

# LOUISIANA COMMUNITY & TECHNICAL COLLEGE SYSTEM

## Interim Policy #

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### Title: EQUAL OPPORTUNITY, HARASSMENT, AND NONDISCRIMINATION

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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 specific LCTCS member college 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any portion of the 2020 Title IX Regulations (34 C.F.R. Part 106), or should an administration order them suspended or withdrawn, the LCTCS or specific LCTCS member college reserves the right to withdraw these interim policies and procedures and immediately reinstate previous policies and/or procedures or revise them accordingly.*

The Louisiana Community and Technical College System (LCTCS) is committed to maintaining an environment free from any type of discrimination, harassment, and retaliation. This policy prohibits discrimination, harassment and retaliation of any kind by or against any applicant, employee, student, or any other individual on the basis of race, creed, color, marital status, sexual orientation, gender, gender identity, gender expression, genetic information, religion, national origin, age, mental or physical disability, veteran status and/or any other basis protected by federal or state law. 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.

## **POLICY: Equal Opportunity, Harassment, and Nondiscrimination**

### **1. Glossary**

- *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.
- *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.
- *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 specific LCTCS member college investigate the allegation.
- *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).
- *Day* means a business day when the LCTCS or specific LCTCS member college is in normal operation.
- *Education program or activity* means locations, events, or circumstances where LCTCS or specific LCTCS member college 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 specific LCTCS member college.
- *Final Determination:* A conclusion by preponderance of the evidence that the alleged conduct occurred and whether it did or did not violate policy.
- *Finding:* A conclusion by preponderance of the evidence that the conduct did or did not occur as alleged.
- *Formal Grievance Process* means “Process A,” a method of formal resolution designated by the LCTCS or specific LCTCS member college to address conduct that falls within the policies included below, and which complies with the requirements of 34 CFR Part 106.45.

- *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).
- *Hearing Decision-maker or Panel* refers to those who have decision-making and sanctioning authority within the LCTCS or specific LCTCS member college's Formal Grievance process.
- *Investigator* means the person or persons charged by a LCTCS or specific LCTCS member college 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.
- *Mandated Reporter* means an employee of the LCTCS or specific LCTCS member college who is obligated by policy to share knowledge, notice, and/or reports of harassment, discrimination, and/or retaliation with the Title IX Coordinator.
- *Notice* means that an employee, student, or third-party informs the Title IX Coordinator or other Official with Authority of the alleged occurrence of harassing, discriminatory, and/or retaliatory conduct.
- *Official with Authority (OWA)* means an employee of the LCTCS or specific LCTCS member college explicitly vested with the responsibility to implement corrective measures for harassment, discrimination, and/or retaliation on behalf of the LCTCS or specific LCTCS member college.
- *Parties* include the Complainant(s) and Respondent(s), collectively.
- *Process A* means the Formal Grievance Process detailed in the Process A addendum.
- *Process B* means the informal alternative resolution procedures detailed in Process B addendum.
- *LCTCS or specific LCTCS member college* means a postsecondary education program that is a LCTCS or specific LCTCS member college of federal funding.
- *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 specific LCTCS member college's educational program.

- *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.
- *Resolution* means the result of an informal or Formal Grievance Process.
- *Sanction* means a consequence imposed by the LCTCS or specific LCTCS member college on a Respondent who is found to have violated this policy.
- *Sexual Harassment* is the umbrella category including the offenses of sexual harassment, sexual assault, stalking, and dating violence and domestic violence. [See Section 17.b.](#), for greater detail.
- *Title IX Coordinator* is at least one official designated by the LCTCS or specific LCTCS member college to ensure compliance with Title IX and the LCTCS or specific LCTCS member college's Title IX program. References to the Coordinator throughout this policy may also encompass a designee of the Coordinator for specific tasks.
- *Title IX Team* refers to the Title IX Coordinator, any deputy coordinators, and any member of the Grievance Process Pool.

## **2. Rationale for Policy**

LCTCS or specific LCTCS member college is committed to providing a workplace and educational environment, as well as other benefits, programs, and activities, that are free from discrimination, harassment, and retaliation. To ensure compliance with federal and state civil rights laws and regulations, and to affirm its commitment to promoting the goals of fairness and equity in all aspects of the educational program or activity, LCTCS or specific LCTCS member college has developed internal policies and procedures that provide a prompt, fair, and impartial process for those involved in an allegation of discrimination or harassment on the basis of protected class status, and for allegations of retaliation. LCTCS or specific LCTCS member college values and upholds the equal dignity of all members of its community and strives to balance the rights of the parties in the grievance process during what is often a difficult time for all those involved.

## **3. Applicable Scope**

The core purpose of this policy is the prohibition of all forms of discrimination. Sometimes, discrimination involves exclusion from activities, such as admission, athletics, or employment. Other times, 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 anti-discrimination policy is

reported, the allegations are subject to resolution using LCTCS or specific LCTCS member college’s “Process A” or “Process B,” as determined by the Title IX Coordinator, and as detailed in the process addendum.

When the Respondent is a member of the LCTCS or specific LCTCS member college community, 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 specific LCTCS member college community. This community includes, but is not limited to, students,<sup>1</sup> student organizations, faculty, administrators, staff, and third parties such as guests, visitors, volunteers, invitees, and campers. The procedures below 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.

#### **4. Title IX Coordinator**

The Title IX Coordinator oversees the LCTCS or specific LCTCS member college’s policy on equal opportunity, harassment, and nondiscrimination and may oversee implementation of the LCTCS or specific LCTCS member college’s Affirmative Action and Equal Opportunity plan. The Title IX Coordinator has the primary responsibility for coordinating LCTCS or specific LCTCS member college’s efforts related to the intake, investigation, resolution, and implementation of supportive measures to stop, remediate, and prevent discrimination, harassment, and retaliation prohibited under this policy.

#### **5. 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. 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 or specific LCTCS member college President or 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.

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<sup>1</sup> For the purpose of this policy, the LCTCS or any LCTCS member college 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 any LCTCS member college.

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

## **6. Administrative Contact Information**

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 specific LCTCS member college has 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 specific LCTCS member college.

- System Presidents
- College Chancellors
- Executive Councils/Cabinets
- Vice Chancellors
- Deans
- Others as deemed necessary by the institution

LCTCS or specific LCTCS member college has 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](mailto:OCR@ed.gov)

Web: <http://www.ed.gov/ocr>

For complaints involving employees: [Equal Employment Opportunity Commission](#) (EEOC) <sup>2</sup>

## **7. Notice/Complaints of Discrimination, Harassment, and/or Retaliation**

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

1) File a complaint with, or give verbal notice to, the Title IX Coordinator, Deputy Title IX Coordinators, or Officials with Authority. Such a report may be made at any time (including during non-business hours) by using the telephone number or email address, or by mail to the office address, listed for the Title IX Coordinator or any other official listed.

[2] Report online, using the institution's reporting form. Anonymous reports are accepted but can give rise to a need to investigate. The LCTCS or specific LCTCS member college tries to provide supportive measures to all Complainants, which is impossible with an anonymous report. Because reporting carries no obligation to initiate a formal response, and as the LCTCS or specific LCTCS member college respects Complainant requests to dismiss complaints unless there is a compelling threat to health and/or safety, the Complainant is largely in control and should not fear a loss of privacy by making a report that allows the LCTCS or specific LCTCS member college to discuss and/or provide supportive measures.

A Formal Complaint means a document filed/signed by the Complainant or signed by the Title IX Coordinator alleging a policy violation by a Respondent and requesting that the LCTCS or specific LCTCS member college investigate the allegation(s). A complaint may be filed with the Title IX Coordinator in person, by mail, or by electronic mail. As used in this paragraph, the phrase "document filed by a Complainant" means a document or electronic submission (such as by electronic mail or through an online portal provided for this purpose by the LCTCS or specific LCTCS member college) that contains the Complainant's physical or digital signature, or otherwise indicates that the Complainant is the person filing the complaint.

If notice is submitted in a form that does not meet this standard, the Title IX Coordinator will contact the Complainant to ensure that it is filed correctly.

## **8. Supportive Measures**

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<sup>2</sup> 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.

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

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 specific LCTCS member college's education program or activity, including measures designed to protect the safety of all parties or the LCTCS or specific LCTCS member college's educational environment, and/or deter 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 specific LCTCS member college will inform the Complainant, in writing, that they may file a formal complaint with the LCTCS or specific LCTCS member college 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 specific LCTCS member college will maintain the privacy of the supportive measures, provided that privacy does not impair the LCTCS or specific LCTCS member college's ability to provide the supportive measures. LCTCS or specific LCTCS member college will act to ensure as minimal an academic impact on the parties as possible. The LCTCS or specific LCTCS member college 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
- Referral to community-based service providers
- Visa and immigration assistance
- Student financial aid counseling
- Education to the community or community subgroup(s)
- Altering campus housing assignment(s)
- Altering work arrangements for employees or student-employees
- 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.

### **9. Emergency Removal**

The LCTCS or specific LCTCS member college 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. This risk analysis is performed in conjunction with the Behavioral Intervention Team using its standard objective violence risk assessment procedures.

In all cases in which an emergency removal is imposed, the student or employee will be given notice of the action and the option to request to meet with the Title IX Coordinator prior to such action/removal being imposed, or as soon thereafter as reasonably possible, 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. When this meeting is not requested in a timely manner, objections to the emergency removal will be deemed waived. A Complainant and their Advisor may be permitted to participate in this meeting if the Title IX Coordinator determines it is equitable to do so. This section also applies to any restrictions that a coach or athletic administrator may place on a student-athlete arising from allegations related to Title IX. There is no appeal process for emergency removal decisions.

A Respondent may be accompanied by an Advisor of their choice when meeting with the Title IX Coordinator for the show cause meeting. The Respondent will be given access to a written summary of the basis for the emergency removal prior to the meeting to allow for adequate preparation.

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 specific LCTCS member college 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.

### **10. Promptness**

All allegations are acted upon promptly by LCTCS or 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 specific LCTCS member college will avoid all undue delays within its control.

Any time the general timeframes for resolution outlined in LCTCS or specific LCTCS member college procedures will be delayed, LCTCS or specific LCTCS member college will provide 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.

### **11. Privacy**

Every effort is made by the LCTCS or specific LCTCS member college to preserve the privacy of reports.<sup>3</sup> LCTCS or specific LCTCS member college will not share the identity of any individual who

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<sup>3</sup> For the purpose of this policy, privacy and confidentiality have distinct meanings. **Privacy** means that information related to a complaint will be shared with a limited number of LCTCS or any LCTCS member college employees who "need to know" in order to assist in the assessment, investigation, and resolution of the report. All employees who are involved in the LCTCS or any LCTCS member college's response to notice under this policy receive specific training and guidance about sharing and safeguarding private information in accordance with state and federal law. The privacy of student education records will be protected in accordance with the Family Educational Rights and Privacy Act ("FERPA"), as outlined in the LCTCS or any LCTCS member college's FERPA policy. The privacy of employee records will be protected in accordance with Human Resources policies. **Confidentiality** exists in the context of laws that protect certain relationships, including those who provide services related to medical and clinical care, mental health providers, counselors, and ordained clergy. The law creates a privilege between certain health care providers, mental health care providers, attorneys, clergy, spouses, and others, with their patients, clients, parishioners, and spouses. The LCTCS or any LCTCS member college has designated individuals who have the ability to have privileged communications as Confidential Resources. For more information about Confidential Resources, see page 26.

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 specific LCTCS member college reserves the right to designate which LCTCS or specific LCTCS member college 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).

Only a small group of officials who need to know will typically be told about the complaint, including but not limited to: Division of Student Affairs, Integrity and Compliance Office, LCTCS or specific LCTCS member college Police, and the Threat Assessment Team. Information will be shared as necessary with Investigators, Hearing Panel members/Decision-makers, witnesses, and the parties. The circle of people with this knowledge will be kept as tight as possible to preserve the parties' rights and privacy.

The LCTCS or specific LCTCS member college 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](#).

## **12. Jurisdiction of the LCTCS or specific LCTCS member college**

This policy applies to the education program and activities of the LCTCS or specific LCTCS member college, to conduct that takes place on the campus or on property owned or controlled by the LCTCS or specific LCTCS member college, at LCTCS or specific LCTCS member college-sponsored events, or in buildings owned or controlled by LCTCS or specific LCTCS member college's recognized

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When information is shared by a Complainant with a Confidential Resource, the Confidential Resource cannot reveal the information to any third party except when an applicable law or a court order requires or permits disclosure of such information. For example, information may be disclosed when: (i) the individual gives written consent for its disclosure; (ii) there is a concern that the individual will likely cause serious physical harm to self or others; or (iii) the information concerns conduct involving suspected abuse or neglect of a minor under the age of 18, elders, or individuals with disabilities. Non-identifiable information may be shared by Confidential Resources for statistical tracking purposes as required by the federal Clery Act. Other information may be shared as required by law.

student organizations. The Respondent must be a member of LCTCS or specific LCTCS member college's community in order for its policies to apply.

This policy can also be applicable to the effects of off-campus misconduct that effectively deprive someone of access to LCTCS or specific LCTCS member college's educational program. The LCTCS or specific LCTCS member college may also extend jurisdiction to off-campus and/or to online conduct when the Title IX Coordinator determines that the conduct affects a substantial LCTCS or specific LCTCS member college interest.

Regardless of where the conduct occurred, the LCTCS or specific LCTCS member college will address notice/complaints to determine whether the conduct occurred in the context of its employment or educational program or activity and/or has continuing effects on campus or in an off-campus sponsored program or activity. A substantial LCTCS or specific LCTCS member college interest includes:

- a. Any action that 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. Any situation in which it is determined that the Respondent poses an immediate threat to the physical health or safety of any student or other individual;
- c. Any situation that 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. Any situation that is detrimental to the educational interests or mission of the LCTCS or specific LCTCS member college.

If the Respondent is unknown or is not a member of the LCTCS or specific LCTCS member college 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.

Further, even when the Respondent is not a member of the LCTCS or specific LCTCS member college's community, supportive measures, remedies, and resources may be accessible to the Complainant by contacting the Title IX Coordinator.

In addition, the LCTCS or specific LCTCS member college may take other actions as appropriate to protect the Complainant against third parties, such as barring individuals from LCTCS or specific LCTCS member college property and/or events.

All vendors serving the LCTCS or specific LCTCS member college 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.

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 specific LCTCS member college where sexual harassment or nondiscrimination policies and procedures of the facilitating or host organization may give recourse to the Complainant.

### **13. Time Limits on Reporting**

There is no time limitation on providing notice/complaints to the Title IX Coordinator. However, if the Respondent is no longer subject to the LCTCS or specific LCTCS member college's jurisdiction and/or significant time has passed, the ability to investigate, respond, and provide remedies may be more limited or impossible.

Acting on notice/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.

When notice/complaint is affected by significant time delay, the LCTCS or specific LCTCS member college will typically apply the policy in place at the time of the alleged misconduct and the procedures in place at the time of notice/complaint.

### **14. Online Harassment and Misconduct**

The policies of LCTCS or specific LCTCS member college are written and interpreted broadly to include online and cyber manifestations of any of the behaviors prohibited below, when those behaviors occur in or have an effect on the LCTCS or specific LCTCS member college's education program and activities or use LCTCS or specific LCTCS member college networks, technology, or equipment.

While LCTCS or specific LCTCS member college may not control websites, social media, and other venues in which harassing communications are made, when such communications are reported to LCTCS or specific LCTCS member college, it will engage in a variety of means to address and mitigate the effects.

Members of the community are encouraged to be good digital citizens and to refrain from online misconduct, such as feeding anonymous gossip sites, sharing inappropriate content via Snaps or other social media, unwelcome sexting, revenge porn, breaches of privacy, or otherwise using the ease of transmission and/or anonymity of the Internet or other technology to harm another member of the LCTCS or specific LCTCS member college community.

Any online postings or other electronic communication by students, including cyber-bullying, cyber-stalking, cyber-harassment, etc., occurring completely outside of the LCTCS or specific LCTCS member college's control (e.g., not on LCTCS or specific LCTCS member college networks, websites, or between LCTCS or specific LCTCS member college email accounts) will only be subject to this policy when such online conduct can be shown to cause a substantial in-program disruption.

Otherwise, such communications are considered speech protected by the First Amendment. Supportive measures for Complainants will be provided, but protected speech cannot legally be subjected to discipline.

Off-campus harassing speech by employees, whether online or in person, may be regulated by the LCTCS or specific LCTCS member college only when such speech is made in an employee's official or work-related capacity (See [LCTCS Policy 6.042](#) on Social Media Use).

### **15. Policy on Nondiscrimination**

LCTCS or specific LCTCS member college adheres to all federal and state civil rights laws and regulations prohibiting discrimination in public institutions of higher education.

LCTCS or specific LCTCS member college does not discriminate against any employee, applicant for employment, student, or applicant for admission on the basis of:

- Race,
- Religion,
- Hearing status,
- Personal appearance,
- Color,
- Sex,
- Pregnancy,
- Political affiliation,
- Source of income,
- Place of business,
- Residence,
- Religion,

- Creed,
- Ethnicity,
- National origin (including ancestry),
- Citizenship status,
- Physical or mental disability (including perceived disability),
- Age,
- Marital status,
- Family responsibilities,
- Sexual orientation,
- Gender identity,
- Gender expression,
- Veteran or military status (including disabled veteran, recently separated veteran, active duty wartime or campaign badge veteran, and Armed Forces Service Medal veteran),
- Predisposing genetic characteristics,
- Domestic violence victim status,
- Height,
- Weight]
- or any other protected category under applicable local, state, or federal law, including protections for those opposing discrimination or participating in any grievance process on campus, with the Equal Employment Opportunity Commission, or other human rights agencies.

This policy covers nondiscrimination in both employment and access to educational opportunities. Therefore, any member of the LCTCS or specific LCTCS member college community whose acts deny, deprive, or limit the educational or employment access, benefits, and/or opportunities of any member of the LCTCS or specific LCTCS member college community, guest, or visitor on the basis of that person's actual or perceived membership in the protected classes listed above is in violation of the LCTCS or specific LCTCS member college policy on nondiscrimination.

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

#### **16. Policy on Disability Discrimination and Accommodation**

LCTCS or specific LCTCS member college is committed to full compliance with the Americans With Disabilities Act of 1990 (ADA), as amended, and Section 504 of the Rehabilitation Act of 1973, which prohibit discrimination against qualified persons with disabilities, as well as other federal and state laws and regulations pertaining to individuals with disabilities.

Under the ADA and its amendments, a person has a disability if they have a physical or mental impairment that substantially limits a major life activity.

The ADA also protects individuals who have a record of a substantially limiting impairment or who are regarded as disabled by the LCTCS or specific LCTCS member college, regardless of whether they currently have a disability. A substantial impairment is one that significantly limits or restricts a major life activity such as hearing, seeing, speaking, breathing, performing manual tasks, walking, or caring for oneself.

The LCTCS or specific LCTCS member college's ADA/504 Coordinator is responsible for overseeing efforts to comply with these disability laws, including responding to grievances and conducting investigations of any allegation of noncompliance or discrimination based on disability.

Grievances related to disability status and/or accommodations will be addressed using the procedures below. For details relating to disability accommodations in the LCTCS or specific LCTCS member college's resolution process, see page [LCTCS Policy 6.023 on Americans With Disabilities Act: Employees and Students](#).

#### **a. Students with Disabilities**

LCTCS or specific LCTCS member college is committed to providing qualified students with disabilities with reasonable accommodations and support needed to ensure equal access to the academic programs, facilities, and activities of the LCTCS or specific LCTCS member college.

All accommodations are made on an individualized basis. A student requesting any accommodation should first contact the Director of Disability/Access Services, who coordinates services for students with disabilities.

The Director of Disability/Access Services reviews documentation provided by the student and, in consultation with the student, determines which accommodations are appropriate for the student's particular needs and academic program(s).

#### **b. Employees with Disabilities**

Pursuant to the ADA, LCTCS or specific LCTCS member college will provide reasonable accommodation(s) to all qualified employees with known disabilities when their disability affects the performance of their essential job functions, except when doing so would be unduly disruptive or would result in undue hardship to the LCTCS or specific LCTCS member college.



An employee with a disability is responsible for submitting a request for an accommodation to the ADA/504 Coordinator and providing necessary documentation. The ADA/504 Coordinator will work with the employee's supervisor to identify which essential functions of the position are affected by the employee's disability and what reasonable accommodations could enable the employee to perform those duties.

## **17. Policy on Discriminatory Harassment**

Students, staff, administrators, and faculty are entitled to an employment and educational environment that is free of discriminatory harassment. LCTCS or specific LCTCS member college's harassment policy is not meant to inhibit or prohibit educational content or discussions inside or outside of the classroom that include germane but controversial or sensitive subject matters protected by academic freedom.

The sections below describe the specific forms of legally prohibited harassment that are also prohibited under LCTCS or specific LCTCS member college policy. When speech or conduct is protected by academic freedom and/or the First Amendment, it will not be considered a violation of LCTCS or specific LCTCS member college policy, though supportive measures will be offered to those impacted.

### **a. Discriminatory Harassment**

Discriminatory harassment constitutes a form of discrimination that is prohibited by LCTCS or specific LCTCS member college policy. Discriminatory harassment is defined as unwelcome conduct by any member or group of the community on the basis of actual or perceived membership in a class protected by policy or law.

LCTCS or specific LCTCS member college does not tolerate discriminatory harassment of any employee, student, visitor, or guest. LCTCS or specific LCTCS member college will act to remedy all forms of harassment when reported, whether or not the harassment rises to the level of creating a "hostile environment."

A hostile environment is one that unreasonably interferes with, limits, or effectively denies an individual's educational or employment access, benefits, or opportunities.<sup>4</sup> This discriminatory effect results from harassing verbal, written, graphic, or physical conduct that is severe or pervasive **and** objectively offensive.

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<sup>4</sup> This definition of hostile environment is based on Federal Register / Vol. 59, No. 47 / Thursday, March 10, 1994: [Department of Education Office for Civil Rights, Racial Incidents and Harassment Against Students At Educational LCTCS or any LCTCS member colleges Investigative Guidance.](#)

When discriminatory harassment rises to the level of creating a hostile environment, LCTCS or specific LCTCS member college may also impose sanctions on the Respondent through application of the grievance process below.

The LCTCS or specific LCTCS member college reserves the right to address offensive conduct and/or harassment that 1) does not rise to the level of creating a hostile environment, or 2) that is of a generic nature and not based on a protected status. Addressing such conduct will not result in the imposition of discipline under LCTCS or specific LCTCS member college policy, but may be addressed through respectful conversation, remedial actions, education, effective Alternate Resolution, and/or other informal resolution mechanisms.

For assistance with Alternate Resolution and other informal resolution techniques and approaches, employees should contact the Director of Human Resources, and students should contact the Director of Student Conduct.

## **b. 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.

LCTCS or specific LCTCS member college has adopted the following definition of Sexual Harassment 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.

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:

- 1) Quid Pro Quo:
  - a. an employee of the LCTCS or specific LCTCS member college,
  - b. conditions the provision of an aid, benefit, or service of the LCTCS or specific LCTCS member college,
  - c. on an individual's participation in unwelcome sexual conduct; and/or
  
- 2) Sexual Harassment:
  - a. unwelcome conduct,
  - b. determined by a reasonable person,
  - c. to be so severe, and

- d. pervasive, and,
- e. objectively offensive,
- f. that it effectively denies a person equal access to the LCTCS or specific LCTCS member college's education program or activity.<sup>5</sup>

3) 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
  - iv) not forcibly or against the person's will in instances in which the Complainant is incapable of giving consent because of age<sup>6</sup> 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,

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<sup>5</sup> 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.

<sup>6</sup> Per state law.

- 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.

4) Dating Violence, defined as:

- a. violence,
- b. on the basis of sex,
- c. committed by a person,
- d. who is in or has been in a social relationship of a romantic or intimate nature with the Complainant.
  - i. 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—
  - ii. Dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse.
  - iii. Dating violence does not include acts covered under the definition of domestic violence.

5) Domestic Violence, defined as:

- a. violence,
- b. on the basis of sex,
- c. committed by a current or former spouse or intimate partner of the Complainant,
- d. by a person with whom the Complainant shares a child in common, or
- e. by a person who is cohabitating with, or has cohabitated with, the Complainant as a spouse or intimate partner, or

- f. by a person similarly situated to a spouse of the Complainant under the domestic or family violence laws of Louisiana or
- g. 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.

6) Stalking, defined as:

- a. engaging in a course of conduct,
- b. on the basis of sex,
- c. directed at a specific person, that
  - i. would cause a reasonable person to fear for the person's safety, or
  - ii. the safety of others; or
  - iii. 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](#).

LCTCS or specific LCTCS member college 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.

**c. 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 specific LCTCS member college 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.

#### **d. Other Civil Rights Offenses**

In addition to the forms of sexual harassment described above, which fall within the coverage of Title IX, the LCTCS or specific LCTCS member college 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 specific LCTCS member college 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 LCTCS or specific LCTCS member college 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.

### **18. 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. LCTCS or specific LCTCS member college is prepared to take appropriate steps to protect individuals who fear that they may be subjected to retaliation.

It is prohibited for LCTCS or specific LCTCS member college or any member of LCTCS or specific LCTCS member college's 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.

## **19. Mandated Reporting**

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

In order to make informed choices, it is important to be aware of confidentiality and mandatory reporting requirements when consulting campus resources. On campus, some resources may maintain confidentiality and are not required to report actual or suspected discrimination or harassment. They may offer options and resources without any obligation to inform an outside agency or campus official unless a Complainant has requested the information be shared.

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 specific LCTCS member college 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:

- On-campus licensed professional counselors and staff]
- On-campus health service providers and staff
- On-campus Victim Advocates
- On-campus members of the clergy/chaplains working within the scope of their licensure or ordination
- 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.

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.

LCTCS or specific LCTCS member 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 specific LCTCS member college 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 LCTCS or specific LCTCS member college's 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. Mandated Reporters and Formal Notice/Complaints**

All employees of the LCTCS or specific LCTCS member college (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 specific LCTCS member college.

Supportive measures may be offered as the result of such disclosures without formal LCTCS or specific LCTCS member college action.

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 specific LCTCS member college 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.

## **20. When a Complainant Does Not Wish to Proceed**

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.

The Title IX Coordinator has ultimate discretion over whether the LCTCS or specific LCTCS member college proceeds when the Complainant does not wish to do so, and the Title IX Coordinator may sign a formal complaint to initiate a grievance process upon completion of an appropriate violence risk assessment.

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 specific LCTCS member college 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 specific LCTCS member colleges may be compelled to act on alleged employee misconduct irrespective of a Complainant's wishes.

The Title IX Coordinator must also consider the effect that non-participation by the Complainant may have on the availability of evidence and the LCTCS or specific LCTCS member college's ability to pursue a Formal Grievance Process fairly and effectively.

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.

When the LCTCS or specific LCTCS member college proceeds, the Complainant (or their Advisor) may have as much or as little involvement in the process as 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.

Note that the LCTCS or specific LCTCS member college's ability to remedy and respond to notice may be limited if the Complainant does not want the LCTCS or specific LCTCS member college to proceed with an investigation and/or grievance process. The goal is to provide the Complainant with as much control over the process as possible, while balancing the LCTCS or specific LCTCS member college's obligation to protect its community.

In cases in which the Complainant requests confidentiality/no formal action and the circumstances allow the LCTCS or specific LCTCS member college to honor that request, the LCTCS or specific LCTCS member college will offer informal resolution options (see below), supportive measures, and remedies to the Complainant and the community, but will not otherwise pursue formal 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 LCTCS or specific LCTCS member college, and to have the incidents investigated and properly resolved through these procedures.

## **21. 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 specific LCTCS member college 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 specific LCTCS member college 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.

## **22. 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 specific LCTCS member college policy.

## **23. Amnesty for Complainants and Witnesses**

The LCTCS or specific LCTCS member college community encourages the reporting of misconduct and crimes by Complainants and witnesses. Sometimes, Complainants or witnesses are hesitant to report to LCTCS or specific LCTCS member college officials 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.

It is in the best interests of the LCTCS or specific LCTCS member college community that Complainants choose to report misconduct to LCTCS or specific LCTCS member college officials, that witnesses come forward to share what they know, and that all parties be forthcoming during the process.

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

#### **24. Federal Statistical Reporting Obligations**

Certain campus officials – those deemed Campus Security Authorities – 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) VAWA<sup>7</sup>-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.

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<sup>7</sup> VAWA is the Violence Against Women Act, enacted in 1994 codified in part at 42 U.S.C. sections 13701 through 14040.

## **25. Training, Education, and Prevention and Awareness Programs**

As mandated by Louisiana state law all employees are required to receive a minimum of one hour of education and training on preventing sexual harassment during each full calendar year of their employment. In addition, each supervisor and any person designated as an investigator of a complaint of sexual harassment shall receive additional education and training.

All LCTCS colleges will annually offer, and document, education and prevention programs that include, but are not limited to:

1. Awareness programs which consist of community-wide or audience-specific programming, initiatives, and strategies that increase audience knowledge and share information and resources to prevent violence, promote safety, and reduce sexual misconduct.
2. Bystander intervention programs which consist of safe and positive options that may be carried out by an individual or individuals to prevent harm or intervene when there is a risk of dating violence, domestic violence, sexual assault, or stalking. It also includes recognizing situations of potential harm, understanding institutional structures and cultural conditions that facilitate violence, overcoming barriers to intervening, identifying safe and effective intervention options, and taking action to intervene.
3. Ongoing prevention and awareness campaigns which consist of programming, initiatives, and strategies that are sustained over time and focus on increasing understanding of topics relevant to, and skills for addressing, dating violence, domestic violence, sexual assault, and stalking, using a range of strategies with audiences throughout the institution.
4. Prevention programs which consist of initiatives and strategies informed by research or assessed for value, effectiveness, or outcome that are intended to stop dating violence, domestic violence, sexual assault, and stalking before they occur through the promotion of positive and healthy behaviors that foster healthy, mutually respectful relationships and sexuality, encourage safe bystander intervention, and seek to change behavior and social norms in healthy and safe directions.
5. Risk reduction programming which consists of options designed to decrease perpetration and bystander inaction and to increase empowerment for victims to promote safety and to help individuals and communities address conditions that facilitate violence. Additional options may include designation and publication of "red zones" (i.e., times and places of high incidence of crimes, including sexual violence).

Each individual at an LCTCS college who is involved in implementing the college's student grievance procedures, including each individual who is responsible for resolving complaints of reported sexual discrimination or sexual misconduct, and each employee who has responsibility for conducting an interview with an alleged victim of a sexually-oriented criminal offense, must receive annual training developed by the Board of Regents/Attorney General, beginning with the 2016- 2017 academic year.



## **26. State Mandatory Reporting**

As mandated by state law the LCTCS Office and each college shall develop a report each February 1st containing information from the previous calendar year regarding compliance with this ACT 270 including:

- The number and percentage of the college's employees that have completed the training requirements;
- The number of sexual harassment complaints received by the college;
- The number of complaints which resulted in a finding that sexual harassment occurred;
- The number of compliant in which the finding of sexual harassment resulted in discipline or corrective action; and
- The amount of time it took to resolve each complaint.

## **27. Institutional and Board Office Responsibilities**

This policy applies to all institutions of the LCTCS. These procedures may be supplemented by more specific campus procedures that are consistent with this policy and state and federal laws. All institutions are required to:

- Provide to all employees a copy of this policy or their campus policy and post to their website. A contact list identifying individual names, titles, physical location and telephone number(s) where complaints may be filed shall also be included.
- Develop a system of recording all formal written complaints to be submitted and kept on file in the institution Chancellor's or Director's (as appropriate) office and in the office of the System President for those of LCTCS system office staff.
- Regularly offer training, educational and prevention programs for employees.

## **28. Cooperation with Law Enforcement**

All LCTCS colleges will comply with law enforcement requests for cooperation and such cooperation may require an institution to temporarily suspend the fact-finding aspect of a Title IX investigation while the law enforcement agency is in the process of gathering evidence. LCTCS colleges will implement appropriate interim steps/remedies during any law enforcement agency's investigation to provide for the safety of all parties to the complaint and the campus community. LCTCS colleges will promptly resume a Title IX investigation as soon as notified by law enforcement that it has completed the evidence gathering process.

All LCTCS colleges will make diligent effort to enter into Memorandum of Understanding (MOU) with local law enforcement and criminal justice agencies. Such MOUs will be updated every two years and may include:

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 on issues related to sexually-oriented criminal offenses for the purpose of sharing information and coordinating training to the extent possible
4. A method of sharing general information about sexually-oriented criminal offenses occurring within the jurisdiction of the parties to the MOU in order to improve campus safety
5. Assurances that local peace officers in addition to each full-time college or university police officer complete a sexual assault program required by state law La. R.S. 17:1805(H); 40:2405.8(A); (C)(I).

### **29. 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.

### **30. 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.

### **OTHER REFERENCES:**

Act No. 270 – Prevention of Sexual Harassment  
LA R.S. 44:51 – Sexual Misconduct  
Equal Pay Act of 1963  
Title VII of the Civil Rights Act of 1964  
Executive Order 11246 of 1965  
Age Discrimination in Employment Act of 1967

Section 501, 503, and 505 of the Rehabilitation Act of 1973  
Title I and Title V of the Americans with Disabilities Act of 1990  
Civil Rights Act of 1991  
Title II of the Genetic Information Nondiscrimination Act of 2008.