

**SEXUAL MISCONDUCT**  
**SECTION IX. – NOTICE AND COMMENT**

The Board of Trustees approved Section IX. Sexual Misconduct of the Lone Star College Policy Manual on **April 5, 2018** revising and consolidating prior sections discussing sexual misconduct. The notice and comment period for the policy was open to the public from **January 25, 2018 through February 24, 2018**. The procedures were last updated on **October 10, 2018**. The notice and comment period for the procedures was open to the public from **August 27, 2018 to September 26, 2018**. The policy and procedures were posted for public comment at <http://www.lonestar.edu/proposed-policies.htm>. Commenters could anonymously submit comments to [LSC-PolicyFeedback@lonestar.edu](mailto:LSC-PolicyFeedback@lonestar.edu). We received two comments regarding the policy and nine comments regarding the procedures.

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**Comment 1:** A policy commenter asked about Title IX protection for pregnant students.

**Response 1:** The Office of the General Counsel notes that student pregnancy discrimination (without sexual misconduct) is governed by Board Policy Section VI.D.12. Civil Rights Complaints. For example, a student denied College program participation on account of her pregnancy may submit a student civil rights complaint in accordance with Board Policy Section VI.D.12.

**Comment 2:** A policy commenter suggested the amnesty scope be expanded to include academic misconduct to better align with SB 696's reference to the institution's code of conduct.

**Response 2:** The Office of the General Counsel agreed with the commenter and, following the notice and comment period, expanded the amnesty scope to include academic and non-academic misconduct.

**Comment 3:** A procedure commenter indicated that the advisor should be permitted to speak on behalf of the complainant or respondent since attorneys speak on behalf of defendants in criminal proceedings.

**Response 3:** The Office of the General Counsel notes that the Sexual Misconduct policy, posted for notice and comment from January 25, 2018 through February 24, 2018, explains the role of advisor in Section IX.A.1.3.(e) Advisor. Board Policy controls over Chancellor's Procedures. The Chancellor's Procedures reiterate the advisor's role as stated in Board Policy permitting the advisor to support and advise the party directly in any meeting or proceeding. The Office of the General Counsel also notes that these are administrative proceedings, not civil or criminal.

**Comment 4:** A procedure commenter agreed with and understood the Sexual Misconduct policy and procedures.

**Response 4:** The Office of the General Counsel thanks the commenter for taking the time to read, review, and comment on the posted procedures.

**Comment 5:** A procedure commenter stated that colleges and universities should apply a “beyond a reasonable doubt” standard for sexual violence proceedings since that is the standard used in serious criminal matters.

**Response 5:** The Office of the General Counsel notes that the Sexual Misconduct policy, posted for notice and comment from January 25, 2018 through February 24, 2018, states “preponderance of the evidence standard must be used in any result proceeding under this section” in Section IX.A.1.3.(g)(1) Evidentiary Standard. Board Policy controls over Chancellor’s Procedures. The Chancellor’s Procedures reiterate the standard set by Board Policy. The Office of the General Counsel also notes that these are administrative proceedings, not civil or criminal.

**Comment 6:** A procedure commenter stated that a “clear and convincing” standard of evidence should be used instead of a “preponderance of the evidence” standard because of the potential consequences to a respondent.

**Response 6:** The Office of the General Counsel notes that the Sexual Misconduct policy, posted for notice and comment from January 25, 2018 through February 24, 2018, states “preponderance of the evidence standard must be used in any result proceeding under this section” in Section IX.A.1.3.(g)(1) Evidentiary Standard. Board Policy controls over Chancellor’s Procedures. The Chancellor’s Procedures reiterate the standard set by Board Policy.

**Comment 7:** A procedure commenter expressed concern that individuals may use the Sexual Misconduct policy and procedures to complain about a faculty member’s course content.

**Response 7:** The Office of the General Counsel notes that Board Policy Section V.I. Academic Freedom and Responsibilities governs instructional employees’ rights and responsibilities regarding class content as well as challenges to said content.

**Comment 8:** A procedure commenter read and agreed with the Sexual Misconduct procedures.

**Response 8:** The Office of the General Counsel thanks the commenter for taking the time to read, review, and comment on the posted procedures.

**Comment 9:** A procedure commenter indicated that, in the event of a sexual violence allegation, police should be involved instead of a third party hearing officer.

**Response 9:** The Office of the General Counsel notes that the Sexual Misconduct policy and procedures are administrative in nature. It is the complainant's decision whether he or she makes a criminal complaint to the authorities.

**Comment 10:** A procedure commenter noted from personal experience how difficult college can be and sympathizes with sexual assault victims enduring psychological trauma while attending college. The commenter indicated that it is important for the College to continue addressing sexual misconduct allegations, provide students with available resources, and help students feel safe enough to report a sexual misconduct incident.

**Response 10:** The Office of the General Counsel thanks the commenter for taking the time to comment on the posted Sexual Misconduct procedures.

**Comment 11:** A procedure commenter asked what the consequence would be for a Responsible Employee or Campus Security Authority (CSA) if they did not disclose a sexual misconduct complaint to the Title IX Coordinator and, if a Clery crime, to the Clery Compliance Officer.

**Response 11:** The Office of the General Counsel cannot comment on what discipline an employee (Responsible Employee or CSA) would face if he or she failed to disclose a sexual misconduct complaint to the proper employees. The College, however, could face Title IX and or Clery complaints submitted to the Department of Education or in court if it knew or should have known about a complaint and did nothing in response.