disciplinary procedures to have knowingly failed to make a Report or, with the intent to harm or deceive, made a Report that is knowingly false **shall be terminated**.

G. Student's False Reporting

Any student who knowingly and in bad faith makes a false accusation of power-based violence or retaliation of any form will be subject to an investigation for a potential violation of this policy and may be subject to disciplinary action.

H. **Immunities and Amnesty**

An individual acting in good faith who reports or assists in the investigation of a report of an incident of power-based violence, or who testifies or otherwise participates in a disciplinary process or judicial proceeding arising from a report of such an incident may not be subjected to any disciplinary action by the College in which the individual is enrolled or employed for any violation of Delgado's Student Code of Conduct reasonably related to the incident for which suspension or expulsion from the College is not a possible punishment.

Immunity shall not apply to an individual who perpetrates or assists in the perpetration of power-based violence.

Any student who reports, in good faith, power-based violence to Delgado shall not be sanctioned by the College for a nonviolent student conduct violation, such as underage drinking, that is revealed in the course of making such a report.

6. **Transcript Withholding, Notation and Communication**

A. In accordance with state law, public Institutions shall implement uniform transcript notation and communication policies to effectuate communication regarding the transfer of a student who is the subject of a power-based violence Formal Complaint or who has been found responsible for an incident of power-based violence pursuant to the College's investigative and adjudication process.

B. At a minimum, for any student who is the subject of a power-based violence Formal Complaint and who attempts to transfer to another institution, as the "Sending Institution" from which the student seeks to transfer, Delgado will either (1) withhold the transcript of the student or (2) place a notation on the student's transcript. If Delgado Community College does not know whether the student seeks to transfer to another Institution, the student's transcript shall either be withheld or notated.

C. As the "Sending Institution," Delgado will notify the student that their transcript has been withheld or notated, and of the appeals process to have the hold or notation removed. Either the transcript is withheld or the notation remains on the transferring student's transcript until the Delgado determines that the transferring student is not responsible for power-based violence or the transferring student prevails in a request to appeal the withholding of a transcript or notation, whichever occurs first.

(1) Withholding Student Transcripts

If the Sending Institution chooses to withhold upon the filing of a Formal Complaint, the Institution shall place an administrative hold on the transcript of a student who is the subject of the Formal Complaint. For any student who is the

subject of a power-based violence Formal Complaint that also constitutes sexual harassment under Title IX, the Institution should commence an investigation and place a notation on the student's transcript, rather than withholding the transcript.

When a student transcript is withheld, the institution to which the student seeks to transfer ("Receiving Institution") must make a timely inquiry directed to the Sending Institution regarding the purpose of the transcript hold. Upon such an inquiry, the Sending Institution must timely disclose appropriate and factual information, consistent with the Family Education Rights and Privacy Act (FERPA), 20 U.S.C. § 1232g.

(2) Notation

If the Sending Institution chooses to notate upon the filing of a Formal Complaint, the Institution *may* place a notation on the transcript of a student attempting to transfer to another institution. For any student who is the subject of a power-based violence Formal Complaint that also constitutes sexual harassment under Title IX, the Sending Institution should commence an investigation and place a notation on the student's transcript, rather than withholding the transcript.

For a transferring student who is the subject of a pending investigation, the notation on the transcript shall read: ***"ADMINISTRATIVE MATTER PENDING"*** or other notation sufficient to place the Receiving Institution on notice and trigger an inquiry regarding the notation directed to the Sending Institution.
For a transferring student for whom a final decision has been rendered, and the student has been found to be responsible for power-based violence, the notation on the transcript shall read: ***"STUDENT FOUND RESPONSIBLE IN VIOLATION OF CODE OF CONDUCT"*** or other notation sufficient to place the Receiving Institution on notice and trigger an inquiry regarding the notation directed to the Sending Institution.

When a student transcript is notated as described above, the Receiving Institution must make a timely inquiry directed to the Sending Institution regarding the purpose of the transcript notation. Upon such an inquiry, the Sending Institution must timely disclose appropriate and factual information, consistent with the Family Education Rights and Privacy Act (FERPA), 20 U.S.C. § 1232g.

For a transferring student found to be responsible for power-based violence, the Sending Institution will determine how long the notation will remain on the student's transcript.

If a student is not found responsible, the Sending Institution must remove the notation and must send an updated version of the student's transcript to the Receiving Institution (if known).

(3) Transcript Withholding and Notation Appeals

A student whose transcript has been withheld or notated as described above may request a release of the hold or an expungement of the notation for good cause shown. Cause may include, but is not limited to, when (1) a student who transferred while under investigation was found not responsible or (2) a student was initially found responsible and later evidence showed that the student was in fact not responsible. In the second instance, an Institution must send an updated version of the student's transcript.

Such requests shall be submitted in writing to the appropriate decision makers, to be designated by the Institution. The Institution shall notify the requesting student of its decision no later than seven (7) business days from the date that the appeal request is made.

4) Applicability

State law requires that all Louisiana public postsecondary institutions implement this Transcript, Withholding, Notation, and Communication policy. Nothing in this Policy shall prohibit or prevent a Sending Institution from withholding or notating the transcript of a student who is the subject of a power-based violence Formal Complaint, or who has been found responsible for power-based violence, when such student seeks to transfer to a non-public postsecondary or out-of-state institution. Delgado Community College recognizes an obligation to ensure investigation and adjudication of all complaints of power-based violence, regardless of the type or location of the postsecondary institution where they occur.

7. Victims' Rights Policy

State law requires institutions to adopt a victims' rights policy, which, at a minimum, shall provide for a process by which a victim may petition and be granted the right to have a perpetrator of an incident of power-based violence against the victim barred from attending a class in which the victim is enrolled. See Attachment B, *Statement of the Rights of the Parties.*

8. Identified Best Practices

Once the Title IX Coordinator learns of any Report of alleged power-based violence or sex/gender discrimination, they should implement Supportive Measures [see Section K(3), *Supportive Measures*], as needed and initiate an investigation into the alleged incident.

As per the identified best practices that follow in this section, Delgado has established the College's Power-Based Violence/ Title IX Formal Grievance Procedures to provide for a process based on these best practices to resolve Formal Complaints of Power-Based Violence to include Title IX Complaints. Accordingly, the College has adopted the procedures outlined in LCTCS Policy #9.002 Title IX Grievance Procedures as the process to resolve Formal Complaints related to **both** Power-Based Violence and Title IX, as follows:

- *In regard to employees,* the College's Power-Based Violence/ Title IX Formal Grievance Procedures are used for cases that fall within the scope of either power-based violence *or* Title IX sexual misconduct and the employee is either the Complainant or the Respondent. The Title IX Coordinator will report all employee cases to the appropriate Human Resource Office as well.

- *In regard to students*, the College's Power-Based Violence/ Title IX Formal Grievance Procedures are used for cases that fall within the scope of Title IX sexual misconduct and the student is either the Complainant or the Respondent. However, for power-based violence cases involving students where the conduct falls outside the scope of Title IX sexual misconduct, it is understood that the procedures apply when the student is the Respondent.

- If the alleged conduct **does not** meet the definition of power-based violence or sexual misconduct, the process will proceed relevant to the appropriate employee or student Grievance Procedure, or, if applicable, the College's Student Code of Conduct policy.

The form of the investigation may vary depending on whether the alleged conduct falls within the scope of power-based violence or Title IX Sexual Misconduct.

Following an investigation, the Title IX Coordinator has authority to resolve a Report, including the implementation of any Supportive Measures, and should close the case if the Report does not constitute or become a Formal Complaint.

A. **Initial Steps and Determination of Appropriate Procedures**

After Delgado's Title IX Coordinator has received a Report of alleged power-based violence, the Title IX Coordinator should perform an initial assessment consistent with the information below prior to moving forward with an investigation (if one is required/requested) to determine whether the reported conduct meets the definition of power-based violence or sexual misconduct. If that initial assessment reveals that the alleged conduct **does** meet the definition, the investigation should proceed pursuant to the College's Power-

Based Violence/ Title IX Formal Grievance Procedures.

B. **Initial Contact with Potential Complainant**

After receiving a Report of power-based violence, Delgado's Title IX Coordinator should notify the individual who is the alleged victim in the Report of the option to have an Advisor accompany them to any meeting or interview related to the power-based violence process.

In initial contact with a potential Complainant, the Title IX Coordinator should also:

1) Give the potential Complainant a copy of the relevant policies;
2) Explain the process for filing a Formal Complaint with the Title IX Coordinator;
3) Provide the potential Complainant with information regarding the rights/responsibilities as a party in this matter;
4) Explain the process for investigating and resolving a power-based violence Formal Complaint (including the available appeal procedures);
5) Explain the procedural differences based on Title IX versus power-based violence conduct;
6) Instruct the potential Complainant not to destroy any potentially relevant documentation in any format;
7) Inform the individual of the availability of Supportive Measures with or without the filing of a Formal Complaint;
8) Discuss the potential Complainant's expressed preference for manner of resolution and any barriers to proceeding (e.g., confidentiality concerns);
9) Explain the prohibition against retaliation; and
10) Communicate necessary details of the report to the campus police department for entry into the Institution's daily crime log.

C. **Supportive Measures**

If the Title IX Coordinator receives notice of alleged power-based violence, whether through online reporting or other reporting methods, the Title IX Coordinator or designee should contact the Complainant to discuss the availability of Supportive Measures with or without the filing of a Complaint (or Formal Complaint under the College's Power-Based Violence/ Title IX Formal Grievance Procedures) and consider the Complainant's wishes with respect to Supportive Measures. Supportive Measures should also be made available to the Respondent.

Supportive Measures are non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the Complainant or the Respondent regardless of whether a Complaint (or Formal Complaint) has been filed. Such measures may include counseling, extensions of deadlines or other course-related adjustments, modifications of work or class

schedules, campus escort services, mutual restrictions on contact between the parties, changes in work or housing locations, leaves of absence, and increased security and monitoring of certain areas of the campus, and other similar measures.

Supportive Measures should be designed to restore or preserve access to Delgado's education programs or activities, including measures designed to protect the safety of all parties and the College's educational environment.

D. **Filing a Formal Complaint**

If a potential Complainant wishes to pursue an incident of power-based violence beyond simply reporting it, they may file a Formal Complaint. The filing of a Formal Complaint means that the individual is asking Delgado Community College to take further steps, such as a full investigation and possibly an adjudication to resolve the alleged issue. Any Complainant (i.e., an alleged victim or survivor or someone who has otherwise been directly affected by power-based violence) may file a Formal Complaint, and the College will treat it as such.

Similarly, the fact that the Title IX Coordinator converts a Report to a Formal Complaint does not make the Title IX Coordinator a Complainant. However, the Title IX Coordinator reserves the right to initiate a Formal Complaint in order to meet the College's Title IX obligations to provide a safe and nondiscriminatory environment and if the College determines that it must take additional steps to protect the campus community. Depending on the conduct alleged and the location of the incident, a Formal Complaint and subsequent investigation will be governed by the College's Power-Based Violence/ Title IX Formal Grievance Procedures.

1) How to File a Formal Complaint

Individuals seeking to file a Formal Complaint may do so with the Title IX Coordinator (see College's Power-Based Violence/ Title IX Formal Grievance Procedures.) Formal Complaints should be in writing, signed and include all information the individual believes to be relevant (e.g., time, location, and nature of incident, names of individuals involved, witnesses to the incident, names of other persons affected by the incident, etc.).

Individuals seeking to file a Report should be allowed to submit on paper (hard copy), in electronic form (the online Delgado Reporting Form), or in person, whereby the individual can file a Formal Complaint by meeting with the Title IX Coordinator to provide a verbal description of the power-based violence which the Title IX Coordinator will use to draft a written document that the individual will review, verify, and sign to constitute a Formal Complaint.

If the Complaint filed satisfies the requirements of a Power-Based Violence/ Title IX Formal Complaint, the Title IX Coordinator proceeds under the College's Power-Based Violence/ Title IX Formal Grievance Procedures.

2) Withdrawal of Formal Complaint

Delgado Community College allows for a Complainant to withdraw their Formal Complaint. If a Formal Complaint is withdrawn, the Title IX Coordinator should assess the information provided and proceed accordingly. Withdrawal of the Formal Complaint should ordinarily end the Formal Complaint and resolution process. However, the Title IX Coordinator reserves the right to proceed with the Formal Complaint, even after the Complainant withdraws it, in order to protect the interests and safety of the College's community. In such cases, the Complainant shall be notified immediately of the College's decision to proceed.

E. **Power-Based Violence/ Title IX Grievance Procedure**

Using the College's Power-Based Violence/ Title IX Formal Grievance Procedures, Delgado will investigate all Reports of power-based violence reported to the Title IX Coordinator regardless of whether the Report becomes a Formal Complaint. The investigation and adjudication procedures (if needed) will be prompt, fair, and impartial.

***Notice to Respondent* --**

The person alleged to have committed power-based violence or sexual misconduct is called the Respondent. The Respondent should be notified in writing that a Formal Complaint alleging power-based violence or sexual misconduct has been filed against them. The Respondent should be advised that they may have an Advisor accompany them to any meeting or interview related to the investigation and resolution process.

Within seven (7) business days of receiving notice of the Formal Complaint, the Respondent should arrange to meet with the Title IX Coordinator. The Title IX Coordinator is required to provide the same information that was presented to the Complainant during their initial contact [see Section K(2), *Initial Contact with Potential Complainant*].

After reviewing the Formal Complaint and meeting with the Title IX Coordinator and appropriate decision makers, the Respondent may choose to end the resolution process by accepting responsibility for the conduct alleged in the

Formal Complaint. If the Respondent accepts responsibility for the conduct alleged in the Formal Complaint, the appropriate decision makers should determine the appropriate sanction for the Respondent. If the Respondent disputes the allegations in the Formal Complaint, the matter will proceed to an investigation.

F. **Investigation Process**

Using the College's Power-Based Violence/ Title IX Formal Grievance Procedures, the Title IX Coordinator designates Investigators specifically trained in power-based violence/ sexual misconduct investigations to conduct a prompt, thorough, and fair investigation. Assigned Investigators should not be the Title IX Coordinator or the Decision Makers.

The process should begin with intake meetings conducted by the Title IX Coordinator. The investigation phase should include interviewing the Complainant or Reporter, the Respondent, and any witnesses; reviewing law enforcement investigation documents if applicable; reviewing relevant student or employment files; and gathering and examining other relevant documents and evidence.

As a part of the investigation, Delgado Community College will provide an opportunity for all parties to present written statements, identify witnesses, and submit other evidence.

Both Complainants and Respondents should be advised of the utilization of Advisors throughout the investigation process. Parties should be advised that Advisors are not permitted to participate directly in Resolution Hearings or Informal Resolution Conferences, except to the extent an Advisor's participation is required during Title IX grievance hearings; they may be present solely to advise or support the party and are prohibited from speaking directly to the Investigator, the power-based violence/ sexual misconduct Adjudicator, other parties, or witnesses.

G. **Findings and Investigative Report**

Following the College's Power-Based Violence/ Title IX Formal Grievance Procedures, at the conclusion of the investigation, Investigators should prepare a report (the "Investigative Report") summarizing and analyzing the relevant facts determined through the investigation, with reference to any supporting documentation or statements. The report should be delivered to the Title IX Coordinator, who should analyze the report to ensure that the investigation was prompt, impartial, thorough, and consistent with this Policy. Before the Investigative Report is finalized, the Complainant and Respondent should be given the opportunity to review one another's statements and may also be provided with a written summary of other information collected during the

investigation if the information is requested and the Title IX Coordinator deems it appropriate to disclose.

A Complainant or Respondent should submit any comments about their own statement, or on any investigation summary that might be provided, to the Investigators within five (5) calendar days after the statement or summary was provided. Following the receipt of any comments submitted, or after the five-day comment period has lapsed without comment, the Investigators should address any identified factual inaccuracies or misunderstandings, as appropriate.

The final Investigative Report should provide a summary of the Investigators' impressions, including context for the evidence collected, but should not make a final determination as to whether a violation of the Power-Based Violence/ Sexual Misconduct Policy occurred, reserving that decision (and any sanctions) for the appropriate decision maker(s). The parties should be provided with a copy of the final Investigative Report simultaneously.

H. **Resolution**

1) Informal Resolution

For Formal Complaints with a student Respondent, at the discretion of the Title IX Coordinator, the parties should be advised of their option to pursue an Informal Resolution as an alternative to a Formal Resolution. An Informal Resolution should involve a remedies-based, non-judicial process designed to eliminate or address potential power-based violence/ sexual misconduct. This process should aim to assure fairness, to facilitate communication, and to maintain an equitable balance of power between the parties. Delgado Community College does not compel face-to-face confrontation between the parties or participation in any particular form of Informal Resolution.

The Title IX Coordinator should make an initial decision about whether a case qualifies for an Informal Resolution. If both parties then agree to pursue that path, the College will halt any investigation or scheduled Resolution Hearing so that the parties can explore the possibility of Informal Resolution. Participation in an Informal Resolution is voluntary, and either party can request to end the Informal Resolution process at any time and commence or resume the investigation process. If the parties agree to a resolution during an Informal Resolution process, the Title IX Coordinator should oversee its implementation, the Formal Complaint should be deemed withdrawn, and the matter should be terminated. An appeal of the process and its result should not be permitted. The resolution should be considered binding, and its breach would give rise to a new Formal Complaint.

2) Formal Resolution

In accordance with LCTCS Policy #9.001 Policy on Power-Based Violence/Sexual Misconduct and the Board of Regents Uniform Policy on Power-Based Violence/ Sexual Misconduct, promulgated pursuant to Act 472 of the 2021 Regular Legislative Session of the Louisiana Legislature, the College has processes and procedures in place to maintain safety and protection for students and employees. Therefore, Delgado Community College provides for a process to resolve formal complaint, and the process employed depends on the nature of the case.

As per Section 8, *Identified Best Practices*, Delgado has established the College's Power-Based Violence/ Title IX Formal Grievance Procedures to provide for a process based on these best practices to resolve Formal Complaints of power-based violence to include Title IX Complaints. Accordingly, the College has adopted the procedures outlined in LCTCS Policy #9.002 Title IX Grievance Procedures as the process to resolve Formal Complaints related to **both** Power-Based Violence and Title IX. as follows:

- *In regard to employees,* the College's Power-Based Violence/ Title IX Formal Grievance Procedures are used for cases that fall within the scope of either power-based violence *or* Title IX sexual misconduct and the employee is either the Complainant or the Respondent. The Title IX Coordinator will report all employee cases to the appropriate Human Resource Office as well.

- *In regard to students*, the College's Power-Based Violence/ Title IX Formal Grievance Procedures are used for cases that fall within the scope of Title IX sexual misconduct and the student is either the Complainant or the Respondent. However, for power-based violence cases involving students where the conduct falls outside the scope of Title IX sexual misconduct, it is understood that the procedures apply when the student is the Respondent.

- If the alleged conduct **does not** meet the definition of power-based violence or sexual misconduct, the process will proceed relevant to the appropriate employee or student Grievance Procedure, or, if applicable, the College's Student Code of Conduct policy.

I. Sanctions

Factors considered when determining a sanction/responsive action may include, but are not limited to:

- The nature, severity of, and circumstances surrounding the violation(s)
- The Respondent's disciplinary history
- Previous allegations or allegations involving similar conduct
- The need for sanctions/responsive actions to bring an end to the discrimination, harassment, and/or retaliation
- The need for sanctions/responsive actions to prevent the future recurrence of discrimination, harassment, and/or retaliation
- The need to remedy the effects of the discrimination, harassment, and/or retaliation on the Complainant and the community
- The impact on the parties
- Any other information deemed relevant by the Decision-maker(s)

The sanctions will be implemented as soon as is feasible, either upon the outcome of any appeal or the expiration of the window to appeal without an appeal being requested. The sanctions described as follows are not exclusive of, and may be in addition to, other actions taken or sanctions imposed by external authorities.

1) Student Sanctions Examples

The College's policies on transcript notation will apply to these proceedings. The following are the usual sanctions that may be imposed upon students or organizations singly or in combination subject to the College's Student Code of Conduct policy:

- *Warning:* A formal statement that the conduct was unacceptable and a warning that further violation of any College policies, procedure, or directive will result in more severe sanctions/responsive actions.

- *Required Counseling:* A mandate to meet with and engage in either College-sponsored or external counseling to better comprehend the misconduct and its effects.

- *Probation:* A written reprimand for violation of College policy, providing for more severe disciplinary sanctions in the event that the student or organization is found in violation of any Delgado policy, procedure, or directive within a specified period of time. Terms of the probation will be articulated and may include denial of specified social privileges, exclusion from co-curricular activities, exclusion from designated areas of campus, no-contact orders, and/or other measures deemed appropriate.

- *Suspension:* Termination of student status for a definite period of time not to exceed two years and/or until specific criteria are met. Students

who return from suspension are automatically placed on probation through the remainder of their tenure as a student at the College.

- *Expulsion:* Permanent termination of student status and revocation of rights to be on campus for any reason or to attend College-sponsored events. This sanction will be noted permanently as a Conduct Expulsion on the student's official transcript, subject to any applicable expungement policies.
- *Withholding Diploma*: Delgado Community College may withhold a student's diploma for a specified period of time and/or deny a student participation in commencement activities as a sanction if the student is found responsible for an alleged violation.
- *Revocation of Degree:* The College reserves the right to revoke a degree previously awarded from the College for fraud, misrepresentation, and/or other violation of Delgado policies, procedures, or directives in obtaining the degree, or for other serious violations committed by a student prior to graduation.
- *Organizational Sanctions*: Deactivation, loss of recognition, loss of some or all privileges (including Delgado registrations) for a specified period of time.
- *Other Actions:* In addition to or in place of the above sanctions, the College may assign any other sanctions as deemed appropriate.

2) Employee Sanctions Examples

Responsive actions for an employee who has engaged in power-based violence, including harassment, discrimination, and/or retaliation include:

- *Warning – Verbal or Written*
- *Performance Improvement/Management Process*
- *Required Counseling*
- *Required Training or Education*
- *Probation*
- *Loss of Annual Pay Increase*
- *Loss of Oversight or Supervisory Responsibility*
- *Demotion*
- *Suspension with pay*
- *Suspension without pay*
- *Termination*
- *Other Actions:* In addition to or in place of the above sanctions, the College may assign any other sanctions as deemed appropriate.

See LCTCS Policy #6.014, *Discipline for All Employees.*

J. **Grievance Procedure Appeals**

Delgado Community College provides an appeal process that is equally available to the parties and includes the procedures and permissible basis for the Complainant and Respondent to appeal.

Appeals should only be raised on one or more of the following grounds, for example:

1) a procedural irregularity that affected the outcome of the matter;
2) to consider new facts or information that were not known or knowable to the appealing party before or during the time of the resolution and that are sufficient to alter the decision;
3) the Title IX Coordinator, Investigator, or Adjudicator(s) had a conflict of interest or bias that affected the outcome of the matter;
4) the decision reached was not supported by a preponderance of evidence; or
5) the sanctions were disproportionate to the findings.

As to all appeals, the College will, at a minimum:

1) Notify the other party in writing when the appeal is filed and implement appeal procedures equally for both parties;

2) Ensure the decision maker(s) for the appeal **is/are not** the same individual(s) who reached the determination regarding responsibility or dismissal, the Investigator(s) or the Title IX Coordinator;

3) Give both parties a reasonable, equal opportunity to submit a written statement in support of or challenging the outcome;

4) Issue a written decision describing the result of the appeal and the rationale for the result; and

5) Provide a written decision simultaneously to both parties.

9. Training

A. Responsible Employees

Delgado Community College requires annual training for each of its (i) Responsible Employees; (ii) individuals who are involved in implementing the College's student grievance procedures, including each individual responsible for resolving Formal Complaints of reported power-based violence or power-based violence policy violations; (iii) Title IX Coordinator(s)**;** and (iv) employees who have responsibility for interviewing any alleged victims of power-based violence. The College shall ensure that the individuals and employees receive the training described in this Subsection no later than the beginning of the 2022-2023 academic year.

The Louisiana Board of Regents, in coordination with the Attorney General, and in consultation with state or local victim services organizations, has developed the annual training program as required in Section L, Training.

B. Confidential Advisors

Delgado Community College designates individuals who shall serve as Confidential Advisors, such as health care staff, clergy, staff of a women's center, or other such categories. Such designation shall not preclude the College from partnering with national, state, or local victim services organizations to serve as Confidential Advisors or in other confidential roles.

Prior to designating a person as a Confidential Advisor, the person shall complete a training program that includes information on power-based violence (including "sexual harassment" under Title IX, as well as other types of power-based violence falling outside Title IX's jurisdictional requirements), trauma-informed interactions, Title IX requirements, state law on power-based violence, and resources for victims. The Confidential Advisor shall also complete annual training relative to power-based violence and Title IX. The initial and annual training shall be developed by the Attorney General in collaboration with BOR and shall be provided through online materials.

Delgado's Title IX webpage provides the contact information for obtaining a Confidential Advisor.

The Confidential Advisor to an alleged victim of power-based violence shall inform the alleged victim of the following:

1) The rights of the alleged victim under federal and state law and the policies of the College;

2) The alleged victim's reporting options, including the option to notify the College, the option to notify local law enforcement, and any other reporting options;

3) If reasonably known, the potential consequences of those reporting options;

4) The process of investigation and disciplinary proceedings of the College;

5) The process of investigation and adjudication of the criminal justice system;

6) The limited jurisdiction, scope, and available sanctions of the College's student disciplinary proceeding, and that it should not be considered a substitute for the criminal justice process;

7) Potential reasonable accommodations that the College may provide to an alleged victim; and

8) The name and location of the nearest medical facility where an alleged victim may have a rape kit administered by an individual trained in sexual assault forensic medical examination and evidence collection, and information on transportation options and available reimbursement for a visit to such a facility.

The Confidential Advisor may, as appropriate, serve as a liaison between an alleged victim and the College or local law enforcement, when directed to do so in writing by an alleged victim who has been fully and accurately informed about what procedures shall occur if information is shared, and assist an alleged victim in contacting and reporting to a Responsible Employee or local law enforcement.

The Confidential Advisor will:

1) Be authorized by the College to liaise with appropriate staff at the College to arrange reasonable accommodations through the College to allow the alleged victim to change living arrangements or class schedules, obtain accessibility services, or arrange other accommodations;
2) Be authorized to accompany the alleged victim, when requested to do so by the alleged victim, to interviews and other proceedings of a campus investigation and college disciplinary proceedings;
3) Advise the alleged victim of, and provide written information regarding, both the alleged victim's rights and the College's responsibilities regarding orders of protection, no-contact orders, restraining orders, or similar lawful orders issued by a court of competent jurisdiction or by the College;
4) Not be obligated to report crimes to the College or law enforcement in a way that identifies an alleged victim or an accused individual, unless otherwise required to do so by law; and

5) To the extent authorized under law, provide confidential services to students. Any requests for accommodations made by a Confidential Advisor, as provided in this Section, shall not trigger an investigation by the College.

The College shall appoint an adequate number of Confidential Advisors. The Louisiana Board of Regents will determine the adequate number of Confidential Advisors for the College based upon its size, no later than January 1, 2022, and on January 1st annually thereafter.

10. Data Publications

A. Power-Based Violence Climate Survey

Beginning in the 2022-2023 academic year, Delgado Community College administers an anonymous Power-Based Violence Climate Survey (Survey) to its students once every three (3) years. If the College administers other surveys with regard to campus safety, this Survey may be included as a separate component of any such survey, provided that the power-based violence component is clearly identified as such.

Participation in this Survey will be voluntary. No student will be required or coerced to participate in the Survey, nor will any student face retribution or negative consequences of any kind for declining to participate.

Subject to the foregoing paragraph, the College will make every effort to maximize student participation in the Survey.

The Louisiana Board of Regents:

1) Develops the survey in consultation with the LCTCS and its member colleges and in accordance with national best practices;
2) Works with LCTCS and its member colleges in researching and selecting the best method of developing and administering the survey;
3) Consults with victims' advocacy groups and student leaders who represent a variety of student organizations and affiliations, including student government associations, academic associations, faith-based groups, cultural groups, and fraternities and sororities, when meeting the requirements of this Section;
4) Submits a written report on survey results to the House Committee on Education, Senate Committee on Education, and the Governor not later than forty-five (45) days prior to the convening of the next Regular Session of the Legislature following the administration of the survey. The report summarizes results from each public postsecondary education Institution and the state as a whole; and
5) Publishes the survey results on Board of Regents' website and in any other location or venue the Board of Regents considers necessary or appropriate.

Delgado Community College must:

1) Administer a survey during the 2022-2023 academic year and every third year thereafter;
2) Report Survey results to LCTCS and BOR; and
3) Publish the Survey results in a prominent, easily accessible location on the Delgado website.

B. **Campus Security Report**

In accordance with Act 447 of the 2021 Regular Legislative Session of the Louisiana Legislature, the College must publish on its website a semiannual security report to contain updated campus security policies and campus crime statistics.

The reports shall be updated and posted by **April Tenth (10)** and **October Tenth (10)** of each academic year. The report must include, at a minimum, all information relative to such policies and statistics specified in the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act, 20 U.S.C. §1092 (Clery Act).

As a best practice, Delgado may include information related to statistics of incidents of power-based violence.

The report shall be posted in a prominent location that is readily accessible from the main landing page of the Delgado website.

LCTCS and BOR shall review the College websites for compliance with this Section. BOR shall notify the House Committee on Education, the Senate Committee on Education, and the State Bond Commission upon the College's failure to comply with this Section.

In addition, the State Bond Commission **does not** authorize the College to incur any debt that is subject to the Commission's approval for a period of two years following notification of the College's failure to comply with this Section.

In accordance with state law, any person may commence a suit in the district court for the parish in which an action in violation of this Section occurred for the issuance of a writ of mandamus or injunctive or declaratory relief to require compliance with the provisions of this Section, together with reasonable attorney fees and costs.

C. **Sex Crime Data Report**

By **February Fifteenth (15)** of each year, the College campus police department/campus security authority shall submit a report containing the information required in Appendix C of the LCTCS Policy #9.001 Policy on Power-Based Violence to the System President, the College Chancellor, and the Title IX Coordinator.

The Chancellor shall ensure the report is posted on Delgado's website.

11. Memoranda of Understanding

Each college campus and law enforcement and criminal justice agency located within the parish(es) of the campus(es) of the college, including the campus police department, if any, the local district attorney's office, and any law enforcement agency with criminal jurisdiction over the campus, shall enter into and maintain a written memorandum of understanding (MOU) to clearly delineate responsibilities and share information in accordance with applicable federal and state confidentiality laws, including but not limited to trends about power-based violence committed by or against students of the college. This MOU must be signed by all parties to the MOU.

Each MOU shall include the following:

1. Delineation and sharing protocols of investigative responsibilities;
2. Protocols for investigations, including standards for notification and communication and measures to promote evidence preservation;
3. Agreed-upon training and requirements for the parties to the MOU on issues related to power-based violence for the purposes of sharing information and coordinating training to the extent possible;
4. A method of sharing general information about power-based violence occurring within the jurisdiction of the parties to the MOU in order to improve campus safety; and
5. A requirement that the local law enforcement agency include information on its police report regarding the status of the alleged victim as a student at the College.

Each executed MOU shall be reviewed annually by the College Chancellor, Title IX Coordinator, and the executive officer of the criminal justice agency, and shall be revised as considered necessary.

Nothing in this Section or any MOU shall be construed as prohibiting an alleged victim or Responsible Employee from making a Formal Complaint to both the College and a law enforcement agency.

12. Campus Power-Based Violence Policies

The College shall institute policies incorporating the policies and best practices prescribed by LCTCS regarding the prevention and reporting of incidents of power-based violence committed by or against students of the College.

The policies, at a minimum, shall require the College to provide for the following:

1. **Confidential Advisors** (see Section 9B, *Confidential Advisors*)
2. **Website** (see Section 13, *Website Compliance*)
3. **Online Reporting** (see Section 5A(4), *Online Reporting*)
4. **Amnesty Policy** (see Section 5H, *Immunities and Amnesty*)
5. **Training** (see Section 9, *Training*)
6. **Inter-campus Transfer Policy** (see Section 6C(2), *Transcript Notation*)
7. **Victims' Rights Policy** (see Attachment B, *Statement of the Rights of the Parties*)

13. Website Compliance

In addition to publishing the specified reports outlined in this Policy, the College must list on their websites:

- Contact information for obtaining a Confidential Advisor;
- Reporting options for alleged victims of power-based violence;
- The process of investigation and disciplinary proceedings of the College;
- The process of investigation and adjudication of the criminal justice system;
- Potential reasonable accommodations that the College may provide to an alleged victim;
- The telephone number and website address for a local, state, or national hotline providing information to victims of power-based violence, which shall be updated at least on an annual basis;
- The name and location of the nearest medical facility where an individual may have a rape kit administered by an individual trained in sexual assault forensic medical examination and evidence collection, and information on transportation options and available reimbursement for a visit to such facility;
- Each current memorandum of understanding between the College and local law enforcement and criminal justice agency located within the parish of the campus(es) (12:15-13:5); and
- Data publications as specified in Section 10, *Data Publications*.

14. Cancellation

This policy and procedures memorandum cancels AD-1732.1, Campus Sexual Misconduct, dated 1/10/2019, and BA-1733.1A, Violence in the Workplace dated 9/16/2003.

Attachments:

Delgado Power-Based Violence/ Title IX Formal Grievance Procedures
Power-Based Violence Definitions (Attachment A)
Statement of the Rights of the Parties (Attachment B)

Policy Reference:

Louisiana Community and Technical College System Policy #9.001 Policy on Power-Based Violence/Sexual Misconduct
Louisiana Community and Technical College System Policy #9.002 Title IX Grievance Procedures
Louisiana Board of Regents Uniform Policy on Power-Based Violence/ Sexual Misconduct

Attachment A

POWER-BASED VIOLENCE DEFINITIONS

For purposes of this Policy, the following terms will have corresponding definitions.

Advisor: In a Title IX conduct case or other power-based violence case involving a student, 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.

Chancellor: The chief executive officer of a public postsecondary education Institution.

Coercion: The use of express or implied threats, intimidation, or physical force, which places an individual in fear of immediate harm or physical injury or causes a person to engage in unwelcome sexual activity. Coercion also includes administering a drug, intoxicant, or similar substance with the intent to impair that person's ability to consent prior to engaging in sexual activity.

Complainant: An individual who is alleged to be the victim of behavior that could constitute power-based violence under this policy (or an individual who is alleged to be the victim of conduct that could constitute sexual harassment under Title IX) irrespective of whether a Formal Complaint has been filed.

Confidential Advisor: In a Title IX conduct case or other power-based violence case involving a student, a person designated by an Institution to provide emergency and ongoing support to students who are alleged victims of power-based violence.

Consent: Consent to engage in sexual activity must exist from beginning to end of each instance of sexual activity. Consent is demonstrated through mutually understandable words and/or actions that clearly indicate a willingness to engage in a specific sexual activity. Silence alone, without actions evidencing permission, does not demonstrate Consent. Consent must be knowing and voluntary. To give Consent, a person must be of legal age. Assent does not constitute Consent if obtained through coercion or from an individual whom the Alleged Offender knows or reasonably should know is incapacitated. The responsibility of obtaining Consent rests with the person initiating sexual activity. Use of alcohol or drugs does not diminish one's responsibility to obtain Consent. Consent to engage in sexual activity may be withdrawn by any person at any time. Once withdrawal of Consent has been expressed, the sexual activity must cease. Consent is automatically withdrawn by a person who is no longer capable of giving Consent. A current or previous consensual dating or sexual relationship between the parties does not itself imply Consent or preclude a finding of responsibility.

Decision Maker: An individual selected by the institution and charged with determining responsibility for an allegation of power-based violence.

Employee: An employee is defined as:

i. An administrative officer, official, or employee of a public postsecondary education board or Institution.
ii. Anyone appointed to a public postsecondary education board or Institution.
iii. Anyone employed by or through a public postsecondary education board or Institution.
iv. Anyone employed by a foundation or association related to a System Management Board or Institution.

The employee category does not include a student enrolled at a public postsecondary Institution unless the student works for the Institution in a position such as a teaching assistant or residential advisor.

Formal Complaint: A signed document filed by a Complainant or signed by the Title IX Coordinator alleging power-based violence or retaliation and requesting the Institution investigate and possibly adjudicate the alleged issue. A third party who knows of or witnessed an incident of power-based violence but who did not suffer such conduct themselves may request that the Institution treat their third-party Report as a Formal Complaint. The Institution can convert a Report to a Formal Complaint if it determines that, in order to meet its state and/or federal obligations to provide a safe and nondiscriminatory environment for the broader institutional community, it must take further steps to address and resolve the matter.

For purposes of alleged misconduct that satisfies the jurisdictional requirements of Title IX, see Formal Complaint in the Title IX Grievance Policy.

Institution/Member College: A public postsecondary education institution.

Informal Resolution: A voluntary process that is separate and distinct from an Institution's investigation and adjudication processes that allows the parties (i.e., Complainant and Respondent) to reach a mutually agreeable resolution.

Incapacitation: An individual is considered to be incapacitated if, by reason of mental or physical condition, the individual is manifestly unable to make a knowing and deliberate choice to engage in sexual activity. Individuals who are asleep, unresponsive, or unconscious are incapacitated. Other indicators that an individual may be incapacitated include, but are not limited to, inability to communicate coherently, inability to dress/undress without assistance, inability to walk without assistance, slurred speech, loss of coordination, vomiting, or inability to perform other physical or cognitive tasks without assistance.

Investigators: Individuals designated by the Title IX Coordinator to conduct an investigation of alleged power-based violence. The Investigators will be trained individuals who objectively collects and examines the facts and circumstances of potential violations of this Policy and documents them for review. The Investigators will be neutral and will not have a conflict of interest or bias against the Complainant or Respondent, or Complainants and Respondents generally.

Mandatory Reporter: An individual who is obligated by law to report any knowledge they may have of power-based violence. For purposes of this Policy, mandatory reporters include Responsible Employees. (See definition of Responsible Employee.)

Power-based Violence/Sexual Misconduct: Any form of interpersonal violence intended to control or intimidate another person through the assertion of power over the person, to include the following:

a. Dating violence (R.S. 46:2151(C)).
b. 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.
c. 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).
d. Sexual assault (R.S. 14:41, 42 through 43.5, 89, 89.1, and 106).
    i. Sexual Battery (14:43.1)
    ii. Misdemeanor sexual battery (14:43.1.1)
    iii. Second degree sexual battery (14:43.2)
    iv. Oral sexual battery (14:43.3)

v. Female genital mutilation (14:43.4)
vi. Intentional exposure to HIV (14:43.5)
vii. Crime against nature (14:89)
viii. Aggravated Crime against nature (14:89.1)
ix. Obscenity (14:106)

e. 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).
   i. Human trafficking (14:46.2)
   ii. Prostitution (14:82)
   iii. Prostitution of person under 18 (14:82.1)
   iv. Purchase of commercial sexual activity (14:82.2)
   v. Solicitation for prostitutes (14:83)
   vi. Inciting prostitution (14:83.1)
   vii. Promoting prostitution (14:83.2)
   viii. Prostitution by massage (14:83.3)
   ix. Sexual massages (14:83.4)
   x. Pandering (sexual) (14:84)
   xi. Letting premises for prostitution (14:85)
   xii. Enticing persons into prostitution (14:86)
f. 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.
g. Stalking (R.S. 14:40.2) and cyberstalking (R.S. 14:40.3).
h. Unlawful communications (R.S. 14:285).
i. Unwelcome sexual or sex- or gender-based conduct that is objectively offensive and has a discriminatory intent.

Power-Based Violence/ Title IX Grievance Procedure: A process for addressing and resolving a "Formal Complaint" of Power-Based Violence or Sexual Misconduct that satisfies requirements the definitions set forth in this and overarching policies and as set forth in 34 C.F.R. §106.30. See the College's Power-Based Violence/ Title IX Formal Grievance Procedures and LCTCS Policy #9.002 Title IX Grievance Procedures for key terms.

Respondent: An individual who has been accused in a Report or Formal Complaint of conduct that could constitute power-based violence prohibited under this Policy (or, under the Title IX Grievance policy, an individual alleged to be the perpetrator of conduct that could constitute sexual harassment under Title IX).

Responsible Employee: An employee who receives a direct statement regarding or witnesses an incident of power-based violence. Responsible Employees do not include an employee designated as a Confidential Advisor pursuant to R.S. 17:3399.15(B) or an employee who has privileged communications with a student as provided by law.

System: A Louisiana public postsecondary management board.

System President: The president of a public postsecondary education system.

Supportive Measures: Non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the parties before or after the filing of a Formal Complaint or where no Formal Complaint has been filed. Such measures are designed to restore or

preserve equal access to the education program or activity without unreasonably burdening the other party, including measures designed to protect the safety of all parties or the Institution's educational environment, or deter sexual harassment. Supportive Measures may include counseling, extensions of deadlines or other course-related adjustments, modifications of work or class schedules, campus escort services, mutual restrictions on contact between the parties, changes in work or housing locations, leaves of absence, increased security and monitoring of certain areas of the campus, and other similar measures.

Title IX Coordinator: The individual designated by a public postsecondary education institution as the official for coordinating the Institution's efforts to comply with and carry out its responsibilities under Title IX of the Education Amendments of 1972 and Act 472 the 2021 Regular Legislative Session of the Louisiana Legislature.

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:

A. 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;
B. 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
C. "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).

Attachment B

STATEMENT OF THE RIGHTS OF THE PARTIES

- The right to an equitable investigation and resolution of all credible allegations of prohibited harassment or discrimination made in good faith to LCTCS or its colleges' officials.
- The right to timely written notice of all alleged violations, including the identity of the parties involved (if known), the precise misconduct being alleged, the date and location of the alleged misconduct (if known), the implicated policies and procedures, and possible sanctions.
- The right to timely written notice of any material adjustments to the allegations (e.g., additional incidents or allegations, additional Complainants, unsubstantiated allegations) and any attendant adjustments needed to clarify potentially implicated policy violations.
- The right to be informed in advance of any public release of information regarding the allegation(s) or underlying incident(s), whenever possible.
- The right not to have any personally identifiable information released to the public without consent provided, except to the extent permitted by law.
- The right to be treated with respect by LCTCS or its college officials.
- The right to have LCTCS or its colleges' policies and procedures followed without material deviation.
- The right not to be pressured to mediate or otherwise informally resolve any reported misconduct involving violence, including sexual violence.
- The right not to be discouraged by LCTCS or its college officials from reporting sexual misconduct or discrimination to both on-campus and off-campus authorities.
- The right to be informed by LCTCS or its college officials of options to notify proper law enforcement authorities, including on-campus and local police, and the option(s) to be assisted by LCTCS or its college authorities in notifying such authorities, if the party so chooses. This also includes the right not to be pressured to report, as well.
- The right to have allegations of violations of this Policy responded to promptly and with sensitivity by LCTCS or its college law enforcement and/or other LCTCS college officials.
- The right to be informed of available interim actions and supportive measures, such as counseling; advocacy; health care; legal, student financial aid, visa, and immigration assistance; or other services, both on campus and in the community.
- The right to a LCTCS or its college-implemented no-contact order or a no-trespass order against a non-affiliated third party when a person has engaged in or threatens to engage in stalking, threatening, harassing, or other improper conduct that presents a danger to the welfare of the party or others.
- The right to be informed of available assistance in changing academic, living, and/or working situations after an alleged incident of discrimination, harassment, and/or retaliation, if such changes are reasonably available. No formal report, or investigation, either campus or criminal, needs to occur before this option is available. Such actions may include, but are not limited to:
    - Relocating an on-campus student's housing to a different on-campus location
    - Assistance from LCTCS or its college staff in completing the relocation
    - Changing an employee's work environment (e.g., reporting structure, office/workspace relocation)
    - Transportation accommodations
    - Visa/immigration assistance
    - Arranging to dissolve a housing contract and a pro-rated refund
    - Exam, paper, and/or assignment rescheduling or adjustment
    - Receiving an incomplete in, or a withdrawal from, a class (may be retroactive)
    - Transferring class sections
    - Temporary withdrawal/leave of absence (may be retroactive)
    - Campus safety escorts
    - Alternative course completion options.

- The right to have the LCTCS or its colleges maintain such actions for as long as necessary and for supportive measures to remain private, provided privacy does not impair the LCTCS or its colleges' ability to provide the supportive measures.

- The right to receive sufficiently advanced, written notice of any meeting or interview involving the other party, when possible.
- The right to ask the Investigator(s) and Decision-maker(s) to identify and question relevant witnesses, including expert witnesses.
- The right to provide the Investigator(s)/Decision-maker(s) with a list of questions that, if deemed relevant by the Investigator(s)/Chair, may be asked of any party or witness.
- The right not to have irrelevant prior sexual history or character admitted as evidence.
- The right to know the relevant and directly related evidence obtained and to respond to that evidence.
- The right to fair opportunity to provide the Investigator(s) with their account of the alleged misconduct and have that account be on the record.
- The right to receive a copy of the investigation report, including all factual, policy, and/or credibility analyses performed, and all relevant and directly related evidence available and used to produce the investigation report, subject to the privacy limitations imposed by state and federal law, prior to the hearing, and the right to have at least ten (10) business days to review the report prior to the hearing.
- The right to respond to the investigation report, including comments providing any additional relevant evidence after the opportunity to review the investigation report, and to have that response on the record.
- The right to be informed of the names of all witnesses whose information will be used to make a finding, in advance of that finding, when relevant.
- The right to regular updates on the status of the investigation and/or resolution.
- The right to have reports of alleged Policy violations addressed by Investigators, Title IX Coordinators, and Decision-maker(s) who have received relevant annual training.
- The right to a Hearing Panel that is not single-sex in its composition, if a panel is used.
- The right to preservation of privacy, to the extent possible and permitted by law.
- The right to meetings, interviews, and/or hearings that are closed to the public.
- The right to petition that any LCTCS or its college representative in the process be recused on the basis of disqualifying bias and/or conflict of interest.
- The right to have an Advisor of their choice to accompany and assist the party in all meetings and/or interviews associated with the resolution process.
- The right to the use of the appropriate standard of evidence, preponderance of the evidence, to make a finding after an objective evaluation of all relevant evidence.
- The right to be present, including presence via remote technology, during all testimony given and evidence presented during any formal grievance hearing.
- The right to have an impact statement considered by the Decision-maker(s) following a determination of responsibility for any allegation, but prior to sanctioning.
- The right to be promptly informed in a written Notice of Outcome letter of the finding(s) and sanction(s) of the resolution process and a detailed rationale therefor (including an explanation of how credibility was assessed), delivered simultaneously (without undue delay) to the parties.
- The right to be informed in writing of when a decision by the LCTCS or its colleges is considered final and any changes to the sanction(s) that occur before the decision is finalized.
- The right to be informed of the opportunity to appeal the finding(s) and sanction(s) of the resolution process, and the procedures for doing so in accordance with the standards for appeal established by the LCTCS or its colleges.
- The right to a fundamentally fair resolution as defined in these procedures.