5. **Tulane Emergency Medical Service (TEMS) Transport Fee:** If a TEMS staff member determines that a student is under the influence of drugs or alcohol must go to the hospital for an evaluation and/or treatment, the student must accept the transport. For this service, the student’s account will billed $200 as a reimbursement to Loyola University New Orleans.

H. **Other Penalties**
Discipline boards and administrative hearing officers are not limited to the sanctions listed, but may impose sanctions of a less severe nature which bear a reasonable relation to the fault for which the sanction is imposed. Other sanctions may include but are not limited to attendance at substance abuse counseling, testing and group education, research papers, community service, required activities, fines, restriction or loss of privileges, counseling evaluations, and work assignments.

**Section 5: Sexual Misconduct, Discrimination, and Harassment Policy and Guidelines**

I. **Sexual Misconduct**
Sexual misconduct in any form is prohibited. Sexual assault and sexual battery are both considered crimes of violence. Louisiana law defines rape as any anal, oral, or vaginal intercourse committed without lawful consent due to force, alcohol, narcotics, or unsoundness of mind. A person’s conduct may violate Loyola University New Orleans definition of sexual misconduct while not violating Louisiana law.

A. Effective, lawful consent does not exist when a party has an abnormal condition of mind produced by any cause including but not limited to the ingestion of alcohol or drugs. There can be no effective, legal consent when a party knows or should know of an impairment of the other party’s capacity to give knowing and completely voluntary consent.

B. Both partners must be equally free to act. The option must exist to change “yes” to “no” at any point in intimacy. Sexual activity may be deemed to be non-consensual if determined that coercion existed, meaning that each involved person was not afforded the option to choose whether or not to become, and continue to be, intimate with another.

C. Both partners must clearly communicate their willingness and permission. **Consent is not the absence of the word “no”**. Sexual activity may be deemed to be non-consensual if determined an individual did not display obvious and unmistakable communication of wishing to become intimate with another.

II. **Sexual Misconduct Definitions: Sexual Assault, Sexual Battery, Relationship Violence, Sexual Harassment, and Sexual Verbal Abuse**
A. **Sexual Assault and Sexual Battery**

Any sexual behavior including sexual intercourse or attempted intercourse that is against the will of another or the intentional placing of another in reasonable apprehension of receiving unwanted sexual contact. The definition applies regardless of whether the assailant is a stranger or an acquaintance. Examples include, but are not limited to, forced insertion, oral copulation, rape by foreign object, and sodomy. The unwanted touching of an intimate part of another person, such as a sexual organ, buttocks, or breast.

B. **Relationship Violence**

Abusive behavior, including threats, verbal and/or emotional abuse, and physical assault between persons in an intimate and/or sexual relationship.

C. **Sexual Harassment**

Sexual Harassment may occur within a variety of relationships. These relationships may or may not involve unequal authority. Allegations of sexual harassment will be scrutinized, regardless of the relationship of a complainant to an alleged offender. Sexual harassment is sexual advances, requests for sexual favors, and/or other verbal or physical conduct or communication of a sexual nature when:

1. Sexual submission is made a term or condition explicitly or implicitly of obtaining employment, services, or education.
2. Sexual submission is used as a factor in decisions affecting an individual’s employment, services, or education.
3. Sexual conduct or communication is of such a nature that it creates an intimidating, hostile, or offensive employment, service, or educational environment.

D. **Sexual Verbal Abuse**

Language that is sexual in nature and unwanted on the part of another person. Examples include, but are not limited to, obscene telephone calls and use of written and/or oral communication which would be considered obscene.

III. **Sexual Harassment Policy**

A. Sexual harassment in any form is prohibited under this policy. Sexual harassment is a form of discrimination and is unlawful under Title VII of the Civil Rights Act of 1964 and Title IX of the Educational Amendments of 1972. According to these statutes, sexual harassment is defined as “unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when submission to or rejection of such conduct is used as the basis for employment or educational decisions or such conduct has the purpose or effect of creating an intimidating, hostile, or offensive working or learning environment.”
1. Sexual harassment includes unsolicited and unwelcome sexual advances, requests for sexual favors, or other verbal or physical conduct of a sexual nature, when such conduct:

2. Is made explicitly or implicitly a term or condition of employment or education, or

3. Is used as a basis for an employment or educational decision, or

4. Unreasonably interferes with an employee or student’s work performance, or creates an intimidating, hostile, or otherwise offensive environment.

B. Sexual harassment does not refer to behavior or occasional compliments of a socially acceptable nature. It refers to behavior that is unwelcome and that is personally offensive, and therefore interferes with work or learning effectiveness.

C. Sexual harassment may take different forms. Examples of conduct that may constitute sexual harassment are:

1. Verbal: Sexual innuendoes, suggestive comments, jokes of a sexual nature, sexual propositions, lewd remarks, threats, requests for any type of sexual favor (this includes repeated, unwelcome requests for dates), and verbal abuse or “kidding” which is oriented towards a prohibitive form of harassment, including that which is sex oriented and considered unwelcome.

2. Non-verbal: The distribution, display, or discussion of any written or graphic material, including images, posters, and cartoons that are sexually suggestive, or show hostility toward an individual or group because of sex; suggestive or insulting sounds; leering; staring; whistling; obscene gestures; content in letters and notes, facsimiles, email, that is sexual in nature.

3. Physical: Unwelcome, unwanted physical contact, including but not limited to, touching, tickling, pinching, patting, brushing up against, hugging, cornering, kissing, and/or fondling; forced sexual intercourse or assault.

D. Courteous, mutually respectful, non-coercive interactions between employees and/or students that are acceptable to and welcomed by both parties are not considered to be harassment, including sexual harassment.

IV. Three forms of Sexual Harassment

A. Quid pro quo harassment

Where submission to harassment is used as the basis for employment or educational decisions. Quid pro quo harassment occurs when employee benefits such as raises, promotions, working hours, etc., or student benefits such as grades, assignments, recommendations, etc., are directly linked to
compliance with sexual advances. Therefore, only someone with the authority to grant such benefits can engage in quid pro quo harassment. 

Example: A supervisor promising or implying a raise to an employee if she goes on a date with him; a professor telling or suggesting to a student he will not get a recommendation for graduate school if he does not go out with her.

B. Hostile environment

Where the harassment creates an offensive and unpleasant working or learning environment. Hostile environment can be created by anyone in the work or learning environment, whether it is supervisors, fellow employees, professors, students, or outside contractors. Hostile environment harassment consists of language of a sexual nature, unwelcome sexual materials, or unwelcome physical contact as a regular part of the work environment. Cartoons or posters of a sexual nature, vulgar or lewd comments or jokes, or unwanted touching or fondling all fall into this category.

C. Gender-based hostility

Where an individual or individuals are harassed because of their gender.

V. Discrimination and Harassment Policy and Guidelines

Loyola University New Orleans strives to create and maintain a working and learning environment in which people are treated with dignity, decency, and respect. The environment of the University should be characterized by mutual trust and the absence of intimidation, oppression, and exploitation. Employees and students should be able to work and learn in a safe, yet stimulating atmosphere. The accomplishment of this goal is essential to the mission of the University. For that reason, Loyola will not tolerate unlawful discrimination or harassment of any kind. Through enforcement of this policy and through education of employees and students, Loyola will seek to prevent, correct, and, when necessary, sanction behavior that violates this policy.

All employees and students, regardless of their position, are covered by and are expected to comply with this policy, and to take appropriate measures to ensure that prohibited conduct does not occur. Appropriate disciplinary action will be taken against any employee or student who violates this policy.

Any Loyola faculty member who is found to have engaged in conduct prohibited under this policy is subject to disciplinary action according to the procedures in the Faculty Handbook. Any Loyola staff member who is found to have engaged in conduct prohibited under this policy is subject to disciplinary action according to the procedures in the Human Resources Policies and Procedures Manual. Any Loyola student who is found to have engaged in conduct prohibited under this policy is subject to disciplinary action according to the procedures in the Code of Conduct.

A. Discrimination
1. It is a violation of this policy to discriminate in the provision of employment or educational opportunities, to create discriminatory work or learning conditions, or to use discriminatory evaluative standards if the basis of that discriminatory treatment is, in whole or in part, the person's race, color, sex, national origin, age, religion, disability status, military/veteran status, or sexual orientation.

2. Discrimination of this kind is also prohibited by a variety of federal, state, and local laws, including Title VII of the Civil Rights Act 1964; Title IX of the Educational Amendments of 1972; the Age Discrimination in Employment Act of 1975; the Americans With Disabilities Act of 1990; the Family and Medical Leave Act; the Equal Pay Act, and Louisiana discrimination statues.

3. Discrimination in violation of this policy will be subject to severe sanctions up to and including termination of employment.

B. Harassment
   1. Harassment, including sexual harassment, is prohibited by federal and state laws. This policy prohibits harassment, and Loyola will take appropriate action to swiftly address any unlawful harassment. Harassment is defined as verbal or physical conduct that has as its effect to threaten, intimidate, or coerce. Also included are verbal taunting (including racial and ethnic slurs) which, in the employee's or the student's opinion, impairs his or her ability to perform his or her job or studies.

   2. Examples of inappropriate conduct are:
      a. Verbal: Insulting comments, epithets, slurs or negative stereotyping regarding a person's nationality, origin, race, color, religion, age, gender, sexual orientation, disability, or other protected status.
      b. Non-verbal: Distribution or display of any written or graphic material that ridicules, denigrates, insults, belittles, or shows hostility toward an individual or group because of national origin, race, color, religion, age, gender, sexual orientation, disability, or other protected status.

C. Bias-Related Behavior
Actions or expressions which may cause violent situations, create a clear and present danger of violent situations, or which represent an attempt to demean, degrade, or harass members of the University community. Such actions would include, but are not limited to, acts of violence, physical, and/or non-verbal threats, harassment, slurs, degrading humor, and written materials such as epithets, graffiti, or other similar expression.

D. What those who are harassed should do:
   1. Loyola wants to stop inappropriate behavior, especially before it becomes a violation of law. The university cannot solve a problem of which it is not aware. Report inappropriate behavior.
   2. Review the complaint procedure set forth in this document.
3. Contact the Director of Human Resources to file a complaint against an employee—faculty or staff. If the director of human resources is unavailable, or if a student is uncomfortable reporting to the Director of Human Resources, the student may report to the alternate—Vice President for Administration and Finance.

4. Contact the Vice President for Student Affairs and Associate Provost to initiate a complaint against a student. If the Vice President for Student Affairs and Associate Provost is unavailable, or if a student feels uncomfortable reporting to the Vice President for Student Affairs and Associate Provost, the student may report to the alternate—the Director for Residential Life. The Vice President for Student Affairs and Associate Provost or their alternate may request that the student meet with the investigator for University Police to file a written report.

5. The complainant (the employee or student making the complaint) may use the Harassment/Discrimination Reporting Form or other written form of communication, or may file a complaint in person with the appropriate party referenced above.
   o Note: It is not a prerequisite for filing a complaint with the university that a student first confronts the alleged violator.

II. Procedures for Reporting Harassment, Sexual Harassment, Discrimination, or Sexual Misconduct

A. Observation of Discrimination or Harassment
   If a student becomes aware of discrimination or harassment, either from personal observation or as a result of an employee or student coming forward, the student should immediately report it to the Director of Human Resources or alternate (faculty or staff alleged violator) or the Vice President for Student Affairs and Associate Provost or alternate (student alleged violator).

B. Options Available for Students after a Sexual Misconduct Incident
   1. Report to LUPD
      a. Report to LUPD and press charges - NOPD will then be called.
         i. After NOPD is called a uniformed officer will arrive to speak with the victim.
         ii. The uniformed officer will call a sex crimes detective who will then take the lead on the case.
      b. Report to LUPD and do not press charges.
         i. LUPD will ask if the victim would like to speak with a female officer.
         ii. LUPD will ask the victim if they would like to have a counselor called from the University Counseling Center.
      c. Report to LUPD anonymously without providing personal information.
2. **Receive an Exam**
   a. Students who allegedly have been sexually assaulted should not shower, bathe, brush their teeth, or change clothes until they have been medically examined. This is necessary to preserve evidence.
   b. Victim can receive a **free** medical exam at The Medical Center of Louisiana at New Orleans, located on 2021 Perdido Street off Tulane Avenue (1-800-256-2311).
      i. Sexual Assault Nurse Examiners (SANE) Available.
      ii. Only facility in the metro area that offers forensic exams.
      iii. Can obtain exam regardless of whether or not assault is reported.
      iv. Options for exam.
         - Evidence collection (sent to NOPD, preserved for 30 days)
         - Medical exam without evidence collection
      v. Option to have medical advocate called from Metropolitan Center for Women and Children.

3. **Pursue Loyola University Judicial Action** *
   a. Victim may pursue university judicial action if the accused individual is also a Loyola student.
      - After filing a judicial report with LUPD, contact the Office of Student Affairs at 504-865-3030.
   b. The Loyola University Board of Review will review all incident reports any supplemental materials or statements in a formal judicial hearing.
      - As judicial “complainant”, the victim may be present at his or her discretion to provide testimony. Anonymity may be granted for complainants and/or other witnesses. **
   c. The Board of Review will deliberate on all evidence and make decisions about the responsibility of the accused student in a hearing.

*This process is not related to and is independent of any criminal proceedings in a court of law.
**Refer to “Victim/Complainant Rights” and “Procedures for Anonymity” in the Student Code of Conduct.

4. **Receive Support**
   a. **Campus Support:**
      i. University Counseling Center: (504) 865-3835
         - Receive confidential individual counseling, consultation, and/or advocacy.
      ii. University Ministry: (504) 865-3226
      iii. Student Health Services: (504) 865-3326
      iv. Women’s Resource Center: (504) 865-7880
   b. **Community Support:**
      i. RAINN (Rape, Abuse & Incest National Network)
         - 1-800-656-4673
5. **Note to professors**

There are many choices facing a victim after a sexual assault. The diagram above provides basic information regarding these choices. These options do not have to be conducted in any particular order and can happen at any point after a sexual assault. It may be helpful to emphasize to victims that all decisions are the choice of the victim, and they can discuss options with a counselor at the University Counseling Center (UCC) as requested. For further information please do not hesitate to call the UCC at (504) 865-3835.

6. **Academic/Living Situation Assistance**

Students wishing assistance in their academic or living situations after an alleged sexual assault incident should contact the Vice President for Student Affairs and Associate Provost for referral to the appropriate person. Assistance will be given if requested by the student and if such changes are reasonably available.

C. **Special Reporting Situations**

1. Allegations of discrimination or harassment by the director of human resources should be reported to the Vice President for Finance and Administration. Allegations of discrimination or harassment by a Vice President should be reported to the President.

2. Allegations of discrimination or harassment by the President should be reported to the chair of the Board of Trustees.

3. Any person using the complaint resolution procedure will be treated courteously, the problem handled swiftly and as confidentially as feasible in light of the need to take appropriate corrective action, and the registering of a complaint will in no way be used against the employee or student, nor will it have an adverse impact on the individual’s employment or educational status.

4. While reporting such incidents can be a difficult personal experience, allowing discrimination or harassment activities to continue will most certainly lead to less desirable outcomes. For that reason, employees and students are required to follow these procedures. However, filing groundless and malicious complaints is an abuse of this policy and is prohibited.

D. **Responsibilities**

All Loyola employees and students must share the responsibility of understanding and preventing discrimination and harassment. Ultimately, no satisfactory
investigation or resolution of complaints can occur without the initiative and continued cooperation of the complainant.

E. Support Services for Students
   1. University Police officers will use all reasonable means to protect the victim and prevent further violence. In addition, University Police officers will assist in obtaining medical treatment as well as giving the victim immediate and adequate written notice of the rights of the victim and of the remedies and services available.
   2. Counseling is also available for victims of domestic violence through the Counseling Center, University Ministry, and by referral to off-campus agencies.

F. Educational Programs
   Educational programs to promote the awareness of sexual assault, acquaintance rape, and other sex offenses are offered periodically throughout the academic year through the Counseling Center.

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<thead>
<tr>
<th>TELL SOMEONE: All Calls are CONFIDENTIAL</th>
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<tr>
<td>Loyola University Police Department:</td>
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<td>University Counseling Center:</td>
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<td>SARA (Sexual Assault Recovery Assistance Center):</td>
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