



Southeastern Louisiana University Sexual Misconduct Policy

Document History

Responsible Administrator: EEO/ADA &
Title IX Coordinator

Responsible Office: EEO/ADA Office

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Policy Statement

Southeastern Louisiana University, hereinafter referred to as Recipient, prohibits sexual misconduct 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 as provided in Title IX and other applicable laws. Recipient shall take prompt and appropriate action to investigate and effectively discipline those accused of such conduct in a manner consistent with the law and due process. Recipient shall provide support and assistance to those alleging sexual misconduct and shall report instances of sexual misconduct in accordance with law. 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. Any non-confidential report of sexual misconduct, as defined herein, must be investigated, addressed, and resolved by Recipient under the appropriate policy and procedures.

Purpose of Policy

This policy was designed to ensure a safe and non-discriminatory educational and work environment and to meet legal requirements. Recipient complies with all applicable federal and state laws and regulations, and this policy shall be amended to reflect any changes to federal and state laws and regulations including, but not limited to, the following:

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.

Applicability

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

As to cases covered by Title IX, this policy applies when sexual harassment, as defined in the Policy, occurs in Recipient's education program or activity, against a person in the United States.

For all other types of sexual misconduct not covered by Title IX, this Policy applies generally to sexual misconduct 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. Recipient may address such misconduct in any manner Recipient chooses, including providing supportive measures or pursuing discipline as prescribed by the Code of Student Conduct (for students) or the appropriate employment policy (for employees).

Definitions

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.

Complainant. An individual who is alleged to be the victim of conduct that could constitute sexual harassment irrespective of whether a formal complaint has been filed.

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 respondent 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.

Decision Maker. The individual or the panel that makes the decisions regarding the outcome of a hearing. Makes determination regarding relevancy of questions in cross-examination. Writes and issues the written decision letter.

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.

Investigator. The individual who collects statements and other evidence regarding a Formal Complaint of sexual harassment. The investigator also writes a summary report.

Parties. The Complainant(s) and Respondents(s) involved in a Formal Complaint.

Perpetrator. An individual found guilty of sexual misconduct.

Program or Activity. Includes locations, events or circumstances over which the Recipient exercised 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.

Recipient. An education entity receiving federal funds.

Remedies. Restore or preserve equal access to Recipient’s education program or activity. Such remedies may include supportive measures; remedies need not be non-disciplinary or non-punitive and need not avoid burdening Respondent.

Respondent. An individual whose conduct has been reported that could constitute sexual harassment.

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 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, and discrimination. Title IX prohibits retaliation. For purposes of this Policy, an attempt requires a substantial step towards committing a violation.

Sexual misconduct. A sexual act or contact of a sexual nature that occurs, regardless of personal relationship, without the consent of the other person(s), or that occurs when the person(s) is unable to give consent or whose consent is coerced or obtained in a fraudulent manner. For the purpose of this Policy, sexual misconduct includes, but is not limited to, sexual assault, sexual abuse, violence of a sexual nature, sexual harassment, quid pro quo harassment, non-consensual sexual intercourse, sexual exploitation, video voyeurism, contact of a sexual nature with an object, or the obtaining, posting or disclosure of intimate descriptions, photos, or videos without the express consent of the persons depicted therein, as well as dating violence, domestic violence, and stalking.

Recipient shall use the federal and state definitions of the following terms when making all decisions regarding sexual misconduct including publication of definitions, disciplinary decisions, Clery reporting decisions, campus climate decisions, and training and prevention decisions. If there are any changes to state and/or federal law, definitions must be amended to reflect any changes to federal and state laws and regulations.

Dating Violence, as defined by the 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 alleged victim. 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.

Dating Violence, as defined by 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 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: (1) The length of the relationship. (2) The type of relationship. (3) The frequency of interaction between the persons involved in the relationship.

Domestic abuse, as defined by 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)

Domestic Violence, as defined by the 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 alleged victim is protected under federal or Louisiana law. A felony or misdemeanor crime of violence committed:

- By a current or former spouse or intimate partner of the victim;
- By a person with whom the victim shares a child in common;
- By a person who is cohabitating with, or has cohabitated with, the victim as a spouse or intimate partner;
- 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;
or
- 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.

Family violence, as defined by 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)

Non-Consensual Sexual Contact. Any intentional sexual touching or attempted sexual touching, without consent.

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.

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 program.

Sexual Battery as defined by Louisiana State Law. Includes any act or offense under the provisions of LSA R.S. 14:41 to 14:43.1.

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 audiotaping 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.

Sexual Harassment, as defined by the Department of Education Title IX regulations. Sexual harassment means conduct on the basis of sex that satisfies one or more of the following: (1) An employee of Recipient conditioning the provision of an aid, benefit, or service of the Recipient on an individual's participation in unwelcome sexual conduct; (2) Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the recipient's education program or activity; or (3) "Sexual assault" as defined in 20 U.S.C. 1092(f)(6)(A)(v), "dating violence" as defined in 34 U.S.C. 12291(a)(10), "domestic violence" as defined in 34 U.S.C. 12291(a)(8), or "stalking" as defined in 34 U.S.C. 12291(a)(30). For purposes of this Policy, the various forms of prohibited Sexual Harassment are referred to as "Sexual Misconduct."

Sexually Oriented Criminal Offense. Any sexual assault offense as defined in La. R.S. 14:41 to 14:43.1

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 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)

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 or behaviorally implied threats of death, bodily injury, sexual assault, kidnaping, or any other statutory criminal act to himself or any member of his family or any person with whom he 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)

Supportive measures. Non-disciplinary, non-punitive individualized services 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.

Victim. An individual who, after all due investigation and/or adjudication, has been found to be the target of sexual misconduct.

Requirements of State Law, Federal Law and Department of Education Regulations

Amnesty from Student Discipline for the Reporting Party and Material Witnesses. Assisting students who are reporting, or assisting in an investigation of, sexual misconduct is Recipient's primary interest. In order to facilitate reporting, Recipient shall not charge students who, in good faith, report sexual misconduct or serve as material witnesses with Student Code of Conduct violations, for behavior that otherwise would be considered violations (for example consuming alcohol underage or consuming illegal drugs).

Campus Climate Survey. To adequately assess perceptions and behaviors of sexual misconduct on Recipient's campus, Recipient shall administer an anonymous sexual assault

campus climate survey to its students once every three years. If the survey is included as a separate component of a broader survey regarding campus safety, the sexual assault component will be clearly identified as such.

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

Confidential Advisors may, as appropriate, serve as a liaison between an alleged victim and Recipient or local law enforcement when directed to do so in writing by an alleged victim who has been fully and accurately informed about what procedures shall occur if information is shared, and assist an alleged victim in contacting and reporting to a responsible employee or local law enforcement.

The Confidential Advisor shall be authorized to liaise with appropriate staff and Recipient to arrange supportive measures, as defined hereinabove. Requests to a Confidential Advisor for supportive measures shall not trigger an investigation by Recipient.

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

The Confidential Advisor is authorized to advise the alleged victim of, and provide written information regarding, both the alleged victim'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. The Confidential Advisor is not obligated to report crimes to Recipient or law enforcement in a way that identifies an alleged victim or an accused individual, unless otherwise required to do so by law.

Confidential Advisors shall complete online training developed by the Attorney General in collaboration with the Board of Regents.

Confidential Advisors for Recipient are:

Peter Emerson, slucc@southeastern.edu
Annette Baldwin-Newton, slucc@southeastern.edu
Paige LeBleu Moody, slucc@southeastern.edu
Courtney Williams, slucc@southeastern.edu
Marcela Spicuzza, slucc@southeastern.edu
Wes Erington, slucc@southeastern.edu
Amanda Anderson, slucc@southeastern.edu

Their offices are located in **The University Counseling Center**, which is located at:
303 A Union Ave.
Student Union Annex
Hammond, LA 70402

Coordination with the City of Hammond Police Department and the 21st Judicial District Attorney's Office. Recipient maintains Memoranda of Understanding with the City of Hammond Police Department and the 21st Judicial District Attorney's Office Rape Crisis Program regarding the coordination of its efforts with said agencies to clearly delineate responsibilities and share information in accordance with applicable federal and state confidentiality laws including, but not limited to, trends about sexually-oriented criminal offenses occurring against students of Recipient and joint or shared trauma informed training specific to assisting sexual assault victims.

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 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 Officer, the Title IX Deputy Officer, 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 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. 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 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.

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, 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.

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

For information regarding programs offered by the District Attorney’s Office for the 21st Judicial District Court dealing with Victim’s Assistance, Rape Crisis and Domestic Violence log on to www.21jdda.org

Retaliation. Retaliation against an individual for making a good faith complaint of unlawful discrimination, harassment or other unlawful practice, or for using or participating in the complaint process, is a violation of Recipient’s policy and is strictly prohibited. Employees or students making a sexual misconduct 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. More about the University’s retaliation policy can be found at <http://www.southeastern.edu/resources/policies/assets/retaliation.pdf>.

Training. Title IX Coordinators, investigators, decision makers, 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.

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

Transfer Policy. The transcript of a student who has been accused of a sexually oriented criminal offense and withdraws pending disciplinary action shall be withheld until investigation and adjudication of the matter by the institution is completed.

Policy & Procedure

Should any members of Recipient's community observe, encounter, or learn of conduct that may be in violation of this policy, said individual should report that conduct to an appropriate party. Reports of sexual misconduct may be brought to the Title IX Coordinator, the Deputy Title IX Coordinator, or to any of the individuals designated herein below under the section "Reporting Options." This includes conduct by employees, students, or third parties. If the person to whom harassment normally would be reported is the individual accused of misconduct, reports may be made to another manager, supervisor, or designated employee or directly to the Title IX Coordinator or the Deputy Title IX Coordinator. Managers, supervisors, faculty, and designated employees are required to notify the Title IX Coordinator or the Deputy Title IX Coordinator when a report is received.

Reports of sexual misconduct should be brought forward as soon as possible after the alleged conduct occurs. While there is no stated period for reporting prompt reporting will better enable the University to respond to the report, determine the issues, and provide an appropriate remedy and/or action. All incidents should be reported even if a significant amount of time has passed. However, delaying a report may impede Recipient's ability to conduct an investigation and/or to take appropriate remedial actions.

Reporting Options. If an individual chooses to informally bring allegations, complainant must be notified of the right to, at any time, pursue a formal complaint and/or take legal action.

A "Formal Complaint" is a document filed by a complainant or signed by the Title IX Coordinator alleging sexual harassment against a respondent and requesting that Recipient investigate the allegation of sexual harassment. At the time of filing a Formal Complaint, a Complainant must be participating in or attempting to participate in, the education program or activity of Recipient. A

Formal Complaint can be filed by a third party, such as a parent or guardian, on behalf of a Complainant.

Recipient maintains an online reporting system to collect anonymous disclosures of crimes and track patterns of crimes on campus. An individual may submit a confidential report about a specific crime to Recipient using the online reporting system. Said system includes information regarding how to report a crime to a responsible employee and/or law enforcement as well as how to contact a Confidential Advisor.

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 to report the incident to any individual or entity listed below:

University Police Department. Complainant may report an incident of sexual misconduct 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.

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 his contact information is as follows:

Gene Pregeant
Rm. 120 Dyson Hall
Telephone number: 985/549-5888
Email address: gpregeant@selu.edu

The Title IX Deputy Coordinator and his contact information is as follows:

Dr. Gabe Willis
Rm. 2409 Student Union
Telephone number: 985/549-3792
Email address; deanofstudents@southeastern.edu

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, 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 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 Reports. Anonymous reports can be made at http://www.southeastern.edu/admin/police/anonymous_reporting/index.html.

Individuals who choose to file anonymous reports are advised that it may be very difficult for the University to follow up and/or take action on anonymous reports, where corroborating information is limited. Anonymous reports may be used for Clery Act data collection purposes and shall be forwarded to the Title IX Officer.

Confidentiality. Recipient, once in receipt of a report of sexual misconduct, shall take all reasonable measures to protect the privacy of the Complainant and of the Respondent, while promptly investigating and responding to the report. Recipient shall take appropriate action to maintain the confidentiality of the information reported, which information is subject to privacy requirements of the Family Educational Rights and Privacy Act ("FERPA"), while considering its

responsibility to provide a safe and non-discriminatory environment for students, including the Complainant.

The Recipient will respect the confidentiality of alleged victims of possible sexual misconduct, consistent with Recipient's legal obligations. Individuals who wish to report or discuss incidents of sexual misconduct should be aware that employees on campus have different reporting responsibilities and different abilities to maintain confidentiality or privacy, depending on their roles at the University.

Limited Confidentiality of Reports to Employees. When considering reporting options, Complainants should be aware that certain Recipient personnel must maintain strict confidentiality, while others have mandatory reporting and response obligations. Recipient personnel who are Mandatory Reporters and who receive a report of alleged sexual misconduct are required to share the information with appropriate administrative authorities for investigation and follow up. Recipient will protect a Complainant's confidentiality by refusing to disclose his or her information to anyone outside Recipient to the maximum extent permitted by law. As for confidentiality of information within Recipient, Recipient must balance a Complainant's request for confidentiality with its responsibility to provide a safe and non-discriminatory environment for the Recipient community.

Employees Required to Maintain Confidentiality. The following individuals are not required to report information about an incident to the Title IX Officer without a Complainant's permission. Non-reporters include physical and mental health professionals, including licensed counselors who provide mental health counseling to members of the University community and those who act under the supervision of a health care employee. Those offices are:

University Counseling Center

Location: 912 N. Oak St.
War Memorial Student Union
303 A Union Avenue
Phone: (985) 549-3894
Fax: (985) 549-5007
Email: slucc@selu.edu
Website: <http://www.southeastern.edu/admin/counseling/>

University Health Center

Location: War Memorial Student Union Annex
303 Union Avenue

Phone: 985-549-2242

Fax: 985-549-2093

Email: health@selu.edu

Website: http://www.southeastern.edu/admin/health_ctr/

These offices will maintain confidentiality in accordance with the law and their professional rules of conduct. They will assist in a crisis and provide information about possible resources, some of which may include law enforcement, medical assistance, psychological counseling, victim advocacy assistance, legal assistance, University disciplinary action, immigration services, and criminal prosecution. They will not reveal the Complainant's identity to anyone without the Complainant's permission except under very limited exceptions (e.g., if an immediate threat to the complainant or others is present, or if the complainant is a minor). Complainants need not reveal their names if calling these individuals for information. These offices are obligated to report complaints to the University Police Department for purposes of the Clery Act but not in a way that identifies an alleged victim or an accused individual unless otherwise required to do so by law.

Confidentiality Requests and Supportive Measures. Recipient's inability to take disciplinary action against a Respondent accused of sexual misconduct because of a Complainant's insistence of confidentiality will not restrict the Recipient's ability to provide appropriate supportive measures for the reasonable safety of the Complainant or the Recipient community. Recipient may also use the information as an anonymous report for data collection purposes under the Clery Act.

Victim Identity Protected from Open Records. The identity of those complaining of sexual misconduct will be withheld unless mandated by court order or otherwise required to be released by law.

Investigation Procedures and Protocols Under Title IX-

- a. Actual Notice.** The duty to begin an investigation under Title IX is triggered by notice of allegations of sexual harassment to Recipient's Title IX Officer or the Deputy Title IX Officer.
- b. Assignment.** The Title IX Coordinator and the Deputy Title IX Coordinator will both review the complaint and discuss the matter. An initial determination will be made as to whether reasonable cause exists for moving forward, whether any of the requirements for dismissal of the matter are present, whether the case is suitable for informal resolution, and what appropriate supportive interim measures are warranted. The Title IX Coordinator will assign the matter to an investigator. and advise the Complainant of the name and contact information of that individual. If a student Complainant requests a

disciplinary review the Title IX Coordinator may also assign the investigation to the Office of Advocacy & Accountability. The procedures and protocols for the Office of Advocacy & Accountability can be found at www.southeastern.edu/code.

- c. Initial Meeting with Complainant.** As soon as is practicable (but no later than five working days following actual notice), the individual investigating the complaint shall contact the Complainant and schedule an initial meeting. At the initial meeting the Investigator will:
- i. Provide a copy of this policy which explains the process and rights of all parties;
 - ii. Request additional information regarding the reported incident;
 - iii. Explain the investigatory process;
 - iv. Explain the options for reporting to law enforcement authorities (whether on campus or local police) and the Office of Student Conduct;
 - v. Discuss confidentiality standards and concerns with the complainant and advise that confidentiality may impact the University's ability to investigate fully;
 - vi. 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;
 - vii. Explain to the Complainant the process for filing a formal complaint;
 - viii. 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; and,
 - ix. Inform the Complainant that they have the right to utilize a Confidential Advisor and/or any other Advisor of their choosing throughout the process;
 - x. 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;
 - xi. If the Respondent is a student, the Office of Advocacy & Accountability may impose interim supportive measures such as a no contact order or an interim suspension from school/removal from an activity to protect the safety of the Complainant. 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 the Respondent with notice and an opportunity to challenge the decision immediately following the suspension/removal. The Office of Advocacy & Accountability extends additional rights in disciplinary procedures

to victims of Sexual Harassment which can be found at www.southeastern.edu/code.

xii. If the Respondent is a member of the Recipient's faculty or staff supportive measures provided by Recipient may include modification of work schedules, campus escorts services, mutual restrictions on contact between parties, changes in work locations, leaves of absence, increased security and monitoring of certain areas of the campus, and other similar measures.

d. Formal Complaint Signed by the Title IX Coordinator. In the event that a Complainant ultimately requests that Recipient not investigate a potential Title IX violation, that request should be respected unless the Title IX Coordinator determines that signing a Formal Complaint to initiate an investigation is not clearly unreasonable in light of the known circumstances.

e. Informal Resolution. A process of informal resolution, where appropriate, may be utilized at any point prior to reaching a determination of responsibility as long as the following requirements are met:

- A Formal Complaint has been filed.
- Respondent is not an employee.
- The facilitator is adequately trained.
- All parties provide voluntary, written consent to the process.
- All parties are provided with a written notice that includes:
 - The allegations
 - The requirements of the process, including the circumstances under which it precludes the parties from resuming a Formal Complaint arising from the same allegations
 - The requirement that either party prior to agreeing to a resolution, has the right to withdraw from the informal resolution process and resume the grievance process with respect to the Formal Complaint.
 - The consequences resulting from participating in the informal resolution process, including the records that will be maintained or could be shared.

Recipient may not require as a condition of enrollment or continuing enrollment, or employment or continuing employment, or enjoyment of any other right, waiver of the right to an investigation and adjudication of Formal Complaints. Likewise, Recipient may not require the parties to participate in an informal resolution process.

f. Dismissal of Formal Complaint Prior to Full Resolution. If the conduct alleged in the Formal Complaint does not constitute sexual harassment as defined in this policy (even if

proved), if it did not occur in Recipient's education program or activity, or it did not occur against a person in the United States, Recipient must dismiss the Formal Complaint with regard to that conduct. Such dismissal does not preclude action under another provision of the Recipient's Code of Conduct or applicable employment policy.

Recipient may dismiss the Formal Complaint, or any allegations therein, if at any time during the investigation or hearing Complainant notifies the Title IX Coordinator of the Deputy Title IX Coordinator in writing that the Complainant would like to withdraw the Formal Complaint or any allegations therein.

Recipient may dismiss the Formal Complaint, or any allegations therein, if the Respondent is no longer enrolled or employed by the Recipient.

Recipient may dismiss the Formal Complaint, or any allegations therein, if specific circumstances prevent Recipient from gathering evidence sufficient or reach a determination as to the Formal Complaint or any allegations therein.

In the event a complaint is dismissed, Recipient will immediately send written notice of the dismissal and reasons therefor simultaneously to the Complainant and the Respondent.

- g. Notice of Allegations to Complainant and Respondent.** Within ten working days after the initial meeting with Complainant, the Investigator will provide Complainant and Respondent written notice of the following:
- A copy of Recipient's grievance process including any informal resolution process;
 - The allegations of sexual harassment, including sufficient details known at the time and with sufficient time to prepare a response before any initial interview. Such details should include:
 - The identities of the parties involved (if known).
 - The specific section(s) of the policy alleged to have been violated.
 - The conduct that would be considered sexual harassment.
 - The date of the incident.
 - The location of the incident.
 - A statement that the Respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility is only made at the conclusion of the grievance process
 - That Complainant and Respondent both have the right to inspect and review evidence

- That both parties have the right to an advisor of their choice. That advisor may, but is not required to be, an attorney.
 - That at any proceeding, if a party is without an advisor, one will be provided at no cost to the party.
 - That advisors may be present during any stage of the process, including all meetings, interviews, and proceedings.
 - That restrictions regarding the extent to which the advisors may participate in the proceedings are allowed, as long as the restrictions apply equally to all parties.
 - That advisors will cross examine opposing parties during the live hearing.
 - That the Code of Student Conduct provides that it is a violation for a student to knowingly make false statements or knowingly submitting false information during the grievance process.
 - That all parties, as well as all others whose participation in the grievance process is invited or expected, shall be provided with written notice of the date, time, location, participants, and the purpose of all hearings, investigative interviews or other meetings, with sufficient time for preparation to participate.
 - That if, in the course of an investigation, Recipient decides to investigate allegations about the Complainant or Respondent that are not included in the original notice, Recipient must provide notice of the additional allegations to all parties whose identities are known.
- h. Consolidation of Formal Complaints.** Recipient may consolidate Formal Complaints as to allegations of sexual harassment against more than one Respondent, or by more than one Complainant against one or more Respondents, or by one party against the other party, where the allegations of sexual harassment arise out of the same facts or circumstances.
- i. Investigation Time Frame.** The investigation should begin within five working days of the notice to the Respondent and a report (as described in section m below) must be prepared and shared with all parties within a reasonable time frame, preferably no longer than ten working days from the day the investigation began.
- j. Equitable Treatment.** Investigator will remain neutral throughout the investigation and provide both Complainant and Respondent opportunities to respond in person and in writing, to submit relevant documents, and to produce relevant witnesses. Both parties shall also be afforded simultaneous notices of the opportunity to have a representative or advisor present at all meetings, and the ability to inspect any information that will be used after the investigation during informal and formal disciplinary meetings. At no time

will either party be offered mediation as an option to resolve a sexual misconduct case that involves violent or criminal conduct.

- k. **Gathering Evidence.** The burden of proof and the burden of gathering evidence sufficient to reach a determination regarding responsibility rests with Recipient.

Recipient cannot access, consider, disclose, or otherwise use a party's records that are made or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in the professional's or paraprofessional's capacity, or assisting in that capacity, and which are made and maintained in connection with the provision of treatment to party, unless Recipient obtains that party's voluntary written consent.

Recipient must provide an equal opportunity for the parties to produce witnesses, including fact and expert witnesses, and other inculpatory and exculpatory evidence.

Recipient shall not restrict the ability of either party to discuss the allegations under investigation or to gather and present relevant evidence.

- l. **Right to Inspect, Review, Access, and Respond to Evidence.** All parties shall be provided an equal opportunity to inspect and review any evidence obtained as part of the investigation that is directly related to the allegations raised in a Formal Complaint, including evidence upon which Recipient does not intend to rely in reaching a determination regarding responsibility and inculpatory or exculpatory evidence whether obtained from a party or other source.

After said review, parties shall have ten working days to submit a written response to said evidence, which the Investigator will consider prior to completion of the report.

Recipient must make all such evidence available at any hearing to give each party equal opportunity to refer to such evidence during the hearing, including for purposes of cross examination.

- m. **Report of Investigation.** No later than ten days following the completion of the investigation, the Investigator will complete a written investigative report that includes summaries of interviews conducted; photographs, if any; documents and materials received; descriptions of relevant evidence; summaries of relevant electronic records; and a detailed report of the events related to the incident.

At least ten working days prior to a hearing on the determination regarding responsibility, the report shall be sent (via hard copy or electronic format) to each party and each party's advisor.

n. Live Hearing. Recipient's Title IX grievance process shall provide for a live hearing.

The hearing may be conducted with all parties physically present in the same geographic location, or, at Recipient's discretion, any or all parties, witnesses, and other participants may appear at the live hearing virtually, with technology enabling participants simultaneously to see and hear each other.

All parties shall be notified of the details of the hearing, including date, time, location, participants, and purpose. Said notice shall be provided ten working days prior to the hearing, and whether the matter will be decided by an individual or a panel.

Recipient shall create an audio, audiovisual recording, or transcript, of the hearing and make it available to all parties for inspection and review.

If a party does not have an advisor present at the hearing, Recipient must provide, without fee or charge to that party, an advisor of Recipient's choice, who may be, but is not required to be, an attorney, to conduct cross-examination on behalf of that party.

Each party's advisors shall be permitted to ask the other party and any witnesses all relevant questions and follow up questions, including those challenging credibility.

Questions must be first evaluated by the Decision-Maker(s) for relevance before being allowed, and any questions rejected will be explained on the record.

While Recipient might otherwise restrict the participation of advisors, cross-examination must be conducted directly, orally, and in real time by the advisors and never be a party personally.

Only relevant cross-examination and other questions may be asked of a party or witness.

o. Rape Shield. Questions and evidence about Complainant's sexual predisposition or prior sexual behavior are not relevant, unless such questions and evidence are offered to prove that someone other than Respondent committed the conduct alleged by Complainant, or

if the questions and evidence concern specific incidents of Complainant's prior sexual behavior with respect to Respondent and are offered to prove consent.

- p. Refusal to Submit to Cross Examination.** If a party or witness does not submit to cross-examination at the live hearing, the Decision-Maker(s) shall not rely on any statement of that party or witness in reaching a determination regarding responsibility; provided however, that the Decision-Maker(s) cannot draw an inference about the determination regarding responsibility based solely on a party's or witness's absence from the hearing or refusal to answer cross-examination of other questions.
- q. Standard of Evidence.** Recipient shall apply the "preponderance of the evidence" standard for finding responsibility in all Title IX cases.
- r. Determination of Responsibility.** A written finding by the Decision-Maker(s) is required following the hearing. This report shall include:

 - All of the allegations which potentially constituted sexual harassment.
 - A description of the procedural steps taken from the receipt of the Formal Complaint through the determination, including any notifications to the parties, interviews with parties and witnesses, site visits, methods used to gather other evidence, and hearings held.
 - Findings of fact supporting the determination.
 - Conclusions regarding the application of the particular section of Recipient's Code of Conduct to the facts (if Respondent is a student) or regarding applicable employment policies (if Respondent is an employee).
 - A statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility, any disciplinary sanctions Recipient imposes on Respondent, and whether remedies designed to restore or preserve equal access to Recipient's education program or activity will be provided to Complainant.
 - All parties shall be notified of the Determination simultaneously.
 - Proceedings and grounds for appeal.
- s. Sanctions.** In the event of a disciplinary proceeding, both Complainant and Respondent will be informed in writing of the results of any disciplinary proceedings no later than ten working days after the resolution. If Respondent is found responsible for sexual misconduct, Recipient will initiate a sanctioning process designed to eliminate the misconduct, prevent its recurrence, and remedy its effects, while supporting Recipient's educational mission and Title IX obligations. Sanctions or interventions may also serve to promote safety or deter students and employees from similar future behavior. Some behavior is so harmful to the Recipient's community or so detrimental to the educational process that it may require more serious sanctions or interventions, such as removal from

Recipient housing, removal from specific courses or activities, suspension or expulsion from Recipient, or employment discipline/termination. Sanctions or interventions may include, but are not limited to, one or more of the following:

- i. **Formal Reprimand.** A formal notice that Respondent has violated Recipient policy and that future violations may be dealt with more severely.
 - ii. **Disciplinary Probation.** A designated period of time during which Respondent is not in good standing with Recipient. The terms of probation may involve restrictions of student privileges and/or set specific behavioral expectations.
 - iii. **Restitution.** Reasonable and limited compensation for loss, damage, or injury to the appropriate party in the form of money or material replacement.
 - iv. **Restriction from Employment at Recipient.** Prohibition of, termination from, or limitation on Recipient employment.
 - v. **Class/Workshop/Training/Program Attendance.** Enrollment in and completion of a class, workshop, training, or program that could help Respondent or the Recipient community.
 - vi. **University Housing Transfer or Removal.** Placement in another room or housing unit or removal from Recipient housing. Housing transfers or removals may be temporary or permanent depending on the circumstances.
 - vii. **Professional Assessment.** Completion of a professional assessment that could help Respondent or Recipient ascertain Respondent's ongoing supervision or support needs to successfully participate in Recipient's community.
 - viii. **Removal from Specific Courses or Activities.** Suspension or transfer from courses or activities at Recipient for a specified period of time.
 - ix. **No Contact.** Restriction from entering specific Recipient areas and/or from all forms of contact with certain persons.
 - x. **Suspension.** Separation from Recipient for a specified period of time or until certain conditions are met.
 - xi. **Expulsion.** Permanent separation from Recipient.
 - xii. **Transfer Notification.** If a student is found responsible for a sexually-oriented criminal offense upon the completion of such investigation and/or adjudication and seeks to transfer to another institution, Recipient is required to communicate such a violation, when the institution becomes aware of the student's attempt to transfer, with the institution(s) to which the student seeks to transfer or has transferred.
- t. **Appeals.** Either party may appeal the outcome of the matter except where Respondent has accepted an agreement under the sanctioning process outlined above. 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 review of the matter will be efficient and narrowly tailored. A party may seek review only on the following grounds:

- i. A procedural irregularity that affected the outcome of the matter;
- ii. There is newly discovered evidence that could affect the outcome of the matter;
- iii. 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; and/or
- iv. The sanctions/interventions are not designed to restore or preserve Complainant's access to Recipient's education program or activity.
- v. The sanctions/interventions are inappropriate or disproportionate to the determined violation(s).

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.

In cases involving student Respondents adjudicated by the Office of Advocacy and Accountability a party may appeal a decision based on the appeals procedures outlined in the Student Code of Conduct which can be found at www.southeastern.edu/code. In such cases, the Code of Conduct requires that the appealing party must file an appeal with the Vice-President for Student Affairs, within ten working days of notification of the decision. Within ten working days, the Vice-President's decision will be made available to the participating parties, in writing, simultaneously. The Vice-President's decision shall be final and unreviewable except in the event of a sanction of expulsion or suspension for a period of one year or longer for the Respondent, in which event the Respondent may appeal to the President. Such appeal must be made within ten working days of notification of the Vice-President's decision. Within ten working days, the President's final and unreviewable decision will be made available to the participating parties, in writing, simultaneously.

In cases involving employee Respondents, a party may submit a written appeal to Recipient's President within ten working days of the date of the notification of the decision. Within ten working days, the President's final and unreviewable decision will be made available to the participating parties, in writing, simultaneously.

- u. **Delays/Extensions.** In the event that there is a legitimate good cause need for a delay or a limited extension of time at any stage in the Title IX proceedings (whether at the request of any official or party), Recipient shall notify in writing all parties of the rationale for the delay or extension as well as the new timeframe. Good cause may include considerations

such as the absence of a party, a party's advisor, or a witness; concurrent law enforcement activity; or the need for language assistance or accommodation of disabilities.

- v. Prohibition on Dual Roles.** No individual can serve in more than one role in any investigation – the Title IX team members, specifically the Investigator(s), Decision-Maker(s), appeals officer(s), coordinator(s), and advisor(s) must all be different officials.

- w. Bias or Conflicts of Interest.** When making decisions regarding the selection of all Title IX team members in each case, Recipient must vet all of the potential members to ensure that none of them have a bias or conflict of interest regarding any party to the proceeding. If an official believes that they cannot serve for one of these reasons they may recuse themselves from the proceeding. In the event that a party believes that any official may have a bias or conflict of interest the party may challenge that official. Said challenge would be made to the Deputy Title IX Coordinator unless that individual is the subject of the challenge, in which event the challenge would be made to the Chief Title IX Coordinator. After a review of the challenge, if found meritorious, the individual will be replaced.

- x. Recordkeeping.** Recipient must maintain records for seven years. Records that must be maintained include supportive measures, investigative reports, hearing outcome, hearing media files or transcripts, sanctions, remedies, appeal, and informal resolutions.