



Document History
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# **Southeastern Louisiana University Power-Based Violence & Sexual Misconduct Policy**

## **I. Policy Statement**

Southeastern Louisiana University, hereafter referred to as “Recipient,” prohibits discrimination on the basis of sex in accordance with federal and state law, including the following:

### **Title VII of the Civil Rights Act of 1964**

**ACT 472 of the 2021 Regular Legislative Session of the Louisiana Legislature** which sets forth processes and procedures to guide public postsecondary education stakeholders in maintaining safety and protection for students and employees. Power-based violence is defined as any form of interpersonal violence intended to control or intimidate another person through the assertion of power over the person;

**Title IX of the 1972 Education Amendments** which (i) prohibits discrimination on the basis of sex in educational institutions and (ii) requires colleges and universities receiving federal funding to combat gender-based violence and harassment, and respond to survivors’ needs in order to ensure that all students have equal access to education;

**The Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (Clery Act)**, which requires (i) policies and procedures for sexual assault and (ii) requires timely warning and external reporting of crimes;

**Section 304 of the Violence Against Women Reauthorization Act of 2013 (VAWA)**, which extends the Clery Act to include dating violence, domestic violence and stalking;

**The Louisiana Campus Accountability and Safety Act (R.S. 17:399.11 et seq.)**

This policy was designed to ensure a safe and non-discriminatory educational and work environment and to meet legal requirements. Inquiries about the application of this policy should be directed to the following individuals:

Title IX Coordinator – Mr. Gene Pregeant (victor.pregeant@southeastern.edu)

Title IX Deputy Coordinator – Dr. Gabe Willis (gabe.willis@southeastern.edu)

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.

The comprehensive approach 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).

## **II. 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 IX of the Education Amendments of 1972, 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 Act 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 Service Employment and Reemployment Rights Act, as amended, and the Genetic Information Nondiscrimination Act of 2008, Recipient 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 its commitment to maintaining a community free of discrimination, and in compliance with Title IX's mandate, Recipient shall address allegations of sexual misconduct or power-based violence, including sexual harassment and sexual assault, in a timely and effective manner. Further, Recipient will provide resources as needed for affected persons (Reporters, Complainants, Respondents and third parties within Recipient's community) and will not tolerate

retaliation against any person who reports or participates in the investigation of alleged sexual misconduct or power-based violence or sex/gender discrimination.

### **III. Scope**

This policy applies to Recipient's students and faculty/staff. This policy prohibits sexual misconduct or power-based violence committed by or against students and faculty/staff by other students, faculty/staff, or third parties.

This over-arching policy is intended to inform and guide individuals who have been affected by sexual misconduct or power-based violence, whether as a Complainant, a Respondent, or a witness, and to provide fair and equitable procedures for the investigation and resolution of Reports and Complaints.

Sexual Misconduct (Non-Title IX Conduct), which is addressed in this overarching policy, is a broader term than Title IX that covers gender/sex-based conduct beyond the Title IX regulations' definition of "sexual harassment." Sexual misconduct or power-based violence prohibited by this policy includes conduct that amounts to power-based violence as defined in Appendix A of this policy.

This policy applies generally to conduct on Recipient's premises; at Recipient-affiliated educational, athletic, or extracurricular programs or activities that have an adverse effect on the education or employment of a member of the Recipient's community; or that otherwise threatens the health and/or safety of a member of the Recipient's community.

When conduct meets the criteria specified in the Title IX regulations (conduct which constitutes "sexual harassment" - as defined by Section 106.30 and relates to Recipient's "education program or activity" - against a person in the United States), said conduct must be addressed through Recipient's Title IX Grievance Procedures and not this overarching Power-Based Violence & Sexual Misconduct Policy. The Title IX Grievance Procedures can be found at [http://www.southeastern.edu/resources/policies/policy\\_detail/title\\_ix\\_grievance\\_procedure.html](http://www.southeastern.edu/resources/policies/policy_detail/title_ix_grievance_procedure.html).

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

- a. Recipient's faculty or staff member/employee conditioning the provision of an aid, benefit, or service on an individual's participation in unwelcome sexual conduct ("quid pro quo");
- b. Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to education programs or activities; or

- c. Sexual assault, dating violence, domestic violence, or stalking (see defined terms in Definition Section hereinbelow).

The Title IX Grievance Procedures apply to Recipient's education program/activity, which is defined by the Title IX Regulations to include locations, events, or circumstances in which Recipient 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 Recipient. Under the Title IX Regulations, the Title IX Grievance Procedures do not apply to any education program or activity that does not occur in the United States (Sec. 106.44(a).)

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

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

#### **IV. Overview of Policy and Definitions**

Southeastern Louisiana University, hereinafter referred to as Recipient, prohibits sexual misconduct or power-based violence and is committed to providing a learning, working, and living environment that promotes integrity, civility, and mutual respect in an environment free from sexual misconduct or power-based violence as provided in Title IX and other applicable laws. Recipient will strive to create and maintain safe learning, working, and living environments for all individuals who participate in Recipient's education programs and activities, including online instruction.

Recipient will investigate all reports of sexual misconduct or power-based violence ("Reports") received by the Title IX Coordinator. Recipient is authorized under this Power-Based Violence & Sexual Misconduct Policy and its accompanying Title IX Formal Grievance Procedures, to take certain actions to address or remedy sexual misconduct or power-based violence after receiving a Report, during an investigation, and after an investigation, even if the matter does not proceed to an adjudication.

Anyone can report an incident of sexual misconduct or power-based violence to the Recipient under the procedure describe in Section V of this Policy.

## Definitions

- A. Dating Violence definition in Clery Act: Violence including, but not limited to, sexual or physical abuse or the threat of such abuse, committed by a person who is or has been in a social relationship of a romantic or intimate nature with the Complainant. The existence of such a relationship will be determined based on a consideration of the length and type of relationship and the frequency of interaction.
- B. Dating Violence definition in Louisiana law: “Dating violence” includes, but is not limited to, physical or sexual abuse and any offense against the person as defined in the Criminal Code of Louisiana, except negligent injury and defamation, committed by one dating partner against the other. La. RS 46:2151(C) For purposes of this Section, “dating partner” means any person who is or has been in a social relationship of a romantic or intimate nature with the victim and where the existence of such a relationship shall be determined based on a consideration of the following factors:
  - a. The length of the relationship.
  - b. The type of relationship.
  - c. The frequency of interaction between the persons involved in the relationship.
- C. Domestic Violence definition in Clery Act: Violence, including but not limited to, sexual or physical abuse or the threat of such abuse committed by a current or former spouse or intimate partner or any other person from whom the Complainant is protected under federal or Louisiana law. Felony or misdemeanor crime of violence committed:
  - a. By a current or former spouse or intimate partner of the victim;
  - b. By a person with whom the victim shares a child in common;
  - c. By a person who is cohabitating with, or has cohabitated with, the victim as a spouse or intimate partner;
  - d. By a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred;
  - e. By any other person against an adult or youth victim who is protected from that person’s acts under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred.
- D. Domestic abuse definition in Louisiana law: Includes, but is not limited to, physical or sexual abuse and any offense against the person as defined in the Criminal Code of Louisiana, except negligent injury and defamation, committed by one family or household member against another. La. RS 46:2132(3)
- E. Family violence definition in Louisiana law: Means any assault, battery, or other physical abuse which occurs between family or household members who reside together or who formerly resided together. La. RS 46:2121.1(2)
- F. Power-based Violence: Power-based violence is defined as any form of interpersonal violence intended to control or intimidate another person through the assertion of power over the person.
- G. Sexual Assault as defined by the Clery Act: An offense that meets the definition of rape, fondling, incest, or statutory rape as used in the FBI’s Uniform Crime Reporting (UCR) program.
- H. Sexual Assault as defined by Louisiana State Law: La.RS 29:220.

- (1) A sexual act upon another person by any of the following:
  - (a) Threatening or placing another person in fear.
  - (b) Causing bodily harm to another person.
  - (c) Making a fraudulent representation that the sexual act serves a professional purpose.
  - (d) Inducing a belief by any artifice, pretense, or concealment that the person is another person.
- (2) A sexual act upon another person when the person knows or reasonably should know that the other person is asleep, unconscious, or otherwise unaware that the sexual act is occurring.
- (3) A sexual act upon another person when the other person is incapable of consenting to the sexual act due to any of the following:
  - (a) Impairment by any drug, intoxicant, or other similar substance, and that condition is known or reasonably should be known by the person.
  - (b) A mental disease or defect or physical disability, and that condition is known or reasonably should be known by the person.
- I. Non-Consensual Sexual Contact: Any intentional sexual touching, or attempted sexual touching, without Consent.
- J. Non-Consensual Sexual Intercourse: Having or attempting to have sexual intercourse, cunnilingus, or fellatio without Consent. Sexual intercourse is defined as anal or vaginal penetration by a penis, tongue, finger, or inanimate object.
- K. Sexually Oriented Criminal Offense: Any sexual assault offense as defined in La. R.S. 44:51 and any sexual abuse offense as defined in R.S. 14:403.
- L. Sexual Exploitation: An act attempted or committed by a person for sexual gratification, financial gain, or other advancement through the abuse or exploitation of another person's sexuality. Examples of sexual exploitation include, but are not limited to, non-consensual observation of individuals who are undressed or engaging in sexual acts, non-consensual audio- or videotaping of sexual activity, prostituting another person, allowing others to observe a personal consensual sexual act without the knowledge or consent of all involved parties, and knowingly exposing an individual to a sexually transmitted infection without that individual's knowledge.
- M. Stalking as defined by Clery Act: Intentional and repeated following OR harassing that would cause a reasonable person to feel alarmed OR that would cause a reasonable person to suffer emotional distress OR intentional and repeated uninvited presence at another person's home, workplace, school, or any other place which Sexual Misconduct would cause a reasonable person to be alarmed OR would cause a reasonable person to suffer emotional distress as a result of verbal or behaviorally implied threats of death, bodily injury, sexual assault, kidnapping, or any other statutory criminal act to the victim OR any member of the victim's family OR any person with whom the victim is acquainted. 34 CFR 668.46(a) (ii).
- N. Stalking as defined by Louisiana State law: Stalking is the intentional and repeated following or harassing of another person that would cause a reasonable person to feel alarmed or to suffer emotional distress. Stalking shall include, but not be limited to, the intentional and repeated uninvited presence of the perpetrator at another person's

home, workplace, school, or any place which would cause a reasonable person to be alarmed, or to suffer emotional distress as a result of verbal, written or behaviorally implied threats of death, bodily injury, sexual assault, kidnapping, or any other statutory criminal act to another person or any member of the person's family or any person with whom such person is acquainted. La. RS 14:40.2(A) "Harassing" means the repeated pattern of verbal communications or nonverbal behavior without invitation which includes, but is not limited to, making telephone calls, transmitting electronic mail, sending messages via a third party, or sending letters or pictures. "Pattern of conduct" means a series of acts over a period of time, however short, evidencing an intent to inflict a continuity of emotional distress upon the person. Constitutionally protected activity is not included within the meaning of pattern of conduct. La. RS 14:40.2(C).

### **Other Definitions**

Although the following definitions are not defined by state and/or federal law, the definitions shall also be used in institutional policy and in the implementation thereof by all Louisiana public postsecondary education institutions:

- A. Coercion: The use of express or implied threats, intimidation, or physical force which places an individual in fear of immediate harm or physical injury or causes a person to engage in unwelcome sexual activity. Coercion also includes administering a drug, intoxicant, or similar substance with the intent to impair that person's ability to Consent prior to engaging in sexual activity.
- B. Confidential Advisor: The Confidential Advisor primarily serves to aid a student involved in a sexual misconduct complaint in the resolution process as a confidential resource. As suggested by the term "Confidential Advisor, confidential communication with the advisor will be kept confidential in all circumstances except where the institution or Advisor may be required to disclose the communication under state law and federal laws. For example, an institution may be compelled by law to disclose communication between the student and his/her Confidential Advisor if directed by the court of civil litigation. The institution shall designate individuals who shall serve as Confidential Advisors.
- C. Consent: Consent to engage in sexual activity must exist from beginning to end of each instance of sexual activity. Consent is demonstrated through mutually understandable words and/or actions that clearly indicate a willingness to engage in a specific sexual activity. Silence alone, without actions evidencing permission, does not demonstrate Consent. Consent must be knowing and voluntary. To give Consent, a person must be of legal age. Assent does not constitute Consent if obtained through coercion or from an individual whom the alleged offender knows or reasonably should know is incapacitated. The responsibility of obtaining Consent rests with the person initiating sexual activity. Use of alcohol or drugs does not diminish one's responsibility to obtain Consent. Consent to engage in sexual activity may be withdrawn by any person at any time. Once withdrawal of Consent has been expressed, the sexual activity must cease. Consent is automatically withdrawn by a person who is no longer capable of giving Consent. A current or previous

consensual dating or sexual relationship between the parties does not itself imply Consent or preclude a finding of responsibility.

- D. Incapacitation: An individual is considered to be incapacitated if, by reason of mental or physical condition, the individual is manifestly unable to make a knowing and deliberate choice to engage in sexual activity. Being drunk or intoxicated can lead to Incapacitation; however, someone who is drunk or intoxicated is not necessarily incapacitated, as Incapacitation is a state beyond drunkenness or intoxication. Individuals who are asleep, unresponsive or unconscious are incapacitated. Other indicators that an individual may be incapacitated include, but are not limited to, inability to communicate coherently, inability to dress/undress without assistance, inability to walk without assistance, slurred speech, loss of coordination, vomiting, or inability to perform other physical or cognitive tasks without assistance.
- E. Mandatory Reporter: An individual who is obligated by law to report any knowledge they may have of power-based violence. For purposes of this policy, mandatory reporters include Responsible Employees. (See definition of Responsible Employee.)
- F. Responsible Employee: An employee who receives a direct statement regarding or witnesses an incident of power-based violence. Responsible Employees do not include an employee designated as a Confidential Advisor pursuant to R.S. 17:3399.15(B) or an employee who has privileged communications with a student as provided by law.
- G. Retaliation: Acts or attempted acts for the purpose of interfering with any report, investigation, or proceeding under this policy, or as retribution or revenge against anyone who has reported sexual misconduct or relationship violence or who has participated (or is expected to participate) in any manner in an investigation, or proceeding under this policy. Prohibited retaliatory acts include, but are not limited to, intimidation, threats, coercion, or discrimination. Title IX prohibits Retaliation. For purposes of this policy, an attempt requires substantial steps towards committing a violation.
- H. Sexual Harassment: Unwelcome conduct of a sexual nature when i) submission to such conduct is made either explicitly or implicitly a term or condition of a person's employment or education; ii) submission to or rejection of such conduct by a person is used as the basis for a decision affecting that person's employment or education; or iii) such conduct is so severe, pervasive, and objectively offensive that it unreasonably interferes with a person's employment or education, or creates an intimidating, hostile, or offensive employment or educational environment, and has no legitimate relationship to the subject matter of a course or academic research. Sexual Harassment also includes non-sexual harassment or discrimination of a person because of the person's sex and/or gender, including harassment based on the person's nonconformity with gender stereotypes. For purposes of this Policy, the various forms of prohibited Sexual Harassment are referred to as "Sexual Misconduct."
- I. Title IX Coordinator: The individual designated by a public postsecondary education institution as the official for coordinating the Institution's efforts to comply with and carry out its responsibilities under Title IX of the Education Amendments of 1972 and Act 472 the 2021 Regular Legislative Session of the Louisiana Legislature.



## Participant Definitions

- A. Advisor: A Person chosen by a party or appointed by Recipient to accompany the party to meetings related to the resolution process, to advise the party on that process, and to conduct cross-examination for the party at the hearing, if any.
- B. Complainant: An individual who is alleged to have been the subject of an incident of power-based violence or sexual misconduct.
- C. Decision Maker(s): Person(s) responsible for determining responsibility within the adjudication process.
- D. Victim: An individual who, after all due investigation and/or adjudication, has been found to be the target of sexual misconduct.
- E. Respondent: An individual who has been accused of conduct that could constitute power-based violence or sexual misconduct prohibited by the policy.
- F. Perpetrator: An individual found guilty of sexual misconduct.
- G. Third Party: Any other participant in the process, including a witness to the incident or an individual who makes a report on behalf of someone else.

## V. Reporting Sexual Misconduct or Power-Based Violence

Anyone may report an incident of sexual misconduct or power-based violence (e.g. Title IX Conduct and Non-Title IX Conduct).

A report can be made by an individual who:

- a. Has experienced or been affected by sexual misconduct or power-based violence (i.e., First-Party Reporter); or
- b. Has knowledge of or witnessed sexual misconduct or power-based violence happening to or affecting someone else (i.e., Third-Party Reporter).

Recipient strongly encourages all individuals to report incidents of sexual misconduct or power-based violence even if the individual does not intend to pursue a complaint. In addition, Recipient should 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 Sexual Misconduct or Power-Based Violence

To make a Report, a reporting individual may do one or more of the following:

1. Report the incident to the **Title IX Coordinator or Deputy Coordinator**, or
2. Disclose the incident to an **employee** (i.e., Responsible Employee) other than the Title IX Coordinator or Deputy Coordinator. That employee must direct their

report/information to the Title IX Coordinator or Deputy Coordinator. (See **Mandatory Reporting for Employees** below).

The name and contact information for Recipient's Title IX Coordinator and Deputy Coordinator are listed below.

## **B. Reporting Options**

Individuals are encouraged to report to any of the sources below. Recipient supports, encourages and will assist those who have been the victim of alleged sexual misconduct or power-based violence to report the incident to any individual or entity listed below:

**Title IX Coordinator & Deputy Title IX Coordinator.** Any incident of sexual harassment can be brought to the attention of the Title IX Coordinator or the Deputy Title IX Coordinator. Although Recipient strongly encourages reporting sexual harassment to the police, Complainant may request administrative action by the Title IX Coordinator or the Deputy Title IX Coordinator with or without filing a police report.

The Title IX Coordinator and Deputy Coordinator's information is below:

Title IX Coordinator – Mr. Gene Pregeant ([victor.pregeant@southeastern.edu](mailto:victor.pregeant@southeastern.edu))

Title IX Deputy Coordinator – Dr. Gabe Willis ([gabe.willis@southeastern.edu](mailto:gabe.willis@southeastern.edu))

**University Police Department.** Complainant may report an incident of sexual misconduct or power-based violence directly with Recipient's University Police Department by dialing (985) 549-2222 or by visiting the department at its campus office located in Pride Hall, 1301 SGA Drive. Reporting to such officials helps protect others from future victimization; apprehend the Respondent; and maintain future options regarding criminal prosecution, Recipient disciplinary action and/or civil action against the Respondent. A Complainant may request that his or her identity be kept confidential when reporting sexual harassment to a sworn peace officer. Filing a police report does not obligate the Complainant to continue with criminal proceedings or disciplinary action.

**The Office of Advocacy & Accountability.** A Complainant may request disciplinary action by the Office of Advocacy & Accountability with or without filing a police report. A complaint can be filed with the Office of Advocacy & Accountability by dialing (985) 549-2213, reporting it at [www.southeastern.edu/reportit](http://www.southeastern.edu/reportit), or at the campus office, located in Room 207 Mims Hall. The Director of the Office of Advocacy & Accountability is Curtis Meyers. The Office of Advocacy & Accountability may impose interim actions such as a no contact order or an interim suspension from school and/or removal from an activity to protect the safety of the victim. Prior to an emergency suspension/removal, Recipient must undertake an individualized safety and risk analysis to determine if an immediate threat to the physical health or safety of any student or other individual arising from the

allegations of sexual harassment justifies suspension/removal. Further, Recipient must provide Respondent with notice and an opportunity to challenge the decision immediately following the suspension/removal.

**Human Resources.** A complaint of sexual harassment when an employee of Recipient is the Respondent may be brought to Tara Dupre, Human Resource Director, Human Resources Department, 900 D West University Avenue, North Campus, who will promptly inform the Title IX Officer of the complaint. Human Resources can be contacted by dialing (985) 549-2001 or by email, tara.dupre@selu.edu.

**Responsible Employee.** An individual may report alleged sexual misconduct or power-based violence to all employees designated as Responsible Employees. Responsible Employees shall include all of the individuals described hereinabove as well as all other administrators, unclassified staff, faculty, and resident assistants. Responsible Employees must report the incident to the Title IX Officer or the Deputy Title IX Officer. Employees with confidentiality obligations as described herein below are not Responsible Employees.

**Anonymous Online Reports.** Anonymous reports can be made at [http://www.southeastern.edu/admin/police/anonymous\\_reporting/index.html](http://www.southeastern.edu/admin/police/anonymous_reporting/index.html).

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

After making a report, an individual may choose to file or request a complaint and pursue resolution (under this policy or the Title IX Formal Grievance Procedures, or, if applicable, an Informal Resolution involving the Respondent); may choose to be involved or not be involved in Recipient's investigation and any related proceedings; or may choose to end involvement in the process.

The Title IX Grievance Procedures can be found at:

[http://www.southeastern.edu/resources/policies/policy\\_detail/title\\_ix\\_grievance\\_procedure.html](http://www.southeastern.edu/resources/policies/policy_detail/title_ix_grievance_procedure.html).

### **C. Mandatory Reporting for Employees**

In addition to the Title IX Coordinator and the Deputy Coordinator, individuals may disclose incidents of sexual misconduct or power-based violence (this includes both Title IX Conduct and Non-Title IX Conduct) to any employee of Recipient.

All of Recipient's employees, other than those who have been declared exempt, are "Responsible Employees" and must report allegations of sexual misconduct or power-based violence to the Title IX Coordinator. In addition, an employee who receives information regarding retaliation

against a person for reporting sexual misconduct or power-based violence shall promptly report such information to the Title IX Coordinator or Deputy Coordinator.

Employees must report the following:

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

However, according to state law an employee is not required to make a report if information involving sexual misconduct or 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 sexual misconduct or power-based violence as part of educating others.
2. In the course of academic work consistent with the assignment; or
3. Indirectly, such as in the course of overhearing a conversation.

Any individual in receipt of information that violates the sexual misconduct and power-based violence policy must report that information to the Title IX Coordinator or Deputy Coordinator themselves. Sharing information with a supervisor or another employee does not negate the responsibility of reporting to the Title IX Coordinator or Deputy Coordinator.

If an employee believes an individual may intend to share any information regarding an instance of sexual misconduct or power-based violence, the employee should seek to confirm that the reporting party understands the employee's obligations as a mandatory reporter. If the reporting party would prefer to speak with a confidential resource, the employee should direct the reporting party to a designated Confidential Advisor. Recipient's designated Confidential Advisors are listed herein below at Section V(E)

#### **D. Confidential and Anonymous Reporting**

A report of sexual misconduct or power-based violence may be made anonymously by any individual who wishes to report acts of sexual misconduct or power-based violence. Recipient provides an online mechanism for such reports:

[http://www.southeastern.edu/admin/police/anonymous\\_reporting/index.html](http://www.southeastern.edu/admin/police/anonymous_reporting/index.html).

Individuals, however, may choose other methods of reporting.

An individual can report an incident without disclosing their name, identifying the parties involved, or requesting any action. Recipient will attempt to investigate such report but depending on the extent of the information available about the incident or the individuals involved, Recipient's ability to investigate and respond to an anonymous report may be limited (particularly to the extent that the conduct alleged would be subject to the Title IX Formal Grievance Procedures). The Title IX Coordinator or Deputy Coordinator will receive the anonymous Report and will determine appropriate step including potential individual or community remedies.

In an instance where Recipient determines it must deny or modify the request for confidentiality, the Title IX Coordinator or Deputy Coordinator will inform the requesting individual prior to making the disclosure to anyone beyond the necessary officials at Recipient. Recipient will disclose information about its investigation and resolution of sexual misconduct or power-based violence complaints only to those who need to know the information in order to carry out their duties and responsibilities. Recipient must inform all personnel participating in an investigation, proceeding, or hearing that they are expected to maintain the privacy of the process. This does not prohibit either a Complainant or Respondent from obtaining the assistance of family members, counselors, therapists, clergy, doctors, attorneys, or other resources.

## **E. Confidential Advisors**

A Complainant shall be advised of the right to seek a Confidential Advisor.

Recipient has designated trained individuals who shall serve as Confidential Advisors. They shall, to the extent authorized under law, provide confidential services to students.

Upon being designated as a Confidential Advisor to a Complainant of sexual misconduct or power-based violence, the Confidential Advisor shall inform the Complainant of the following:

1. The rights of the Complainant under federal and state law and Recipient's policies;
2. The Complainant's reporting options, including the option to notify Recipient, the option to notify local law enforcement, and any other reporting options;
3. If reasonably known, the potential consequences of those reporting options;
4. Recipient's process of investigation and disciplinary proceeding;
5. The process of investigation and adjudication of the criminal justice system;
6. The limited jurisdiction, scope, and available sanctions of Recipient's student disciplinary proceeding, and that it should not be considered a substitute for the criminal justice process;
7. Potential reasonable accommodations that Recipient may provide to a Complainant;
8. The name and location of the nearest medical facility where a Complainant may have a rape kit administered by an individual trained in sexual assault, forensic medical examination and evidence;

9. The Complainant's rights and the Recipient's responsibilities regarding orders of protection, no-contact orders, restraining orders, or similar lawful orders issued by a court of competent jurisdiction or by Recipient. Important to note, the responding party may also have access to a Confidential Advisor within this process.

The responding party may also request access to a Confidential Advisor.

The Confidential Advisor shall be authorized to liaise with appropriate staff and Recipient to arrange supportive measures through Recipient to allow the Complainant to change living arrangements or class schedules, obtain accessibility services, or arrange other accommodations.

The Confidential Advisor shall be authorized to accompany the Complainant, when requested to do so by the Complainant, to interviews and other proceedings of a campus investigation and institutional disciplinary proceeding.

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

The Confidential Advisor shall not be obligated to report crimes to Recipient or law enforcement in a way that identifies a Complainant or an accused individual, unless otherwise required to do so by law. The Confidential Advisor shall, to the extent authorized under law, provide confidential services to students. Any requests for accommodations made by a Confidential Advisor, as provided in this Section, shall not trigger an investigation by Recipient.

Confidential Advisors for Recipient are:

Peter Emerson, [slucc@southeastern.edu](mailto:slucc@southeastern.edu)  
Annette Baldwin-Newton, [slucc@southeastern.edu](mailto:slucc@southeastern.edu)  
Paige LeBleu Moody, [slucc@southeastern.edu](mailto:slucc@southeastern.edu)  
Courtney Williams, [slucc@southeastern.edu](mailto:slucc@southeastern.edu)  
Marcela Spicuzza, [slucc@southeastern.edu](mailto:slucc@southeastern.edu)  
Wes Erington, [slucc@southeastern.edu](mailto:slucc@southeastern.edu)  
Amanda Anderson, [slucc@southeastern.edu](mailto:slucc@southeastern.edu)  
Dalina Dahlmanss, [slucc@southeastern.edu](mailto:slucc@southeastern.edu)

Their offices are located in **The University Counseling Center**, which is located at:  
303 A Union Ave.  
Student Union Annex

## **F. Employee's Failure to Report or False Reporting**

An employee who is determined by Recipient's disciplinary procedures to have knowingly failed to make a report, or with the intent to harm or deceive, make a Report that is knowingly false **shall be terminated.**

## **G. Student's False Reporting**

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

## **H. Receiving Reports**

Once the Title IX Coordinator or Deputy Coordinator learns of any report of alleged sexual misconduct or power-based violence or sex/gender discrimination, they will implement Supportive Measures as defined in Section VI (B) needed and initiate an investigation into the alleged incident.

The form of the investigation may vary depending on whether the alleged sexual misconduct or power-based violence falls within the scope of Title IX Conduct or Non-Title IX Conduct. If the alleged sexual misconduct or power-based violence satisfies the UDOE's definition of Title IX sexual harassment (i.e. Title IX Conduct), the Title IX Coordinator or Deputy Coordinator will investigate and adjudicate the allegation pursuant to the Title IX Formal Grievance Procedures. However, if the alleged sexual misconduct or power-based violence does not satisfy the USDOE's definition of Title IX sexual harassment, the Title IX Coordinator or Deputy Coordinator will refer to the part of this policy that addresses Non-Title IX Conduct (i.e. power-based violence.)

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

## **I. Immunities**

### **Amnesty from Student Discipline for the Reporting Party and Material Witnesses.**

An individual, whether an employee or a student of Recipient, acting in good faith who reports or assists in the investigation of a report of an incident of sexual misconduct or power-based

violence, or who testifies or otherwise participates in a disciplinary process or judicial proceeding arising from a report of such an incident:

1. Shall be immune from civil liability and criminal liability that might otherwise be incurred or imposed as a result of their conduct in connection with the reported incident; and
2. May, in Recipient's discretion, be granted amnesty from disciplinary action by Recipient for any violation by the individual of Recipient's relevant policies reasonably related to the incident.

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

Any student who reports, in good faith, sexual misconduct or power-based violence may be, but is not required to be, granted amnesty for a nonviolent student conduct violation, such as underage drinking, that is revealed in the course of such a report.

## **J. 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. For purposes of this policy, an attempt requires a substantial step towards committing a violation.

Employees or students making a sexual misconduct or power-based violence report or complaint, or assisting in the investigation of such a complaint, will not be adversely affected in terms and conditions of employment and/or academic standing nor discriminated against, terminated, or expelled because of the complaint.

Recipient expressly prohibits Retaliation against anyone who: (1) in good faith, reports what they believe is sexual misconduct or power-based violence, (2) participates in any 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 sexual misconduct or power-based violence or participates in an investigation or proceeding and has perpetrated or assisted in the perpetration of committing the sexual misconduct or power-based violence reported, is still subject to an investigation for a potential violation of this policy and may be subject to disciplinary action.

Recipient will not only take steps to prevent retaliation but will also take strong corrective action if it occurs. Anyone who believes they have been the victim of retaliation should immediately report it to the Title IX Coordinator or Deputy Coordinator, who treats 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 reports (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.

## **VI. Initial Steps & Determination of Appropriate Procedures**

After Recipient's Title IX Office has received a report of alleged sexual misconduct or power-based violence, the Title IX Office is required to 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 sexual harassment. 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 will proceed pursuant to the Title IX Formal Grievance Procedures. If the alleged conduct does not meet the USDOE's definition of sexual harassment, the investigation will proceed pursuant to this Power-Based Violence & Sexual Misconduct Policy.

### **A. Initial Contact with Complainant**

As soon as is practicable (but no later than five working days following actual notice), the Title IX Coordinator or Deputy Title IX Coordinator shall contact the Complainant and schedule an initial meeting. The Complainant will be notified that they are entitled to have an Advisor accompany them to any meeting or interview related to the sexual misconduct or power-based violence process. At the initial meeting the Title IX Coordinator or Deputy Title IX Coordinator will:

- Provide a copy of the relevant policies which explain the process and rights of all parties;
- Explain the process for filing a formal complaint with the Title IX Office;
- Provide the individual with information regarding the Complainant and the alleged perpetrator;
- Explain the procedural differences based on Title IX vs. non-Title IX conduct;
- Instruct the Complainant not to destroy any potentially relevant documentation in any format;
- Explain the process for investigating and resolving a sexual misconduct or power-based violence complaint (including the available appeal procedures);
- Explain the options for reporting to law enforcement authorities (whether on campus or local police) and the Office of Student Conduct;
- Determine whether the Complainant wishes to pursue a resolution (formal or informal) through Recipient and that the decision to begin with an informal resolution does not preclude formal resolution;

- Related to the Complainant's choice of formal or informal resolution, discuss confidentiality standards and concerns with the Complainant and advise that confidentiality may impact the University's ability to investigate fully;
- Refer the Complainant, as appropriate, to the Counseling Center or other resources which may include law enforcement, medical assistance, psychological counseling, victim advocacy resources, legal resources, University disciplinary action, immigration services, and criminal prosecution;
- Inform the Complainant that they have the right to utilize a Confidential Advisor and/or any other Advisor of their choosing throughout the process;
- Discuss with the Complainant, as appropriate, possible Supportive Measures as defined hereinabove and explain that these can be offered with or without the filing of a formal complaint;
- Communicate necessary details of the report to the University Police Department for entry into Recipient's daily crime log; and
- Request additional information regarding the reported incident.

## **B. Supportive Measures**

If the Title IX Coordinator or Deputy Coordinator receives notice of alleged sexual misconduct or power-based violence, whether through online reporting or other reporting methods, the Title IX Coordinator or designee must promptly contact the Complainant to discuss the availability of Supportive Measures, consider the Complainant's wishes with respect to Supportive Measures, and inform the Complainant of the availability of Supportive Measures with or without the filing of a Complaint (or formal complaint under the Title IX Grievance Procedure). Supportive Measures are also to be made available to the Respondent.

Non-disciplinary, non-punitive individualized services will be offered as appropriate, as reasonably available, and without fee or charge to Complainant or Respondent before or after the filing of a formal complaint or where no formal complaint has been filed. Supportive Measures are designed to restore or preserve equal access to Recipient's education program or activity without unreasonably burdening the other party, including measures designed to protect the safety of all parties or Recipient's educational environment, or deter sexual harassment. Supportive Measures may include counseling, extensions of deadlines or other course-related adjustments, modifications of work or class schedules, campus escort services, mutual restrictions on contact between the parties, changes in work or housing locations, leaves of absence, increased security and monitoring of certain areas of the campus and other similar measures.

## **C. Rights of Each Party**

As part of Recipient's response to a Report of sexual misconduct or power-based violence, and regardless of whether there has been a request for a formal investigation or law enforcement action, both parties maintain rights.

### **Complainant's Rights**

- Complainant will have the opportunity to experience prompt proceedings and that a fair, and impartial investigation and resolution will occur.
- University officials will treat the incident seriously and that the incident will be investigated and adjudicated by appropriate criminal and/or University officials. Proceedings shall be conducted by officials trained on sexual assault and other intimate partner violence issues. And shall use preponderance of the evidence standard (which is "more likely than not" and the standard used by civil courts in the United States).
- University officials will inform Complainant of their option to notify appropriate law enforcement authorities, including on-campus police and local police, and offer assistance in notifying proper authorities when an individual discloses an incident of sexual misconduct.
- University personnel will not discourage anyone from reporting, nor encourage them to underreport or report the incident as a lesser crime.
- Complainant will be provided with written notification of on and off campus available services for mental health, victim advocacy, legal assistance, and other available community resources.
- University must allow Complainant to make the decision regarding whether or not to file a complaint and what type of complaint to file. Complainant may file both informal and formal complaints against the Respondent. If the Complainant chooses to file an informal complaint, the Complainant must be notified of the right to end the informal process at any time and the right to pursue a formal complaint and/or take legal action.
- A Complainant may request interim measures, as may be necessary to ensure their safety and well-being. Interim measures could include a change in an academic setting to be separated from the Respondent if the Respondent is attending a class in which the Complainant is enrolled. The Complainant may also choose to be reassigned to a different location, change in residential setting, and University-excused course time. The requests should be made to Recipient and the Recipient shall undertake the following:
  - Performs an individualized safety and risk analysis;
  - Determines that the request for a change of academic setting is warranted;
  - and

- Provides the Respondent with notice and an opportunity to challenge the decision immediately following the removal.

These interim measures can often be put in place after a Complainant’s petition for the removal of a Respondent, prior to the resolution of any Complaint or criminal proceeding. At the discretion of the Title IX Coordinator, once the removal is granted, Recipient will take necessary action to enforce the implemented measures.

At the direction of the Title IX Office, the entire Recipient community is responsible for support and cooperation when the removal of the Respondent is granted. The Title IX Coordinator or Deputy Coordinator will share limited information with each party, faculty, and staff regarding the removal of the Respondent.

### **Respondent’s Rights**

A Respondent is someone alleged to be responsible for a violation of the student code of conduct within a complaint. A Respondent accused of sexual misconduct should know and understand the resources available to them as well as policies, procedures, and processes that the University must adhere to.

- Respondents have a right to be notified about and given the opportunity to receive services through the University Counseling Center and off campus resources.
- Respondents have the right to be accompanied by an advisor of their choice during all meetings, proceedings, and/or disciplinary hearings at which the individual is present.
- Upon the signing of a formal complaint, a Respondent has the right to be notified of the allegations against them in writing along with a copy of or link to this policy and/or Title IX Grievance Procedures.
- The investigator will remain neutral throughout the investigation and provide the Respondent opportunities to respond in person and in writing, to submit relevant documents, and to produce relevant witnesses.
- Respondents have the right to confidentiality and privacy throughout the process. The University will share information only as necessary with people on a “need to know” basis, depending on circumstances surrounding the incident.

## **VII. Complaint Reporting**

The Power-Based Violence & Sexual Misconduct Policy provides options for reports to be filed formally or informally.

## **A. Informal Complaint**

Individuals who believe they are victims of power-based violence or sexual misconduct may have the option of proceeding informally or formally. One may find informal resolution particularly appropriate if the conduct is isolated and of the following nature: sexual innuendo; display or distribution of drawings, pictures, or other materials with sexual content; sexual or “dirty” jokes; or comments with sexual content. Pictures, drawings, diagrams, or other materials and discussions which are of an academic nature related to the course syllabus and instructional outcomes are, by necessity, excluded from being considered as sexual misconduct. An informal resolution involves a remedies-based, non-judicial process designed to eliminate or address sexual misconduct or potential power-based violence. This aims to assure fairness, to facilitate communication, and to maintain an equitable balance of power between the parties. Please note that the formal complaint process is available for sexual harassment or misconduct of any nature, and that these examples are not intended to discourage use of the formal complaint process.

If one chooses to proceed informally, the employee or student should contact the Title IX Coordinator or Deputy Coordinator to report the sexual harassment or misconduct and specify that they wish to proceed informally. The Title IX Coordinator or Deputy Coordinator will make an initial decision about whether a case qualifies for an informal resolution. Resolution at the informal complaint process level can be mediated by the Title IX Coordinator or Deputy Title IX Coordinator and/or may include an agreement in which one or more of the parties involved agrees to accept discipline in the form of a warning, censure, probation, or other such disciplinary action as may be warranted by the circumstances of each case. Note: Mediation is not considered appropriate for conduct that involves violent or criminal behavior.

To the extent the parties are able to achieve a satisfactory resolution of the complaint through the informal resolution process, the complaint will be considered resolved. The accused and the accuser will receive written notification of the outcome and disposition of the complaint. The fact that a complaint of sexual harassment or misconduct may be concluded at the request of the accusing party does not preclude the filing of a formal complaint by others, including appropriate University officials.

In those cases, in which a mutually satisfactory resolution of an informal complaint of sexual harassment or misconduct cannot be achieved, either the Complainant or the Respondent may request in writing to advance the complaint to the formal complaint process. This request should be submitted in writing to the Title IX Coordinator or Deputy Coordinator within seven (7) working days of the proposed informal resolution.

## **B. Formal Complaint**

If a potential Complainant wishes to pursue an incident of power-based violence or sexual misconduct beyond simply reporting it, they may file a formal complaint. The filing of a formal complaint means that the individual is asking the 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 the 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 or Deputy Coordinator converts a report to a formal complaint does not make the Title IX Coordinator or Deputy Coordinator a Complainant. However, the Title IX Coordinator or Deputy Coordinator reserves the right to initiate a formal complaint in order to meet an institution's Title IX obligations to provide a safe and nondiscriminatory environment and if the institution 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 Grievance Procedures.

Formal complaints should be a written statement detailing the allegations on the Title IX Reporting Form, which is submitted online and directed to the Title IX Coordinator or Deputy Coordinator.

a. How to File a Formal Complaint

Individuals seeking to file a formal complaint may do so with the Title IX Coordinator or Deputy Coordinator. Formal complaints must be in writing and include all information the individual believes to be relevant (e.g. time, location, and nature of incident, names of individuals involved, witnesses to the incident, names of other persons affected by the incident, etc.).

Individuals seeking to file a formal complaint must 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 sexual misconduct or 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 formal complaint filed satisfies the requirements of a Title IX formal complaint as defined by 34 CFR Sec. 106.30, the Title IX Office should proceed under the Title IX Formal Grievance Procedures.

b. Withdrawal of a Formal Complaint

A Complainant may withdraw their complaint. If a complaint is withdrawn, the Title IX Office will assess the information provided and proceed accordingly. Withdrawal of the complaint will ordinarily end the complaint and resolution process. However, the Title IX Officer reserves the right to proceed with the complaint, even after the Complainant withdraws it, in order to protect the interests and safety of Recipient's community.

### C. Power-Based Violence or Sexual Misconduct (Non-Title IX) Grievance Procedure

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

Within seven (7) business days of receiving notice of the Complaint, the **Respondent must arrange to 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 (See Section VI (A)).

After reviewing the complaint and meeting with the Title IX Office, the case will be referred to the Office of Student Advocacy and Accountability. At that time, the Respondent may choose to end the resolution process by accepting responsibility for the conduct alleged in the complaint. If the Respondent accepts responsibility for the conduct alleged in the complaint, the appropriate decision makers will determine the appropriate sanction for the Respondent. If the Respondent disputed the allegation in the complaint, the matter will proceed to an investigation.

## VIII. Investigative Process

The Title IX Office will designate Investigators specifically trained in sexual misconduct or power-based violence investigations to conduct prompt, thorough, and fair investigation. Assigned investigators should not be the Title IX Coordinator or the Decision Makers

The process typically will begin with intake meetings conducted by the Title IX Coordinator or Deputy Coordinator. The investigation phase may 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 the relevant documents and evidence.

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

Both Complainants and Respondents may utilize Advisors throughout the investigation process. Advisors are not permitted to directly participate in resolution hearings or an informal resolution conference; they may be present solely to advise or support the party and are prohibited from speaking directly to the Investigator, the Sexual misconduct or power-based violence Adjudicator, other parties or witnesses.

## **Findings and Investigative Report**

At the conclusion of the investigation, the investigator(s) will 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 will be delivered to the Title IX Coordinator or Deputy Coordinator, who will 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 will 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 must submit any comments about their own statement, or on any investigation summary that might be provided, to the Investigator(s) within five (5) calendar days after the statement or summary was provided. Following the receipt of any comments submitted, or after the five-day comment period has lapsed without comment, the Investigator will address any identified factual inaccuracies or misunderstandings, as appropriate.

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



## **IX. Resolution Process**

The Title IX Coordinator or Deputy Coordinator and/or the investigator must provide information on the investigation and resolution process outlined in the institutional policy to the Complainant and Respondent. The process must be fair and timely for Complainant and Respondent, regardless of whether it is an informal administrative resolution phase or a formal adjudication. Reports of Title IX violations unrelated to sexual misconduct or power-based violence will be managed according to the Title IX Grievance Procedures.

Disciplinary proceedings shall begin as practicable as possible and shall be conducted by an official trained in issues relating to sexual misconduct. Institutions can conduct Title IX investigations and hearings remotely. In making a determination concerning the alleged sexual misconduct, institutions shall use the preponderance of the evidence standard. Students will have the right to written notice of allegations, the right to an advisor, and the right to submit, cross-examine, and challenge the evidence in a live hearing. Both the Complainant and Respondent are entitled to be accompanied to any meeting or proceeding relating to the allegation of such sexual misconduct by an Advisor or support person of their choice, provided the involvement of such Advisor or support person does not result in the postponement or delay of such meeting as scheduled, and each shall have the opportunity to present evidence and witnesses on their behalf during any disciplinary proceeding. Both the Complainant and Respondent are entitled to be informed in writing of the results of any disciplinary proceeding not later than ten (10) business days after the resolution. Sanctions may range from a warning to expulsion, depending upon the behavior and its severity. Sanctions for students will be selected from those outlined in the Student Code of Conduct. Sanctions for employees are applied through collaboration with supervisors. Sanctions may include, but are not limited to counseling, education, probation, reassignment, demotion, suspension, and termination.

Both parties will be given an equal right of appeal.

Complainants will not have to come face-to-face with the Respondent during a hearing and from answering questions posed personally by the Respondent. The institution will provide “rape shield” protections and ensure that Complainants are not required to divulge any medical, psychological, or similar privileged records.

## **X. Appeals**

Either party may appeal the outcome of the matter except where Respondent has accepted an agreement informally or has pleaded responsible for alleged violations of the Student Code of Conduct. The dismissal of a formal complaint or any allegations contained therein may also be appealed. Appeals will be conducted in an impartial manner by impartial decision maker.

A decision reached by the hearing body or a sanction imposed by the Conduct Authority may be appealed by the Respondent(s). A decision reached by the hearing body may also be appealed by a Complainant(s) in cases under the Power-Based Violence & Sexual Misconduct Policy that could include acts of violence and harassment [(i.e., such as sexual assault, rape, physical assault, hazing, sexual harassment, and stalking)]. Appeals may not be granted in situations where the Respondent has accepted an agreement informally or has pleaded responsible ahead of any investigation.

A conduct appeal must be directed to the Vice President for Student Affairs or his/her designee within ten (10) working days of being notified of the decision. If the student is notified of the decision by letter, the student has ten (10) working days from the post-dated stamp on the envelope to make an appeal. Such appeals shall be in writing and shall be delivered to the Vice President for Student Affairs and/or Chief Conduct Officer or his/her designee. The rendered sanction is in effect as of the date identified on the sanction letter, or until an appeal is granted.

The Vice President for Student Affairs or his/her designee may choose to suspend the outcome of a hearing while the appeal is being reviewed. Generally, a time set for an appeal response will be no more than ten (10) working days after the student has delivered the appeal. However, time limits for an appeal response may be extended at the discretion of the Vice President for Student Affairs, the Chief Conduct Officer, the Assistant Director of OSAA, and/or designee.

Except as required to explain the basis of new information, an appeal at the University level may be limited to a review of the written statement by the party requesting the appeal and/or written documents pertaining to the case. The scope of review shall be limited to consideration of the following questions:

1. Whether the discipline process was conducted fairly and in conformity with the properly prescribed procedures;
2. Whether to consider new information, sufficient to alter a decision, or other relevant facts not brought out during the original meeting/investigations, because such information and/or facts were not known to the person appealing at the time of the original Investigation and Hearing;
3. A member of the Title IX personnel involved in the case (the Title IX Coordinator, the Deputy Title IX Coordinator, an investigator, a Decision-Maker, or any individual designated by Recipient to facilitate an informal resolution process) had a conflict of interest or bias that affected the outcome of the matter;
4. Whether the sanction or remedy imposed was in due proportion to the gravity or nature of the conduct. (Documentation outlining how the sanction(s) was/were excessive for the violation(s) for which the party was responsible should be provided.)

A student may appeal the decision of the Vice President for Student Affairs to the President of the University or his/her designee if the sanction is one of suspension from the University

for a period of one academic year, or if the sanction is of greater severity. For appeals regarding less severe sanctions, the final appeal shall be at the Vice President for Student Affairs level.

A student may appeal the decision of the University President to the Board of Supervisors for the University of Louisiana System if the sanction is one of suspension from the University for a period of one academic year, or if the sanction is of greater severity. For appeals regarding less severe sanctions, the final appeal shall be at the University level. If the student chooses to appeal to the Board of Supervisors after all administrative procedures have been exhausted at the University level, the appeal must be submitted to the President of the University of Louisiana System which refers the appeal to the Board of Supervisors for the University of Louisiana System. The appeal must be made within 30 calendar days of the University's decision. The Board's review is limited to a determination of compliance with established and appropriate procedures at the University level. The student shall be notified of the Board's decision through electronic means or written correspondence.

All other parties shall be notified in writing in the event any party files an appeal. Parties shall be given a reasonable opportunity to submit a written statement in support of, or challenging, the outcome.

## **XI. Transcript Withholding, Notation & Communication**

For any student who is the subject of a sexual misconduct or power-based violence complaint and who attempts to transfer to another public postsecondary institution, Recipient shall either (1) withhold the transcript of the student or (2) place a notation on the student's transcript.

Recipient shall immediately 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 Recipient makes a determination that the transferring student is not responsible for sexual misconduct or power-based violence or the transferring student prevails in a request to appeal the withholding of a transcript or notation pursuant to Part 3 of this Section, whichever occurs first.

### **1. Withholding Student Transcripts**

Upon the filing of a Complaint, Recipient shall place an administrative hold on the transcript of a student attempting to transfer to a public postsecondary institution.

## 2. Notation

Upon the commencement of a sexual misconduct or power-based violence investigation Recipient **may** place a notation on the transcript of a student attempting to transfer to a public postsecondary in-state institution. For a transferring student who is the subject of a pending investigation, the notation on the transcript shall read: **“Administrative Matter Pending.”**

For a transferring student for whom a final decision has been rendered, and the student has been found to be responsible for sexual misconduct or power-based violence, the notation on the transcript shall read: **“Student Found Responsible in Violation of Code of Conduct.”**

## 3. 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 has 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, Recipient should send an updated version of the student’s transcript.

Such request shall be submitted in writing to The Office of the Registrar:

Physical Address:  
North Campus - Main Building Annex  
Suite 123,  
Hammond LA 70402

Post Office Box:  
SLU Box 10752  
Hammond, LA 70402

Phone:  
985-549-2244

Email:  
registrar@southeastern.edu

Recipient shall notify the requesting student of its decision no later than seven (7) business days from the date that the appeal request is made.

## **XII. Training**

### **1. Responsible Employees and Members of the Title IX team**

Effective no later than the beginning of the 2022-2023 academic year, annual training shall be required for

- a. all Responsible Employees,
- b. all individuals who are involved in implementing Recipient's student grievance procedures, including each individual responsible for resolving complaints of reported power-based violence or sexual misconduct or power-based violence policy violations,
- c. Title IX Coordinator(s) and
- d. employees who have responsibility for interviewing any Complainants of power-based violence.

Title IX Coordinators, investigators, decision makers, Confidential Advisors, and any person who facilitates an informal resolution process, shall receive training on sexual harassment as defined by this policy, the scope of Recipient's education program or activity, how to conduct an investigation and the grievance process.

Decision Makers shall receive training on any technology to be used at a live hearing and on issues of relevance of questions and evidence, including when questions and evidence about the Complainant's sexual predisposition or prior sexual behavior are not relevant.

Investigators shall receive training on issues of relevance and how to create an investigative report that fairly summarizes relevant evidence.

Annual training should occur at new employee orientations and at the beginning of each academic year.

Recipient is required to provide an annual training report to the University of Louisiana System on July 1 every year. The report shall include a (1) list of all University employees who received training, (2) the type of training provided; and (3) the date the training was completed.

Training materials shall be made available on Recipient's website.

## **2. Confidential Advisors**

Before being designated as a Confidential Advisor, the appointee shall complete a training program that includes information on sexual misconduct or power-based violence (including “sexual harassment” under Title IX, as well as other types of sexual misconduct or 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.

Said training shall be developed by the Attorney General in collaboration with the Board of Regents. In the event updated and relevant training from the Attorney General and the Board of Regents is not available, Recipient will make available and document receipt of a comprehensive description of the role, responsibility, and duties of the Confidential Advisor.

## **XIII. Data Publications**

### **1. Power-Based Violence Climate Survey**

Effective with the 2022-2023 academic year, Recipient shall administer an anonymous Power-Based Violence Climate Survey (Survey) to its students once every three (3) years. If Recipient 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 consequence of any kind for declining to participate.

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

Recipient shall report survey results to the Board of Supervisors for the University of Louisiana System and to the Board of Regents.

Recipient shall publish the Survey results in a prominent easily accessible location on its website.

## **2. Campus Security Report**

Recipient shall 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 10<sup>th</sup> and October 10<sup>th</sup> 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. Sec. 1092) (the “Clery Act”), and/or all information related to statistics of incidents of sexual misconduct or power-based violence (i.e., power-based violence).

The report shall be posted on the University Police Department’s website.

In accordance with state law, any person may commence a suit in the district court for the parish (in this case, Tangipahoa) 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.

## **3. Sex Crimes Report**

By February 15<sup>th</sup> of each year, Recipient shall submit a report containing the information required in Forms C1 and C2 to the System President, Recipient’s President and Recipient’s Title IX Coordinator.

## **XIV. Safety Education**

Recipient’s administration, in consultation with campus or local law enforcement agencies, shall develop and distribute information to students and employees 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:

- a. 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;
- b. 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

- c. Where to find reports regarding campus safety.

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

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

- a. 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;
  - 1. Name of institutional, person, or group being threatened;
  - 2. Name of student, individual, or group threatening violence;
  - 3. Date and time the threat was made; and
  - 4. Method by which the threat was posted, a screenshot or recording of the threat, if available, and any printed evidence of the threat.
- b. 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.

Recipient shall adopt a policy to implement the provision of this Section. That policy must require that for every report of an incident of power-based violence or a safety threat received, the actions taken by Recipient and the campus law enforcement agency be documented. The policy shall also provide for guidelines on referring the reports to the appropriate law enforcement agencies.

## **XV. Memorandum of Understanding**

On or before January 1, 2022, the University Police Department, the City of Hammond Police Department, and the 21<sup>st</sup> Judicial District District Attorney's Office 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 Recipient's students. The MOU must be signed by all parties to the MOU.

Each MOU shall include the following:

- a. Delineation and sharing protocols of investigative responsibilities;
- b. Protocols for investigation, including standards for notification and communication, and measures to promote evidence preservation;
- c. Agreed-upon training and requirements for the parties to the MOU on uses related to power-based violence for the purpose of sharing information and coordination of training to the extent possible;



- d. 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
- e. A requirement that the local law enforcement agency shall include information on its police report regarding the status of the Complainant as a student at Recipient.

Each executed MOU shall be reviewed annually by Recipient's President, the Title IX Coordinator, and the executive officers of the City of Hammond Police Department and the 21<sup>st</sup> Judicial District District Attorney's Office, and shall be revised as considered necessary.

Nothing in this Section or any MOU shall be construed as prohibiting a Complainant or Responsible Employee from making a complaint to both Recipient and a law enforcement agency.

## **XVI. Website Compliance**

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

- a. Contact information for obtaining a Confidential Advisor;
- b. Reporting options for Complainants of sexual misconduct or power-based violence;
- c. The process of investigation and disciplinary proceedings of Recipient;
- d. The process of investigation and adjudication of the criminal justice system;
- e. Potential reasonable accommodations that Recipient may provide to a Complainant;
- f. The telephone number and website address for a local, state, or national hot line providing information to Complainants of power-based violence, which shall be updated at least on an annual basis;
- g. The names 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 Recipient and the City of Hammond Police Department and between Recipient and the 21<sup>st</sup> Judicial District District Attorney's Office; and
- i. Data publications as specified in Section XIII of this Policy.

## **Appendix One: Other Requirements of State Law, Federal Law and Department of Education Regulations**

**Freedom of Speech.** This Policy & Procedures will be implemented in a manner that does not infringe upon anyone's First Amendment Rights.

**Institutional Task Force.** The Campus Assault Response and Education (C.A.R.E.) Team is a standing committee responsible for coordinating Recipient's sexual misconduct or power-based violence education and prevention programs. Members include representatives from the University Counseling Center, University Housing, Student Engagement, Student Health Services, Advocacy & Accountability, The University Police Department, Athletics, Student Government, Human Resources, the Title IX Coordinator, the Title IX Deputy Coordinator, and other individuals deemed important by the University President.

### **Medical and Counseling Resources**

#### **The National Sexual Assault Telephone Hotline**

If you need immediate help, call 800.656.HOPE (4673) to be connected with a trained staff member from a sexual assault service provider in your area.

#### **RAINN Online Chat Information**

Visit [online.rainn.org](http://online.rainn.org) to chat one on one with a trained support specialist with RAINN (Rape, Abuse, & Incest National Network) anytime 24/7.

#### **Medical Information**

The hospital nearest to Recipient where a victim may have a rape kit administered by an individual trained in sexual assault forensic medical examination and evidence collection is North Oaks Medical Center located at 15790 Paul Vega, M.D. Drive, Hammond, LA. Information regarding transportation to North Oaks can be obtained by contacting the University Counseling Center (549-3894) located in the first floor of Pride Hall.

**Preservation of Evidence.** Preservation of evidence is critical in instances of sexual misconduct or power-based violence. Prompt reporting may preserve options that delayed reporting does not, including the preservation of physical evidence (which may be necessary to prove sexual misconduct or power-based violence or to obtain a judicial order of protection), the support of crisis counseling, and immediate police response.

**Prevention and Awareness Programs.** Recipient annually offers education and prevention programs that include, but are not limited to: (a) awareness programs; (b) bystander intervention programs; (c) ongoing prevention and awareness campaigns; (d) primary prevention programs; and (e) education on risk reduction.

**Awareness Programs.** Awareness programs consist of community-wide or audience-specific programming, initiatives, and strategies that increase audience knowledge and share information and resources to prevent violence, promote safety, and reduce sexual misconduct or power-based violence.

**Bystander Intervention.** Bystander intervention consists of safe and positive options that may be carried out by an individual or individuals to prevent harm or intervene when there is a risk of dating violence, domestic violence, sexual assault, or stalking. It also includes recognizing situations of potential harm, understanding institutional structures and cultural conditions that facilitate violence, overcoming barriers to intervening, identifying safe and effective intervention options, and taking action to intervene.

**Ongoing Prevention and Awareness Campaigns.** Ongoing prevention and awareness campaigns consist of programming, initiatives, and strategies that are sustained over time and focus on increasing understanding of topics relevant to, and skills for addressing dating violence, domestic violence, sexual assault, and stalking, using a range of strategies with audiences throughout the institution.

**Primary Prevention Programs.** Primary prevention programs consist of initiatives and strategies informed by research or assessed for value, effectiveness, or outcome that are intended to stop dating violence, domestic violence, sexual assault, and stalking before they occur through the promotion of positive and healthy behaviors that foster healthy, mutually respectful relationships and sexuality, encourage safe bystander intervention, and seek to change behavior and social norms in healthy and safe directions.

**Risk Reduction.** Risk reduction consists of options designed to decrease perpetration and bystander inaction and to increase empowerment for victims to promote safety and to help individuals and communities address conditions that facilitate violence. Additional options may include designation and publication of “red zones” (i.e., times and places of high incidence of crimes, including sexual violence).

Generally, Recipient must offer education and prevention programs to all students during their first semester of enrollment and on an ongoing basis throughout their enrollment. Programs shall cover (1) statements that Recipient prohibits all forms of sexual misconduct or power-based violence, as defined by this Policy, and the crimes of dating violence, domestic violence, sexual assault, and stalking, as defined by federal law; (2) the definitions of dating violence, domestic violence, sexual assault, and stalking under state law; (3) the definition of “Consent,” as provided in this Policy; (4) safe and positive options for bystander intervention that may be carried out by an individual to prevent harm or to intervene when there is a real or perceived risk of dating violence, domestic violence, sexual assault, or stalking against a person other than the individual; (5) information on risk reduction to recognize warning signs of abusive behavior and how to avoid

potential attacks; (6) information about the procedures that Complainants should follow, and that Recipient will follow, after an incident of dating violence, domestic violence, sexual assault, or stalking has occurred; and (7) any other content or resources that support prevention and reduction of sexual misconduct or power-based violence.

**The Process of Investigation and Adjudication of the Criminal Justice System.**

For useful information, concerning what to expect should you choose to pursue the criminal court process RAINN (Rape, Abuse & Incest National Network) provides useful information. Log on to [www.rainn.org/get-info/legal-information/working-with-the-criminal-justice-system](http://www.rainn.org/get-info/legal-information/working-with-the-criminal-justice-system).

For information regarding programs offered by the District Attorney's Office for the 21<sup>st</sup> Judicial District Court dealing with Victim's Assistance, Rape Crisis and Domestic Violence log on to [www.21jdda.org](http://www.21jdda.org).