



**Policy Title:** Power-Based Violence/Title IX  
(2024 PBV & 2020 TIX Regs)

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**Policy #:** *(leave blank)*  
**Effective Date:** August 1, 2024  
**Review Date:** July 22, 2024  
**Responsible Unit:** Student Experience  
**Responsible Administrator:** Title IX Coordinator

## I. Introduction

This Uniform Policy (Policy) serves as Northwestern State University’s overarching policy against power-based violence in all its forms. It outlines procedures mandated by state law and identifies best practices that address both Title IX sexual misconduct and the overarching Power-Based Violence misconduct.

This Policy is intended to inform and guide 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 with respect 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.

The accompanying Title IX Formal Grievance Procedure 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. When power-based violence meets the criteria specified in the Title IX Regulations, it must be addressed under the Title IX Formal Grievance Procedure, and not this overarching Power-Based Violence Policy, to the extent the processes differ between the two policies. (See 34 C.F.R. §106.44-.45.)

“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:

1. Quid Pro Quo-An Institution’s faculty or staff member/employee conditioning the provision of an aid, benefit, or service on an individual’s participation in unwelcome sexual conduct;
2. 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
3. Sexual assault, dating violence, domestic violence, or stalking (See defined terms in Appendix A).

The Title IX Grievance Procedure applies to an Institution's education program activity, which is defined by the Title IX Regulations to include locations, events, or circumstances in which an Institution exercises substantial control over both the Respondent and the context in which the sexual harassment occurs, and also includes any building owned or controlled by a student organization that is officially recognized by the Institution. Under the Title IX Regulations, the Title IX Grievance Procedure does not apply to any education program or activity that does not occur in the United States (§106.44(a)).

However, power-based violence that is not covered by the Title IX Grievance Procedure, such as off-campus power-based violence alleged to have an on-campus effect or occurring during a study abroad program, may be addressed under this broader Policy.

Combined, BOR's and Louisiana's public postsecondary education systems and their Institutions' policies and procedures are intended to ensure that all students 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.

## **II. Policy Statement**

Northwestern State University (NSU) has Adopted the Louisiana Board of Regent's (BOR) Uniform Policy on Power Based Violence. <https://pbv.laregents.edu/> Updates and amendments will be performed as required by the BOR.

This policy applies 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 Title IX Formal Grievance Procedures). Northwestern State University shall implement 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. This Policy is designed to help NSU to create and maintain safe learning, working, and living environments for all individuals who participate in the institutions' activities and programs, including online instruction. It reflects BOR and NSU's strong commitment to promoting an environment that is free from power-based violence which includes sexual misconduct and Title IX conduct.

NSU will follow the lead of the BOR in reviewing, evaluating, and making any revisions or amendments to applicable power- based violence policies on an ongoing and as-needed basis.

Inquiries about the application of this policy should be directed the Northwestern State University Title IX Coordinator:

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<https://www.nsula.edu/studentexperience/notalone/>

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.

### **III. Notice of Non-Discrimination**

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, an Institution 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 NSU's commitment to maintaining a community free of discrimination, and in compliance with Title IX's mandate, the University will address allegations of power-based violence, including sexual harassment and sexual assault, in a timely and effective manner. Further, Institutions will provide resources as needed for affected persons (Reporters, Complainants, Respondents and third parties within an Institution's community), and will not tolerate retaliation against any person who reports or participates in the investigation of alleged power-based violence or sex/gender discrimination.

### **IV. Scope**

This Uniform Policy (Policy) serves as BOR'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. This Policy is intended to inform and guide the development of institutional 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 all Institutions with respect 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 Appendix A).

#### **A. Overview of Complaint Definition(s)**

A "Complainant" refers to an individual who is alleged to have been subjected to an incident of power-based violence (i.e., a First-Party Reporter or a victim or person who has otherwise been affected by power-based violence or, under the Title IX Formal Grievance Procedure governing sexual harassment, an individual who is alleged to be the victim of conduct that could constitute sexual harassment). A Complainant has certain rights under this Policy, as discussed below.

A "Respondent" refers to an individual who has been accused of conduct that could constitute power-based violence prohibited under this Policy (or, under the Title IX Formal Grievance Procedure governing sexual harassment, an individual who has been reported to be the perpetrator of conduct that could constitute sexual harassment). A student Respondent has certain rights under this Policy, as discussed below, and under the Title IX Formal Grievance Procedure when that Procedure is applicable.

A "Third Party" refers to any other participant in the process, including a witness to the incident or an individual who makes a Report on behalf of someone else.

As used throughout this Policy, references to the "Title IX Coordinator" shall include any Deputy Title IX Coordinator and any other person expressly designated by the Title IX Coordinator to act on their behalf.

## **V. Safety Education**

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.

Based on management board policy, the administration of each Institution, in consultation with campus or local law enforcement agencies, shall develop and distribute information to students regarding power-based violence, campus safety, and internet and cell phone safety and online content that is a potential threat to school safety.

The information shall include 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; and
3. Where to find reports regarding campus safety.

The information shall be distributed as part of the new student orientation and shall be posted on an easily accessible page of each Institution's website.

The reporting process for possible threats to the campus shall, at a minimum, include:

1. A standardized form to be used by students, faculty, and other personnel to report potential threats. The form shall request, at a minimum, the following information:
  - a. Name of Institution, person, or group being threatened;
  - b. Name of student, individual, or group threatening violence;
  - c. Date and time the threat was made; and
  - d. 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.

For every report of an incident of power-based violence or a safety threat received the actions taken by the Institution and the campus law enforcement agency or security officers will be documented. When there is a perceived imminent threat or safety concern, to the extent possible, campus law enforcement may be contacted.

## **VI. 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.

The BOR, system management boards, and Northwestern State University expressly prohibit 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 and 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.

NSU 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.

## **VII. Reporting Power-Based Violence**

NSU's policy provides that 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).

**NSU 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 University will take prompt action to provide Supportive Measures for the safety and well-being of any affected person as well as the campus community.

### **A. REPORTING INCIDENTS OF POWER-BASED VIOLENCE, INCLUDING TITLE IX**

NSU has made available, on the Title IX web-page, contact information for the Title IX Coordinator and Deputy Coordinator(s), as well as methods for reporting power-based violence. The preferred manner of reporting is via the Reporting Link, located at <https://www.nsula.edu/studentexperience/notalone/> (in the upper right corner).

To speak to the Title IX Coordinator please call 318-357-5570, email [obannonj@nsula.edu](mailto:obannonj@nsula.edu) or come by Room 306 of the Student Union.

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

After making a Report, an individual may choose to file a Formal Complaint to pursue resolution (under this policy or the Title IX Formal Grievance Procedure, as applicable) or if applicable, an Informal Resolution involving the Respondent may be chosen. The Respondent may choose to be involved or not be involved in an Institution's investigation and any related proceedings; or may choose to end involvement in the process.

**i. ONLINE REPORTING** NSU provides an online reporting system to collect anonymous disclosures of incidents of power-based violence and crimes, and track patterns of power-based violence and crimes on campus. The online

system also includes information regarding how to report an incident of power-based violence or crime to a Responsible Employee and law enforcement.

## **B. MANDATORY REPORTING FOR EMPLOYEES**

An employee who receives a direct statement regarding or witnesses an incident of power-based violence or sexual misconduct 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 the Institution's Title IX Coordinator. 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 Office bears responsibility for responding to reports of power-based violence. Once the information is received by the Title IX Coordinator, it constitutes a Report.

NSU recommends as a best practice that, if an employee believes an individual may intend to share any information regarding an instance of power-based violence with them, 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. NSU must provide a list of confidential resources in their policies. This information is accessible at the following website:

<https://www.nsula.edu/studentexperience/notalone/> .

## **C. 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 R.S. 17:3399.13 is confidential and not subject to disclosure except to:

1. A person employed by or under contract with the Institution 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 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 additional information pertaining to Confidential Advisors.

#### **D. ADMINISTRATIVE REPORTING**

In accordance with state law, an Institution'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.

- a. Title IX Coordinator: Not later than October Tenth (10) and April Tenth (10) of each year, the Title IX Coordinator of an Institution shall submit to the Chancellor of the Institution a written report on the reports received in accordance with information required by the BOR.

The Title IX Coordinator of an Institution shall immediately report to the Chancellor of the Institution of an incident reported to the coordinator if the coordinator has cause to believe because of the incident that the safety of any person is in imminent danger.

- b. Chancellor: The Chancellor of each Institution shall submit a report to the Institution's Management Board and System President within fourteen (14) days of receiving the report from the Title IX Coordinator in accordance with the information required by the BOR. The report shall be posted on the Institution's website.
- c. 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 System Management Board in accordance with the information



required by the BOR. The report shall be published on the website of the system.

- d. System Management Board: The System Management Board shall send an annual system-wide summary report to BOR by December Thirty-First (31) in accordance with the information required by the BOR. BOR shall post the report on its website. In addition, each management board shall send an annual training report to BOR by January Thirtieth (30). The report shall include the number of employees and confidential advisors for each institution, and the number and percentage of those who have completed the required annual training. The training report shall be published on the website of each system.
- e. Board of Regents: BOR 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 February Twenty-Eighth (28) which shall include the statewide information. The report shall also include any recommendations for legislation. The report shall be published on BOR's website.

**E. EMPLOYEE'S FAILURE TO REPORT OR FALSE REPORTING**

A Responsible Employee who is determined by the Institution'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.

**F. STUDENT'S FALSE REPORTING**

As a Best Practice BOR recommends; 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.

**G. 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 Institution in which the individual is enrolled or employed for any violation of the Institution's code of conduct reasonably related to the incident for which suspension or expulsion from the institution is not a possible punishment.

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

NSU shall provide an amnesty policy for any student who reports, in good faith, power-based violence to the University. Such a student shall not be sanctioned by the Institution for a nonviolent student conduct violation, such as underage drinking, that is revealed in the course of making such a report.

**VIII. INTERCAMPUS TRANSFER POLICY:  
TRANSCRIPT WITHHOLDING, NOTATION & COMMUNICATION**

In accordance with state law, public postsecondary 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 (PBV) or Title IX (TIX) Formal Complaint or who has been found responsible for an incident of PBV or TIX pursuant to an Institution's investigative and adjudication process. The following Section(s), which include procedures relative to the withholding or notation of transcripts during the investigative and adjudication processes, were developed by BOR in consultation with the System Management Boards.

At a minimum, for any student who is the subject of a PBV or TIX Formal Complaint and who attempts to transfer to another institution, the Institution from which the student seeks to transfer ("Sending Institution") shall either;

- (1) withhold the transcript of the student or
- (2) place a notation on the student's transcript.

If the Sending Institution does not know whether the student seeks to transfer to another Institution, the student's transcript shall either be withheld or notated.

The Sending Institution shall 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 University makes a determination that the transferring student is not responsible for PBV or TIX offences or the transferring student prevails in a request to appeal the withholding of a transcript or notation, whichever occurs first.

**A. WITHHOLDING STUDENT TRANSCRIPTS**

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

## B. 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.

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).

## C. 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 request shall be submitted in writing to the appropriate University Official through the Title IX Office. The Institution shall notify the requesting student of its decision no later than seven (7) University business days from the date that the appeal request is made.

#### **D. APPLICABILITY**

State law requires that all Louisiana public postsecondary institutions implement this Transcript, Withholding, Notation, and Communication policy; all Louisiana non-public postsecondary institutions are encouraged to implement this 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. The BOR 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. Accordingly, the BOR strongly encourages all institutions to adopt practices that fully meet this obligation.

### **IX. VICTIM'S RIGHTS POLICY**

Northwestern State University will do the following, but not limited to:

- Take immediate action in the investigations of alleged incidents
- Treat the victim/complainant with dignity and respect
- Provide timely, written notice of the allegations, proceedings, processes, and outcomes under this policy
- Provide Supportive Measures which include, but are not limited to, moving residence halls, changing the students' schedule, changing transportation options (if applicable), issue mutual no contact directives, and any other reasonable accommodations.
- Inform the victim/complainant in writing of the outcome or resolution of the complaint, any sanctions, and the rationale for the outcome, any appeal, or any other decision considered final.

### **X. IDENTIFIED BEST PRACTICES BY THE BOR**

In addition to compliance with federal and state laws and regulations, BOR has prescribed and identified a set of best practices, in accordance with Act 472, which Institutions should implement to address the resolving of power-based violence.

Once the Title IX Coordinator learns of any Report of alleged power-based violence or sex/gender discrimination, they should implement Supportive Measures as needed and initiate an investigation into the alleged incident.

The form of the investigation may vary depending on whether the alleged conduct falls within the scope of power-based violence/sexual misconduct or Title IX Conduct. If the alleged power-based violence satisfies the USDOE's definition of Title IX sexual harassment (i.e., Title IX Conduct), the Title IX Coordinator should ensure investigation and adjudication of the allegation pursuant to the Title IX Formal Grievance Procedure. However, if the alleged conduct does not satisfy the USDOE's definition of Title IX Sexual Harassment, the Title IX Coordinator will refer to the part of this Policy that addresses BOR's best practices, outlined in the Sections below.

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 & DETERMINATION OF APPROPRIATE PROCEDURES**

After an Institution's Title IX Office has received a Report of alleged power-based violence, the Title IX Office 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 USDOE's jurisdictional and definitional requirements to be categorized as Title IX conduct. If that initial assessment reveals that the alleged conduct does meet the definition of sexual harassment as contained within the USDOE's Title IX Regulations, the investigation should proceed pursuant to the Title IX Formal Grievance Procedure. If the alleged conduct does not meet the USDOE's definition of sexual harassment, the investigation should proceed pursuant to this Policy.

**B. INITIAL CONTACT WITH POTENTIAL COMPLAINANT**

After receiving a Report of power-based violence, an Institution's Title IX Office 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 Office 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 Office;
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 or Title IX Formal Complaint (including the available appeal procedures);
5. Explain the procedural differences based on Title IX vs 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. SUPPORT 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 Title IX Grievance Procedure) 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. Supportive measures may include counseling, extensions of deadlines or other course-related adjustments, modifications of work or class schedules, campus escort services, mutual no contact orders 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 are designed to restore or preserve access to the University's education program or activity, including measures designed to protect the safety of all parties and the University's educational environment.

## **XI. 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 an Institution 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 Institution will treat it as such.

An individual who is alleged to have been subjected to an incident of power-based violence (i.e., a victim or a person who has been directly affected by power-based violence) and subsequently files a Formal Complaint will be referred to as a Complainant.

Any Third-Party Reporter (i.e., someone who has knowledge of or witnessed power-based violence) may request for an Institution to treat their Report as a Formal Complaint, but that request would not make the Third-Party Reporter into a Complainant.

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 University's Title IX obligations to provide a safe and nondiscriminatory environment and if the University 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 either this Policy or the Title IX Formal Grievance Procedure.

**A. HOW TO FILE A FORMAL COMPLAINT** Individuals seeking to file a Formal Complaint may do so with the Title IX Coordinator. Formal Complaints should 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, or in person, whereby the individual can file a Formal Complaint by meeting with the Title IX Coordinator (or Deputy Coordinator) to provide a verbal description of the power-based violence which the Title IX Office will use to draft a written document that the individual will review, verify, and sign to constitute a Formal Complaint.

Note: If the Complaint filed satisfies the requirements of a Title IX Formal Complaint as defined by 34 CFR §106.30, the Title IX Office should proceed under the Title IX Formal Grievance Procedure.

**B. WITHDRAWAL OF FORMAL COMPLAINT** Northwestern State University will allow a Complainant to withdraw their Formal Complaint. If a Formal Complaint is withdrawn, the Title IX Office 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 Office should reserve the right to proceed with the Formal Complaint, even after the Complainant withdraws it, in order to protect the interests and safety of the Institution's community. In such cases, the Complainant shall be notified immediately of the Institution's decision to proceed.

## **XII. POWER-BASED VIOLENCE/TIX GRIEVANCE PROCEDURE**

*This Section describes the investigation and resolution process.*

The University should 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.

### **A. NOTICE TO RESPONDENT**

The person alleged to have committed power-based violence is called the Respondent. The Respondent should be notified in writing via the Notice of

Investigation and Allegations (NOIA), that a Formal Complaint alleging power-based violence 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) University business days of receiving NOIA, the Respondent should meet with the Title IX Office. The Title IX Office is required to provide the same information that was presented to the Complainant during their initial contact.

After reviewing the Formal Complaint and meeting with the Title IX Office 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 University Official(s) should determine the appropriate sanction(s) for the Respondent. If the Respondent disputes the allegations in the Formal Complaint, the matter will proceed to an investigation.

## **B. INVESTIGATION PROCESS**

The Title IX Office should designate Investigators specifically trained in power-based violence investigations to conduct a prompt, thorough, and fair investigation.

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, the University should 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 adjudicating University Official(s), other parties, or witnesses. If a party does not have an Advisor, they may request that the TIXC assign one for them to assist in the process.



## **C. FINDINGS & INVESTIGATIVE REPORT**

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 Office 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 ten (10) University business days after the statement or summary was provided. Following the receipt of any comments submitted, or after the allowed 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 Policy occurred, reserving that decision (and any sanctions) for the appropriate DM/HP(s). The parties should be provided with a copy of the final Investigative Report simultaneously.

## **D. 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. This process should aim to ensure fairness, to facilitate communication, and to maintain an equitable balance of power between the parties.

Institutions should 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 Institution will halt any investigation or scheduled Hearing Resolution Process 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 will oversee its implementation, the Formal Complaint would be deemed withdrawn, and the matter should be terminated. The case is closed, and an Appeal is not allowed. The resolution will be considered binding, and its breach would give rise to a new Formal Complaint.

## 2. FORMAL RESOLUTION

### **THE FORMAL HEARING RESOLUTION PROCESS:**

The Formal Hearing Resolution Process may be used at the discretion of the Title IX Coordinator. The following provisions apply to a live hearing:

- **Hearing Venue Options and Recordings.** The live hearing may occur in person or via video technology. The DM/HP(s) and Parties must be able to simultaneously see and hear a party or witness while that person is speaking. Both options are considered fair and equitable. Alternative arrangements may also be made at the Title IX Coordinator's discretion.
  - All hearings will be recorded, and Parties may request a copy of the recording from the Title IX Coordinator following the live hearing. A transcript may be provided instead of the actual recording.
  - No unauthorized recordings are permitted.
- **Scheduling.** Hearings for possible violations that occur near or after the end of an academic term (assuming the Respondent is still subject to this Policy) and are unable to be resolved prior to the end of term will typically be held immediately after the end of the term, including during the summer, as needed, to meet Northwestern State University's resolution timeline and ensure a prompt resolution. Employees, including Parties and witnesses, who do not have 12-month contracts are still expected to participate in Resolution Processes that occur during months between contracts.
- **Hearing Participants.** Persons who may be present for a hearing include the Decision Maker/Hearing Panel (DM/HP), hearing facilitator, Investigator(s), the Parties and their Advisors, anyone providing authorized accommodations, interpretation, and/or assistive services, and anyone else deemed necessary by the DM/HP. Witnesses are present only during their portion of the testimony.
- **Advisors.** The Parties may have the assistance of an Advisor of their choosing at the hearing or can request that Northwestern State University appoint a trained Advisor for them. Appointed Advisors are not attorneys. If a party wishes to have an attorney as their Advisor, they must locate and pay for that attorney themselves.

- o During the pre-hearing meeting and live hearing, Parties may only be accompanied by their Advisor. No other persons (e.g., additional support persons, advisors, friends, family) may accompany, attend, or listen in on the pre-hearing meeting or live hearing unless explicitly authorized by the Title IX Coordinator, with each party being provided the same opportunity.
  - o Parties and Advisors are permitted to have their phones and a laptop or tablet, but these should only be used during the hearing in a matter consistent with Policy.
  - o During the hearing, all questions that a party wishes to ask must be posed by the Advisor, not the Parties. **OR**
  - o At the discretion of the TIXC, all questions during the hearing may be asked by the DM/HP. Parties and Advisors may suggest questions to be posed by the DM/HP during the pre-hearing meetings or by submission of written questions during the hearing. The method of submitting questions to the DM/HP will be specified by the DM/HP during the pre-hearing meetings.
  - o If the party does not have an Advisor, the Title IX Coordinator will provide the party with an Advisor for the purpose of Advisor-conducted questioning.
- **Impact Statements.** Each party may submit an impact and/or mitigation statement to the Title IX Coordinator that the DM/HP will review during any sanction determination.
    - o Upon receipt of an impact and/or mitigation statement, the Title IX Coordinator will review the impact/mitigation statement to determine whether any immediate needs exist.
    - o The Title IX Coordinator will only provide the impact statements to the DM/HP if it is determined that the Policy has been violated. At that point, when the Title IX Coordinator shares the impact statements with the DM/HP, they will also be shared with the Parties.
  - **Disability Accommodations and Other Assistance.** Parties should contact the Title IX Coordinator at least seven (7) University Universitybusiness days prior to the hearing to arrange any disability accommodations, language assistance, and/or interpretation services that may be needed at the hearing, if possible.
  - **Conflicts of Interest or Bias.** The Decision Maker/Hearing Panel (DM/HP) must not have a bias for or against complainants or respondents generally or the individual Complainant or Respondent in particular.
    - o The DM/HP must recuse themselves if such bias or conflict of interest exists.

- If the DM/HP believes there is a possible conflict of interest or bias, they will consult with the Title IX Coordinator about possible recusal or removal.
  - The Parties may raise challenges that the DM/HP is biased or has a conflict of interest. The Parties must raise challenges with the Title IX Coordinator within two (2) University business days of receiving the hearing notice.
  - The Title IX Coordinator will only remove and replace a DM/HP in situations of demonstrated bias or conflicts of interest. Perceptions of bias or conflict are not sufficient to cause removal.
  - If a DM/HP recuses themselves as the result of a conflict of interest or bias, or is removed, the Title IX Coordinator will promptly appoint a new DM/HP who does not have a conflict of interest or bias and notify the Parties accordingly.
- **Evidence Provided to DM/HP and Parties.**
    - The DM/HP will be provided with electronic copies of the Final Investigative report and all relevant but not impermissible evidence, including the names of all Parties, witnesses, and Advisors.
    - The Parties will be provided with electronic copies of all the materials/evidence at least ten (10) University business days in advance of the hearing.

- **HEARING NOTICE**

The Title IX Coordinator will send the Parties a notice of hearing with sufficient time for the Parties to prepare for the hearing, typically at least ten (10) University business days prior to the hearing. Once the notification email has been delivered, the (10) University business days begin. The hearing notice includes:

- A description of the alleged violation(s), a list of all policies allegedly violated, a description of the applicable hearing procedures, and a statement of the potential sanctions/responsive actions that could result.
- The time, date, and location of the hearing.
- A description of any technology that will be used to facilitate the hearing.
- Relevant information regarding hearing logistics, pre-hearing meetings, the Final Investigative report, the Parties and witnesses participating in the hearing, the identity of the DM/HP, details related to questioning, the role of Advisors,

impact/mitigation statements, and how to request disability accommodations or other assistance.

#### **F. WITNESS PARTICIPATION**

Student witnesses are encouraged to participate in, and make themselves reasonably available for, the hearing. Employee witnesses are expected to participate in, and make themselves reasonably available for, the hearing. Witnesses may participate in-person or via video technology that allows the DM/HP and the Parties to see and hear the witness while that person is speaking. Witnesses are not permitted to be accompanied by an advisor. At the discretion of the DM/HP, a witness may join by phone if no other reasonable alternative is available.

The Title IX Coordinator will notify all witnesses of their requested participation in the hearing at least (5) five University Business days prior to the hearing. Witnesses will be present for the hearing only during their testimony. If any party or witness does not appear at the scheduled hearing, the hearing may be held in their absence. For compelling reasons, the Title IX Coordinator may reschedule the hearing. Any witness scheduled to participate in the hearing must have been first interviewed by the investigator(s), unless:

- All Parties and the DM/HP assent to the new witness's participation in the hearing without remanding the complaint back to the Investigator, and
- The DM/HP deems the evidence presented by the new witness to be relevant, not impermissible, and not information already established in the record, and
- The witness's late involvement was not the result of bad faith by the witness, the Parties, or others.

If the above criteria are not met, but the witness's evidence is deemed relevant, not impermissible, and not duplicative, the DM/HP may, at their discretion, engage in any of the following actions:

- Delay the hearing.
- Provide the Parties with at least five (5) University business days to review the relevant portions of the new witness's statements, if such statements are submitted.
- Remand the Complaint back to the Investigator for further investigation or verification.
- Allow the Parties to review and comment on the testimony of the new witness.

If the evidence is deemed not relevant or impermissible, the DM/HP may proceed with the hearing absent the new witness's participation.

#### **G. INTRODUCTIONS AND HEARING PROCEDURE EXPLANATION**

The DM/HP/Hearing Panel (DM/HP) will explain the hearing procedures and introduce the participants. The DM/HP will answer any procedural questions prior to and as they arise throughout the hearing.

#### **H. INVESTIGATOR PRESENTATION OF FINAL INVESTIGATIVE REPORT**

The Investigator(s) will present a summary of the Final Investigative report, including a review of the facts that are contested and those that are not. The Investigator may be questioned first by the DM/HP and then by the Parties' Advisors. The Investigator may attend the duration of the hearing or be excused after their testimony at the DM/HP's discretion.

#### **I. TESTIMONY AND QUESTIONING**

The Parties and witnesses may provide relevant information in turn, beginning with the Complainant's opening statement, then the Respondent's, and then questioning in the order determined by the DM/HP. The DM/HP(s) will facilitate questioning of the Parties and witnesses first by the DM/HP and then by the Parties through the DM/HP **OR** through their Advisors.

All questions must be directed toward and asked through the DM/HP and are subject to a relevance determination before they are asked. The DM/HP will determine the method by which the Parties will submit their questions to the DM/HP for their review and, if approved, to be posed. Questions that the Parties wish to have posed can be questions for that party themselves, another party, or witnesses.

The DM/HP will explain any decision to exclude a question as not relevant, or to reframe it for relevance.

The DM/HP will limit or disallow questions deemed inappropriate on the basis that they are irrelevant, unduly repetitious (and thus irrelevant), seek or pertain to impermissible evidence, or are abusive. The DM/HP has final say on all questions and determinations of relevance and appropriateness. The DM/HP may consult with legal counsel on any questions of admissibility.

The DM/HP then poses the questions deemed relevant, not impermissible, and appropriate to the party and/or witness.

If the Parties raise an issue of bias or conflict of interest of an Investigator or DM/HP at the hearing, the DM/HP may elect to address those issues, consult

with legal counsel, refer them to the Title IX Coordinator, and/or preserve them for appeal. If bias is not an issue at the hearing, the DM/HP should not permit irrelevant questions that probe for Investigator bias.

The DM/HP will allow witnesses who have relevant and not impermissible information to appear at a portion of the hearing to respond to specific questions from the DM/HP and the Parties, and the witnesses will then be excused.

#### **J. REFUSAL TO SUBMIT TO QUESTIONING**

Any student witness may choose not to offer evidence and/or answer questions at the hearing, either because they do not attend the hearing, or because they attend but refuse to participate in some or all questioning. Employee witnesses are required to participate in the hearing if they are reasonably available. The DM/HP can only rely on the available relevant and not impermissible evidence in making the ultimate determination of responsibility. The DM/HP may not draw any inference solely from a party's or witness's absence from the hearing or refusal to answer any or all questions.

An Advisor may not be called as a witness at a hearing to testify to what their advisee has told them during their role as an Advisor unless the party being advised consents to that information being shared.

#### **K. HEARING RECORDINGS**

Northwestern State University records hearings (but not deliberations) for purposes of review in the event of an appeal. No unauthorized audio or video recording of any kind is permitted during the hearing.

The DM/HP, the Parties, their Advisors, Appeal DM/HPs, and other appropriate Northwestern State University officials will be permitted to review the recording or review a transcript of the recording upon request to the Title IX Coordinator. No unauthorized disclosure, including sharing, copying, or distribution of the recording or transcript, is permitted.

#### **L. DELIBERATION AND DETERMINATION**

After closing statements from the Parties, the DM/HP(s) will deliberate in closed session to determine whether the Respondent is responsible for the alleged Policy violation(s) based on the preponderance of the evidence

standard of proof. If a panel is used, a simple majority vote is required to determine the finding. Deliberations are not recorded.

When there is a finding of responsibility for one or more of the allegations, the DM/HP(s) may then consider any previously submitted impact and/or mitigation statement(s) provided by the Parties in determining appropriate sanction(s). The Title IX Coordinator will ensure that any submitted statements are exchanged between the Parties if they are viewed by the DM/HP. Impact/mitigation statements do not influence the finding, they only potentially influence the sanctions.

The DM/HP will then prepare and provide the Title IX Coordinator with a written outcome letter detailing all findings and final determinations, the rationale(s) explaining the decision(s), the relevant and not impermissible evidence used in support of the determination(s), the evidence not relied upon in the determination(s), any credibility assessments, and any sanction(s) and rationales explaining the sanction(s).

This statement is typically submitted to the Title IX Coordinator within ten (10) University business days of the conclusion of the hearing, unless the Title IX Coordinator grants an extension. The Title IX Coordinator will notify the Parties of any extension.

### **XIII. SANCTIONS**

Factors the University Official(s) may consider when determining sanctions and responsive actions include, but are not limited to:

- The nature, severity of, and circumstances surrounding the violation(s)
- The Respondent's disciplinary history
- The need for sanctions/responsive actions to bring an end to the sex discrimination, sex-based harassment, and/or retaliation
- The need for sanctions/responsive actions to prevent the future recurrence of sex discrimination, sex-based harassment, and/or retaliation
- The need to remedy the effects of the sex discrimination, sex-based harassment, and/or retaliation on the Complainant and the community
- The impact on the Parties
- The Respondent's acceptance of responsibility
- Any other information deemed relevant by the University Official(s)

The sanctions will be implemented as soon as it is feasible once a determination is final, either upon the outcome of any appeal or the expiration of the window to appeal, without an appeal being requested.



The sanctions described in this Policy are not exclusive of, and may be in addition to, other actions taken, or sanctions imposed, by external authorities.

#### A. STUDENT SANCTIONS/OUTCOMES

Sanctions listed below include but are not limited to sanctions used in the Responsible finding of a PBV/TIX Formal Complaint/Hearing.

- **Reprimand:** A formal statement that the conduct was unacceptable and a warning that further violation of any Northwestern State University policy, procedure, or directive will result in more severe sanctions/responsive actions.
- **Required Counseling:** A mandate to meet with and engage in either Northwestern State University-sponsored or external counseling to better comprehend the misconduct and its effects.
- **Restrictions:** A student may be restricted in their activities, including, but not limited to, being restricted from locations, programs, participation in certain activities or extracurriculars, study abroad, or holding leadership roles in student organizations.
- **Probation:** An official sanction for violation of institutional policy, providing for more severe disciplinary sanctions in the event that the student is found in violation of any institutional 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 extra-curricular activities, exclusion from designated areas of campus, no-contact orders, and/or other measures deemed appropriate.
- **Suspension:** Separation from the institution, or one or more of its facilities, for a defined period of time, typically not to exceed two (2) years, after which the student is eligible to return. Eligibility may be contingent upon satisfaction of specific conditions noted at the time of suspension, on successfully applying for readmission, or upon a general condition that the student is eligible to return if the institution determines it is appropriate to re-enroll/readmit the student. The student is typically required to vacate institutional property within 24 hours of notification of the action, though this deadline may be extended at the discretion of the Title IX Coordinator or other appropriate official. During an institution-wide suspension, the student is banned from institutional property, functions, events, and activities unless they receive prior written approval from an appropriate institutional official. This sanction may be enforced with a trespass action, as necessary. [This sanction may be noted as a Disciplinary Suspension on the student's official academic transcript, per institutional policy and/or state law.]
- **Expulsion:** Permanent separation from the institution. The student is banned from institutional property, and the student's presence at any institution sponsored activity or event is prohibited. This action may be enforced with a trespass action, as necessary. [This sanction may be noted as Disciplinary

Expulsion on the student's official academic transcript, per institutional policy and/or state law.]

- **Withholding Diploma:** Northwestern State University 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 violating Policy.
- **Revocation of Degree:** While very rarely exercised, Northwestern State University reserves the right to revoke a degree previously awarded from Northwestern State University for fraud, misrepresentation, and/or other violation of Northwestern State University policies, procedures, or directives in obtaining the degree, or for other serious violations committed by a student prior to graduation.
- **Other Actions:** In addition to, or in place of, the above sanctions, Northwestern State University may assign any other sanctions as deemed appropriate.

#### **XIV. GRIEVANCE PROCEDURE APPEALS**

The appeal process is equally available to the parties and includes the procedures and permissible basis for the Complainant and Respondent to appeal. A request for appeal, along with supporting documentation must be submitted based on one of the following grounds within five (5) University business days of the delivery of the Notice of the Outcome. **A request for appeal without supporting documentation will result in dismissal.**

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

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 Decision Maker/Hearing Panel had a conflict of interest or bias that affected the outcome of the matter;

As to all appeals the Institution should, 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 University Official(s) for the appeal review 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 review and the rationale for the result; and
5. Provide a written decision simultaneously to both parties.

## **XV. TRAINING**

### **A. RESPONSIBLE EMPLOYEES**

The University shall require annual training for each of its

- (i) Responsible Employees;
- (ii) Individuals who are involved in implementing the Institution's student grievance procedures, including each individual responsible for resolving Formal Complaints of reported power-based violence, Title IX violations, 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.

NSU shall ensure that employees receive PBV training described in this Subsection no later than the beginning of the 2022-2023 academic year. No later than January 1, 2022, BOR, in coordination with the attorney general and in consultation with state or local victim services organizations, shall develop the annual training program required in this Section. BOR shall annually review the annual training program and revise it as needed.

### **B. CONFIDENTIAL ADVISORS**

Each Institution shall designate 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 Institution 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.

Each Institution's website shall provide 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 Institution;

2. The alleged victim's reporting options, including the option to notify the Institution, 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 Institution;
5. The process of investigation and adjudication of the criminal justice system;
6. The limited jurisdiction, scope, and available sanctions of the institutional student disciplinary proceeding, and that it should not be considered a substitute for the criminal justice process;
7. Potential reasonable accommodations that the Institution 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 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 shall:

1. Be authorized by the University to liaise with Title IX staff at the university to request reasonable accommodations through the university to allow the alleged victim to support measures.
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 institutional disciplinary proceedings; (PBV only. Not allowed in TIX cases.)
3. Advise the alleged victim of, and provide written information regarding, both the alleged victim's rights and the Institution'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 Institution.
4. Not be obligated to report crimes to the Institution 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 accommodation made by a Confidential Advisor, as provided in this Section, shall not trigger an investigation by the Institution.

The Institution shall appoint an adequate number of Confidential Advisors. The BOR shall determine the adequate number of Confidential Advisors for an

Institution based upon its size., no later than January 1, 2022, and on January 1st annually thereafter.

Each Institution that enrolls fewer than five thousand students may partner with another Institution in their system or region to provide the services described in this Section. However, this provision shall not absolve the Institution of its obligations under this Section.

## **XVI. DATA PUBLICATION(S)**

### **A. POWER-BASED VIOLENCE CLIMATE SURVEY**

Beginning in the 2022-2023 academic year, each Institution shall administer an anonymous Power-Based Violence Climate Survey (Survey) to its students once every three (3) years. If an Institution 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 shall be voluntary. No student shall be required or coerced to participate in the Survey, nor shall any student face retribution or negative consequences of any kind for declining to participate.

Subject to the foregoing paragraph, each Institution shall make every effort to maximize student participation in the Survey.

BOR shall:

1. Develop the survey in consultation with the System Management Boards and in accordance with national best practices;
2. Work with System Management Boards in researching and selecting the best method of developing and administering the survey;
3. Consult 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. Submit 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 shall summarize results from each public postsecondary education Institution and the state as a whole; and
5. Publish the survey results on BOR's website and in any other location or venue BOR considers necessary or appropriate.

Institutions must:

1. Administer a survey during the 2022-2023 academic year and every third year thereafter;
2. Report Survey results to the System Management Board and BOR; and

3. Publish the Survey results in a prominent, easily accessible location on the Institution's website.

#### **B. CAMPUS SECURITY REPORT**

In accordance with Act 447 of the 2021 Regular Legislative Session of the Louisiana Legislature, each Institution 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).

BOR recommends as a best practice to 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 Institution's website. If an individual campus does not have its own website, this information shall be posted on the main website of the Institution, with the campus clearly indicated.

BOR shall review Institutions' 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 an Institution's failure to comply with this Section.

In addition, the State Bond Commission shall not authorize the Institution to incur any debt that is subject to the Commission's approval for a period of two years following notification of the Institution'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.

#### **XVII. MEMORANDA OF UNDERSTANDING**

On or before January 1, 2022 and each subsequent year, each Institution, law enforcement, and criminal justice agency located within the parish of the campus of the Institution, 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 Institution. This MOU must be signed by all parties to the MOU.

The head of any law enforcement or criminal justice agency located within the parish of the campus of the institution shall execute an MOU proposed by an institution within the law enforcement agency's criminal jurisdiction within thirty days of receipt of the proposal.

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 an Institution.

Each executed MOU shall be reviewed annually by each Institution's Chancellor, Title IX Coordinator, and the executive officer of the criminal justice agencies involved 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 Institution and a law enforcement agency).

## **XVIII. CAMPUS POWER-BASED VIOLENCE POLICIES**

The Board of Regents shall establish uniform policies and best practices to implement measures to address the reporting of power-based violence on Institutions' campuses, the prevention of such violence, communication between Institutions regarding incidents of power-based violence, and the provision of medical and mental health care for these alleged victims.

Each Institution's Management Board shall institute policies incorporating the policies and best practices prescribed by BOR regarding the prevention and reporting of incidents of power-based violence committed by or against students of an Institution.

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

1. Confidential Advisors
2. Website
3. Online Reporting
4. Amnesty Policy
5. Training
6. Inter-campus Transfer Policy

## 7. Victims' Rights Policy

### **XIX. WEBSITE COMPLIANCE**

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

- a. Contact information for obtaining a Confidential Advisor;
- b. Reporting options for alleged victims of power-based violence;
- c. The process of investigation and disciplinary proceedings of the Institution;
- d. The process of investigation and adjudication of the criminal justice system;
- e. Potential reasonable accommodations that the Institution may provide to an alleged victim;
- f. 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;
- g. 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;
- h. Each current memorandum of understanding between the Institution and local law enforcement and criminal justice agency located within the parish of the campus (12:15-13:5); and
- i. Data publications as specified in by the BOR in this Policy.

### **XX. DEFINITIONS**

The following definitions apply to the Power Based Violence and/or Title IX Misconduct

- **Advisor.** Any person chosen by a party, or appointed by the institution, who may accompany the party to all meetings related to the Resolution Process and advise the party on that process.
- **Title IX Coordinator.** The person with primary responsibility for overseeing and enforcing the Title IX Policy. As used in these policies and procedures, the "Title IX Coordinator" also includes their designee(s).
- **Appellate/Appeals Committee:** The person or panel who reviews for standing, and accepts or rejects a submitted appeal request, determines whether any of the appeal grounds are met, and directs responsive action(s) accordingly.
- **Complainant.** A student or employee who is alleged to have been subjected to conduct that could constitute sex discrimination, sex-based harassment, or retaliation under the Policy; or a person other than a student or employee who is alleged to have been subjected to conduct that could constitute sex discrimination, sex-based harassment, retaliation, or Other Prohibited Conduct under the Policy and who was participating or attempting to participate in Northwestern State University's education program or activity at the time of the alleged sex discrimination, sex-based harassment, retaliation, or Other Prohibited Conduct.



- **Complaint.** An oral or written request to Northwestern State University that can objectively be understood as a request for Northwestern State University to investigate and make a determination about the alleged Policy violation(s).
- **Confidential Employee.**
  - An employee whose communications are privileged or confidential under federal or state law. The employee's confidential status, for purposes of this definition, is only with respect to information received while the employee is functioning within the scope of their duties to which privilege or confidentiality applies; or
  - An employee whom Northwestern State University has designated as confidential under this Policy for the purpose of providing services to persons related to sex discrimination, sex-based harassment, retaliation, or Other Prohibited Conduct. If the employee also has a duty not associated with providing those services, the employee's confidential status only applies with respect to information received about sex discrimination, sex-based harassment, retaliation, or Other Prohibited Conduct in connection with providing those services; or
  - An employee who is conducting an Institutional Review Board-approved human subjects research study designed to gather information about sex discrimination, sex-based harassment, retaliation, or Other Prohibited Conduct. The employee's confidential status only applies with respect to information received while conducting the study.
- **Dating Violence.**
  - Violence committed by a Respondent,
  - who is in or has been in a social relationship of a romantic or intimate nature with the Complainant; **and**
  - where the existence of such a relationship shall be determined based on a consideration of the following factors:
    - length of the relationship
    - type of relationship
    - frequency of the interaction between the Parties involved in the relationship.
- **Decision Maker/Hearing Panel.** The person or panel who reviews evidence, determines relevance, and makes the Final Determination of whether Policy has been violated and/or assigns sanctions.
- **Domestic Violence.** Felony or misdemeanor crimes committed by a person who:
  - is a current or former spouse or intimate partner of the Complainant under the family or domestic violence laws of Louisiana or a person similarly situated to a spouse of the Complainant;
  - is cohabitating with, or has cohabitated with, the Complainant as a spouse or intimate partner;
  - shares a child in common with the Complainant; **or**
  - commits acts against a youth or adult Complainant who is protected from those acts under the family or domestic violence laws of Louisiana.

- **Education Program or Activity.** Locations, events, or circumstances where Northwestern State University exercises substantial control over the context in which the sex discrimination, sex-based harassment, retaliation, or other prohibited conduct occurs and also includes any building owned or controlled by a student organization that Northwestern State University officially recognizes.
- **Employee.** Northwestern State University faculty, staff, employees (including graduate students), and residential assistants.
- **Finding/Final Determination.** A conclusion by the standard of proof that the alleged conduct did or did not violate Policy.
- **Fondling.**
  - The touching of the private body parts (breasts, buttocks, groin) of the Complainant by the Respondent or causing the Complainant to touch the Respondent's private body parts intentionally for a sexual purpose
  - without the consent of the Complainant, including instances where the Complainant is incapable of giving consent.
    - because of their age or
    - because of their temporary or permanent mental incapacity or physical incapacity.
- **Informal Resolution.** A resolution agreed to by the Parties and approved by the Title IX Coordinator that occurs prior to a Final Determination in the Resolution Process.
- **Investigative Report.** The Investigator's summary of all relevant evidence gathered during the investigation. Variations include the Draft Investigative report and the Final Investigative report.
- **Investigator.** The person(s) authorized by Northwestern State University to gather facts about an alleged violation of this Policy, assess relevance and credibility, synthesize the evidence, and compile this information into an Investigative report.
- **Knowledge.** When Northwestern State University receives Notice of conduct that reasonably may constitute sex discrimination, sex-based harassment, retaliation, or Other Prohibited Conduct in its Education Program or Activity.
- **Mandated Reporter.** A Northwestern State University employee who is obligated by Policy to share Knowledge, Notice, and/or reports of sex discrimination, sex-based harassment, retaliation, or Other Prohibited Conduct with the Title IX Coordinator.
- **Notice.** When an employee, student, or third party informs the Title IX Coordinator of the alleged occurrence of sex discrimination, sex-based harassment, retaliation, or Other Prohibited Conduct.
- **Parties.** The Complainant(s) and Respondent(s), collectively.
- **Peer Retaliation.** Retaliation by a student, against another student.

- **Pregnancy or Related Conditions.** Pregnancy, childbirth, termination of pregnancy, lactation, or medical conditions related thereto, or recovery therefrom.
- **Preponderance of the Evidence.** Meaning it is more likely than not that something did or did not occur.
- **Quid Pro Quo.** An Institution's faculty or staff member/employee conditioning the provision of an aid, benefit, or service on an individual's participation in unwelcome sexual conduct;
- **Rape.**  
Penetration,  
without the consent of the Complainant,  
including instances where the Complainant is incapable of giving consent
  - because of their age or
  - because of their temporary or permanent mental or physical incapacity
- **Relevant Evidence.** Evidence that may aid a DM/HP in determining whether the alleged sex discrimination, sex-based harassment, retaliation, or Other Prohibited Conduct occurred, or in determining the credibility of the Parties or witnesses.
- **Remedies.** Typically, post-resolution actions directed to the Complainant and/or the community as mechanisms to address safety, prevent recurrence, and restore or preserve equal access to Northwestern State University's Education Program and Activity.
- **Resolution Process.** The investigation and resolution of allegations of prohibited conduct under this Policy, including Informal Resolution, Administrative Resolution, and/or Hearing Resolution.
- **Respondent.** A person who is alleged to have engaged in conduct that could constitute sex discrimination, sex-based harassment, retaliation for engaging in a protected activity under this Policy, or Other Prohibited Conduct.
- **Retaliation.** Intimidation, threats, coercion or discrimination against a person by a student, employee, or person authorized by the University to provide aid, benefit or service.
- **Sanction.** A consequence imposed on a Respondent who is found to have violated this Policy.
- **Sex.** Sex assigned at birth, sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, and gender identity.
- **Sexual Assault.** Any sexual act, including Rape, Sodomy, Sexual Assault with an Object, or Fondling directed against another person without the consent of the victim, including instances where the victim is incapable of giving consent; also, unlawful sexual intercourse.
- **Stalking.**
  - engaging in a course of conduct<sup>1</sup> on the basis of sex, that is,
  - directed at a specific person that would cause a reasonable person to:
    - fear for the person's safety, or
    - the safety of others; or
  - suffer substantial emotional distress

- **Student.** Any person who has gained admission.
- **Title IX Coordinator.** At least one official designated by Northwestern State University to ensure ultimate oversight of compliance with Title IX and Northwestern State University’s Title IX program. References to the Coordinator throughout the Policy may also encompass a designee of the coordinator for specific tasks.
- **Title IX Team.** The Title IX Coordinator, any deputy coordinators, and any member of the Resolution Team, including advisors, hearing panel members, DM/HPs, etc.
- **Work Product.** Any document produced by the Northwestern State University team relating to a complaint or any part of the resolution process. It is prohibited for any party to share a Work Product in any manner.
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**XXI. RECORD RETENTION**

1. Title IX case records shall be maintained for a minimum of seven (7) years following the incident.
2. In cases of PBV/Title IX Sexual Misconduct with a RESPONSIBLE finding, a permanent notation shall be entered on the Respondent’s Academic Transcript that states: **STUDENT FOUND RESPONSIBLE IN VIOLATION OF THE CODE OF CONDUCT** and maintained in the Office of the University Registrar unless otherwise stated in the Outcome.

**Revision History**

ARTICLE #	BRIEF DESCRIPTION OF CHANGES MADE
	Updated per BOR Policy August 1, 2024

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President, Northwestern State University