

Sexual and Gender-Based Misconduct Policy (Title IX)

I. Introduction

A. Community Context

Southeastern University (“SEU”) is anchored by Spirit-empowered education in a Christ-centered, student-focused learning community. Within this community, there is a commitment obligating each believer to a code of scriptural and civilized community behavior. Each member is responsible to reflect a genuine love of God and a desire to please Him in every aspect of his or her life, attitudes, and conduct by showing respect for the dignity and rights of all persons. A core value in this community is to maintain a safe and respectful environment for all individuals that is free of sexual and gender-based misconduct.

This policy contains specific procedures for the prevention of and response to violations involving sexual and gender-based misconduct, as defined herein. In addition, the SEU Statement on Human Sexuality holds all community members to standards of behavior based on the understanding that, in God’s design, human sexuality is to occur between one genetic male and one genetic female within the covenant of marriage.

B. Policy Statement

Title IX of the Education Amendments of 1972 (20 U.S.C. § 1681) is a federal law that prohibits discrimination on the basis of sex of students and employees of educational institutions that receive federal financial assistance. Title IX reads:

“No person in the United States, shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance...” Title IX of the Education Amendments of 1972, and its implementing regulation at 34 C.F.R. Part 106 (Title IX).

Members of the SEU community, guests, and visitors all have the right to be free from Sexual Misconduct. Further, SEU has a responsibility to respond quickly and effectively when the University becomes aware of Sexual Misconduct. SEU is committed to prevention of all forms of Sexual Misconduct as well as to the protection and rehabilitation of victims of such acts. Investigations by SEU of reported Sexual Misconduct will be impartial and strive for reliability, with responses to reported misconduct aimed at adequately stopping the behavior, preventing its recurrence, and addressing its effects. Therefore, when a Responding Party is found to have engaged in Sexual Misconduct, serious disciplinary sanctions will be assigned with the goal of ensuring the misconduct stops and is not repeated. Additionally, individuals who engage in such behavior who are not students (including visitors to campus and/or individuals engaged in University-affiliated programs or services) are subject to sanctions which may include loss of privileges, limitations on University access, and reports to appropriate law enforcement agencies.

II. Scope

A. This policy applies to all members of the SEU community. The SEU community includes current undergraduate and graduate students, staff and faculty, administration, and any third parties interacting with students, staff, faculty, or administration of SEU. The policy covers members of the SEU community regardless of age, race, or gender.

B. This policy covers all activities that occur on SEU's campus or at its facilities and regional campuses or extension sites, as well as activities off campus where members of the SEU community are involved. It covers all relationships, including but not limited to: student with student, student with staff and faculty, student with administration, student with third parties, staff and faculty with staff and faculty, staff and faculty with administration, staff and faculty with third parties, administration with administration, administration with third parties. It covers all SEU related programs and events, both on and off campus, including international programs.

III. Definitions of Sexual and Gender-Based Misconduct

Sexual and gender-based misconduct ("Sexual Misconduct") is any non-consensual sexually coercive behavior. **It is a spectrum** that includes everything from actual physical acts, such as non-consensual sexual contact and non-consensual intercourse to unwelcome or offensive sexual advances, requests for sexual favors, unwanted or uninvited verbal suggestions or comments of a sexual nature. Additionally, coercive behavior, including suggestions that academic or employment reprisals or rewards will follow the refusal or granting of sexual favors, or conduct that unreasonably interferes with an individual's work or academic performance or creates an intimidating, hostile or offensive work environment are considered Sexual Misconduct.

The following descriptions provide context about the various forms in which Sexual Misconduct can manifest. This list is not intended to be exhaustive, and acts that are not necessarily on this list may still constitute behaviors prohibited by SEU's honor code, community standards, and this policy.

- A. Relationship Violence is any violence, including but not limited to physical, sexual, emotional, or monetary abuse or threat of abuse, between two people who are or have been in a social relationship of a romantic or intimate nature. Relationship violence includes dating violence, domestic violence, and intimate partner violence and may result from one act or an ongoing pattern of behavior. Relationship violence can encompass a broad range of behavior including, but not limited to, persistent attempts to unreasonably control or isolate, threats, assault, property damage, violence or threat of violence to one's self, one's romantic or sexual partner, or to the family member or friends of the sexual or romantic partner.
- B. Non-Consensual Sexual Contact is any intentional sexual contact with an intimate body

part, however slight, with any body part or object, without effective consent. Sexual contact includes intentional contact with the breasts, buttock, groin, or genitals, or touching another with any of these body parts, or making another touch you or themselves with or on any of these body parts without effective consent. It also includes any intentional bodily contact done in a sexual manner, as well as disrobing another individual, or exposing oneself to another without effective consent.

- C. Non-Consensual Sexual Intercourse is any sexual intercourse (anal, oral, or vaginal, including any contact between mouth and genitals), however slight, using any body part or object, by a person upon another person without effective consent. Intercourse includes vaginal or anal penetration by a penis, object, tongue or finger, and oral copulation (mouth to genital contact), no matter how slight the penetration or contact.
- D. Sexual Exploitation occurs when an individual takes non-consensual, unfair, or abusive sexual advantage of another for his/her own advantage or benefit, or to benefit or advantage anyone other than the one being exploited, and that behavior does not otherwise constitute one of other sexual misconduct offenses. As an example, sexual exploitation includes, but is not limited to voyeurism. Voyeurism is an invasion of sexual privacy whereby an individual engages in secretive observation of another engaging in sexual acts or disrobing, or engages in non-consensual video or audio taping of sexual acts or disrobing, or disseminating photographs or recordings of someone involved in sexual activity without his or her knowledge or consent.
- E. Sexual Harassment is unwelcome conduct of a sexual nature (including, but not limited to, unwelcome sexual advances, requests for sexual favors, and other verbal, nonverbal, or physical sexual conduct) when: (i) submission to or rejection of such conduct or communication is made a term or condition of educational benefits, academic evaluations, or programs and opportunities offered by the University, sometimes referred to a “quid pro quo” or (ii) such conduct is serious or pervasive (repetitious) enough to substantially interfere with or limit a reasonable person’s ability to participate in or benefit from the University’s educational programs or services, sometimes referred to as “hostile environment”.

Some examples of behaviors that might constitute sexual harassment include:

- Use of a position of power or authority to threaten or punish another individual for refusing to submit to sexual activity or to promise rewards in exchange for sexual favors, such as a professor proposing that a student have sex with him/her in exchange for a good grade.
- Display or circulation of written materials or pictures which are degrading on the basis of sex or gender or which contain unwanted or unwelcome sexual innuendo, suggestive comments, symbols, jokes, slurs, insults, threats, or derogatory language based on sex or gender. An illustration would be a student repeatedly sending sexually oriented jokes around on an email list s/he created, even when

asked to stop, causing one recipient to avoid the sender on campus and in the residence hall in which they both live.

- Acts of verbal, non-verbal, or physical aggression, intimidation or hostility based on sex, gender, or stereotyping of sex or gender, such as when two supervisors frequently ‘rate’ other employees’ or students’ bodies and sex appeal, commenting suggestively about their clothing and appearance.

F. Stalking is an intentional course of repeated conduct, directed at a specific person, which would cause a reasonable person to feel fear for their safety or the safety of others or to suffer substantial emotional distress, and which does cause the victim to feel alarm, fear, annoyance, or emotional distress.

Examples of conduct that may constitute stalking include, but are not limited to:

- Persistent, non-consensual communication, including face-to-face communication, telephone calls, voice messages, emails, written letters, gifts, or any other communications that are undesired or use of online, electronic, or digital technologies for similar objectives, such as posting of pictures online, sending unwanted/unsolicited email or chat requests, posting private or public messages on social media sites, installing spyware of someone’s computer, and using GPS to monitor a person.
- Pursuing or following someone or waiting uninvited near the place where a person frequents
- Gathering information about an individual from friends, family, or co-workers.

IV. Relevant Definitions and Concepts

- A. Coercion: unreasonable pressure for any activity.
- B. Force: the use of physical violence, threats, intimidation (implied threats), and/or coercion to overcome resistance or objection. Consent cannot be gained using force.
- C. Incapacitation: a “state” where an individual is temporarily or permanently impaired by mental and/or physical deficiency (such as when sleeping or blacked out), disability, illness, or by the use of alcohol or other drugs to the extent that the person lacks sufficient understanding to make rational decisions or engage in responsible actions. A person who does not comprehend the “who, what, where, when, why, or how” of a sexual interaction may be incapacitated.
- D. Reporting Party: any person who reports Sexual Misconduct, whether the person is the victim or a witness, and whether or not the person chooses to pursue an investigation into the incident.

- E. Reported Victim: If the Reporting Party is not the victim or survivor of the alleged Sexual Misconduct, the University will refer to the victim as the Reported Victim.
- F. Responding Party: any person who is alleged to have engaged in a form of Sexual Misconduct and becomes subject to the University's investigation process.
- G. Threats: threatening or causing physical harm, extreme verbal abuse, or other conduct which threatens or endangers the health or safety of any person.
- H. Intimidation: implied threats or acts that cause an unreasonable fear of harm in another

V. Consent

All forms of Sexual Misconduct involve the absence of affirmative consent on the part of the victim. Affirmative consent is an unambiguous agreement between all parties to engage in a particular activity. The following guidelines are listed to assist all members of the SEU community to understand the basis for and parameters of effective consent:

- A. Consent is clear, knowing and voluntary.
- B. Consent is active, not passive.
- C. Silence or an absence of resistance does not imply consent.
- D. A prior sexual history between the complainant and respondent does not constitute consent. Past consent does not imply future consent.
- E. Consent to engage in sexual activity with one person does not imply consent to engage in sexual activity with another.
- F. Consent can be withdrawn at any time.
- G. Effective consent can be given by words or actions, as long as those words or actions create mutually understandable permission regarding the conditions of sexual activity -- who, what, when, where, why and how sexual activity will take place.
- H. It is the responsibility of the initiator of the sexual activity to obtain consent.
- I. Consent cannot be procured by use of physical force, threats, intimidating behavior, or coercion.
- J. Physical force includes but is not limited to hitting, punching, kicking, scratching, shoving, and restraining. Coercion means exerting unreasonable pressure on a person to engage in any activity by putting that person in fear of negative consequences in order to compel the person to act against his or her will. Use of one or either such tactics to obtain consent will invalidate any consent given.
- K. An individual under the legal age cannot give effective consent.
- L. An individual who is asleep, who is mentally disabled, or who is incapacitated by reason of impairment from voluntary or involuntary consumption of alcohol, drugs, or any other substance cannot give effective consent.
- M. Any time sexual activity takes place between individuals, those individuals must be capable of controlling their physical actions and be capable of making rational, reasonable decisions about their sexual behavior.

VI. Rights of SEU Community Members in Instances of Reported Sexual Misconduct

Anyone who experiences any Sexual Misconduct or who reports such misconduct to the University can expect the following:

- A. All allegations of such behaviors will be treated seriously.
- B. The individual will be treated with dignity and respect and in a non-judgmental manner.
- C. The University will conduct an investigation and implement appropriate resolution of all credible complaints of Sexual Misconduct made in good faith.
- D. All parties will be given timely notice of any required meetings, and will have the opportunity to review any investigative report after the investigation has concluded.
- E. Whenever the University investigates a complaint or allegation of Sexual Misconduct, every reasonable attempt will be made to process the case according to the wishes of the Reported Victim or the Reporting Party. This effort will be balanced with the University's obligation to ensure the safety of the community and its federal reporting obligations.
- F. All parties to an investigation will have the same opportunity to have an advisor accompany them. For more information about the role of an advisor, see Advisor section, below.
- G. The University will notify Reporting Parties and Reported Victims about options to notify proper law enforcement, including local police. Additionally, if the Reporting Party or Reported Victim chooses to notify such authorities, the University will assist the individual in making such contacts. The University will not discourage anyone from reporting an assault to law enforcement authorities.
- H. All parties will be informed of the outcome and sanction of any investigation conducted pursuant to this policy.
- I. The University will provide notification of available counseling, health, mental health, victim advocacy, legal assistance, or other services for victims of Sexual Misconduct, both on and off campus.
- J. The individual is entitled to seek and the University will provide appropriate interim measures to protect a Reported Victim or Reporting Party.
- K. Irrelevant prior sexual experience of a party will not be admitted as evidence in a campus investigation.
- L. No complaint of sexual assault will be mediated.
- M. Any party may appeal the decision of the investigation, in accordance with the standards for appeal established by the University in this policy.
- N. All parties will be informed of the names of all witness, except in cases where a witness' identity will not be revealed to the Responding Party for compelling safety reasons (this does not include the name of the Reported Victim, which will always be revealed).
- O. All parties may petition that any member of the investigation team be removed from the case on the basis of demonstrated bias.

- P. All parties will be informed of the investigation procedures as well as the extent and nature of the alleged violation.
- Q. The University will allow Reporting Parties or Reported Victims to give testimony during the investigation by means other than being in the same room with the Responding Party.
- R. Investigators and appeals officers assigned by the University will have received annual sexual misconduct training.
- S. All parties will be informed in advance of any public release by the University of information regarding the alleged misconduct.
- T. The University will not release to the public any personally identifiable information about the alleged misconduct, without consent of the Reported Victim or Reporting Party.

VII. Reporting Sexual Misconduct

All members of the SEU community are encouraged to contact an appropriate official as soon as possible after any alleged act of Sexual Misconduct has occurred, whether in the form of an assault, discrimination, harassment, or retaliation, to discuss the available options for reporting. In addition, all University employees (faculty, staff, and administrators) are expected to immediately report actual or suspected Sexual Misconduct, regardless of the form in which it occurs, though there are some limited exceptions for University employees who are confidential resources.

SEU is committed to encouraging and protecting those who come forward about any incident they may have experienced or witnessed. As a community, SEU is committed to protecting all students, staff, faculty, administration, and third parties, and to provide all individuals in our community with the ability to speak out against all victimizing acts. **The sooner you contact us, the sooner we can help.**

It is important to be aware of confidentiality and mandatory reporting requirements when consulting campus resources. On campus, some resources may maintain confidentiality – meaning they are not required to report actual or suspected Sexual Misconduct to appropriate University officials – thereby offering options and advice without any obligation to inform an outside agency or individual unless a victim has requested information to be shared. Other resources exist for a Reporting Party to report crimes and policy violations, and these resources will take action when an incident is reported.

Any individual reporting Sexual Misconduct may decide whether and how they want to proceed with any formal investigation or resolution process. A Reporting Party may choose to pursue resolution through the University conduct system, the criminal or civil courts, both, or neither. Any Reporting Party may always initiate or withdraw from the formal resolution process at any time. No University employee should minimize or downplay any report or pressure any Reporting Party to proceed in a way that makes the Reporting Party uncomfortable.

Reporting Parties are advised, however, that in some limited circumstances, the Title IX Deputy Coordinator may be required to take action through the University conduct process

and/or report incidents to the legal authorities regardless of the Reporting Party's wishes. In such instances, however, strong consideration will still be given to the Reporting Party's preferences.

Notwithstanding any other information in this policy, in instances where there is an imminent and severe threat to the safety of the University community, University administrators, in private consultation with Campus Safety and Security, may issue immediate timely warnings or otherwise pursue disciplinary action to protect the University community. Such measures are required for SEU to comply with its obligations under the Clery Act. In such instances, the Title IX Deputy Coordinator will make a reasonable attempt to notify the Reporting Party and/or Reported Victim(s) beforehand. No personally identifiable information about the Reporting Party or Reported Victim(s) will be included in any warning issued.

A. How to get help following an act of Sexual Misconduct

If you are the victim of a recent sexual assault:

- 1) **Get to a safe place as soon as you can.**
- 2) **Seek medical attention.** It is important to seek immediate and follow-up medical attention in an emergency room for several reasons:
 - a) To assess and treat any physical injuries you may have sustained.
 - b) To determine the risk of sexually transmitted infections or pregnancy.
 - c) If you choose, you may have evidence collected to aid criminal prosecution if you later decide to file criminal charges.
- 3) **Consider reporting the assault.** You may report the assault to the University or local police. Going to the hospital to seek medical attention does not obligate you to report the crime. The decision to report is very personal and one only you can make.
- 4) **Try to preserve all physical evidence.** It is best for any physical evidence to be collected immediately, ideally within the first twenty-four (24) hours. However, evidence can be collected up to one week after an assault. Avoid washing, douching, brushing your teeth, or changing your clothes. This could be difficult, but if you wash you may destroy evidence that will be needed should you decide to press criminal charges. If you do change your clothes, put all clothing you were wearing at the time of the assault in individual paper bags (not plastic).

B. Confidential Reporting

Confidential resources are also available to discuss incidents that have occurred without a report being submitted to the Title IX Deputy Coordinator. The following are on-campus resources where such confidentiality can be assured:

- 1) Mental Health Professionals in the Counseling Center
Smith Hall; Health Services
863-667-5205
- 2) Health Professionals in Health Services
Smith Hall
863-667-5205

healthservices@seu.edu

3) Campus Pastor:

Phil Urdiales, Campus Pastor
Pansler U223
863-667-5064
purdiales@seu.edu

All of the above employees will maintain confidentiality except in cases of imminent and severe threat or danger to the campus, or abuse of a minor. Campus counselors are available to help free of charge and can be seen on an emergency basis during normal business hours. These employees will submit anonymous, aggregate statistical information for Clery Act purposes unless they believe it would be harmful to a specific client, patient, or parishioner.

Other than these three resources, all other faculty and staff are required to report incidents to the Title IX Deputy Coordinator. If a Reporting Party is unsure how private or confidential a staff or faculty member can keep a report, the Reporting Party should ask prior to disclosure. Faculty and staff are expected to respond honestly and identify alternative resources if needed.

The following are other confidential support resources off-campus:

- Peace River Rape Crisis Services 863-413-2707 (Confidential)
1806 S. Crystal Lake Drive Lakeland, FL 877-688-5077
24/7 confidential counseling and forensic examinations
- National Sexual Assault Hotline 800-656-4673
- Florida Sexual Violence Hotline 888-956-7273
- National Stalking Resource Center 800-FYI- CALL
- Florida Coalition Against Domestic Violence 800-500-1119

C. Formal Reporting

A variety of formal reporting options are available to any individual who believes Sexual Misconduct has occurred and who wishes to bring it to the attention of the University. Once the University receives a report of alleged Sexual Misconduct, the University is obligated to assess the situation to determine if the incident poses an imminent and severe campus threat.

- 1) Online Reporting Option: All members of the SEU community are encouraged to report incidents directly through the online reporting form at <http://www.seu.edu/about/title-ix/reporting/>. Reports submitted through the online reporting form go directly to the Deputy Title IX Coordinators. Reporters can expect follow up within three (3) business days of filing a report, if they indicated that they wish to be contacted.
- 2) Reporting to Faculty or Staff: Students may also report Sexual Misconduct to any University faculty or staff member directly. As all faculty and staff at SEU are mandatory reporters (except those who are explicitly designated as confidential resources in Section VII. B. of this policy) within 24 hours of being notified, all

faculty and staff are expected to report alleged Sexual Misconduct to the appropriate Title IX Deputy Coordinator.

Reporting Parties may want to consider carefully whether they share personally identifiable details with non-confidential employees, as those details must be shared by the employee with the Title IX Coordinator and/or Deputy Coordinators. Employees must share all details of the reports they receive. Generally, climate surveys, classroom writing assignment, human subjects research, or events such as Take Back the Night marches or speak-outs do not provide notice that must be reported to the Coordinator by employees. Resources may be offered by the University even in the event of no formal investigation.

Failure of a non-confidential employee, as described in this section, to report an incident or incidents of Sexual Misconduct of which they become aware, is a violation of University policy and can be subject to disciplinary action.

3) *Title IX Officers:*

Southeastern University's Title IX Coordinator is:

Bethany Thomas
Vice President of Student Development
Pansler 2nd Floor
1000 Longfellow Boulevard
Lakeland, FL 33801
(t) 863-667-5039
(email) btthomas@seu.edu

Duties & Responsibilities of the Title IX Coordinator:

The Title IX Coordinator is responsible for monitoring, oversight, and overall implementation of Title IX Compliance practices and the prevention of Sexual Misconduct and discrimination at the University, including coordination of training, education, communications, and administration of grievance procedures for faculty, staff, students and other members of the University community.

If you have questions or concerns related to Title IX, you should contact Southeastern University's Title IX Coordinator.

Deputy Coordinator: For Students – The Title IX Deputy Coordinator for Students is responsible for Title IX compliance in matters involving students, including training, education, communication, and investigation of complaints.

Stephanie Powell
Director of Title IX Compliance
Pansler U228
(t) 863-667-5236

(email) smpowell@seu.edu

Deputy Coordinator: For Faculty, Staff, and Visitors – The Title IX Deputy Coordinator for Faculty, Staff and Visitors is responsible for Title IX compliance in matters involving faculty, staff and visitors, including training, education, communication, and investigation of complaints.

Betty Kelley
Human Resources Director
Smith Hall
(t) 863-667-5182
(Email) bakelley@seu.edu

If a Reported Victim or Reporting Party does not wish for their name to be shared, does not wish for an investigation to take place, or does not want a formal resolution to be pursued, the Reported Victim or Reporting Party may make such a request to the Title IX Coordinator or Deputy Coordinators, who will evaluate that request in light of the University's duty to ensure the safety of the campus and comply with federal law. In cases indicating pattern, predation, threat, weapons and/or violence, the University will likely be unable to honor a request for confidentiality. In cases where the Reported Victim or Reporting Party requests confidentiality and the circumstances allow the University to honor that request, the University will offer interim supports and remedies to the Reported Victim and the community, but will not otherwise pursue formal action. A Reporting Party has the right, and can expect, to have reports taken seriously by the University when formally reported, and to have those incidents investigated and properly resolved through these procedures.

Formal reporting still affords privacy to the reporter, and only a small group of officials who need to know may be told about the particulars of the report. Those individuals who may need to know include, but are not limited to: Office of Student Development, University Campus Safety & Security, and the Care Team. Information will be shared as necessary with investigators, witnesses and the Responding Party. The circle of people with this knowledge will be kept as tight as possible to preserve a Reporting Party's rights and privacy.

D. Disciplinary Amnesty for Reporting Parties, Victims and Witnesses

SEU encourages the reporting of Sexual Misconduct by victims and witnesses. Sometimes, victims or witnesses of Sexual Misconduct may be hesitant to report such conduct because they fear that they themselves will be accused of or disciplined for violations of the SEU code of conduct, Community Covenant, or other policies. It is in the best interests of our community that as many victims as possible choose to report to University officials, and that all witnesses come forward to share what they know. To encourage reporting, SEU has a policy of offering victims, witnesses, and Reporting Parties who report Sexual Misconduct, in good faith, with amnesty from minor policy violations related to the incident.

E. Bystander Intervention

- Florida Department of Human Relations 850-488-7082
800-342-8170
- U.S. Department of Education Office for Civil Rights 800-421-3481
- Office of Civil Rights 800-368-1019

VIII. Attempted Violations

In most circumstances, the University will treat attempts to commit any of the violations listed in the Sexual Misconduct Policy as if those attempts had been completed.

IX. After Reporting

A. Investigation and Grievance Procedures

Southeastern University is committed to the prompt and equitable resolution of all alleged or suspected Sexual Misconduct about which the University knows or reasonably should know, regardless of whether a complaint alleging a violation of this policy has been filed and regardless of where the conduct at issue occurred. SEU's ability to investigate in a particular situation, or the extent of the investigation in any given situation, may be affected by any number of factors, including whether the victim is willing to file a complaint or to consent to an investigation, the location where the alleged conduct occurred, and the University's access to information relevant to the alleged or suspected Sexual Misconduct. SEU is nonetheless committed to investigating all alleged and suspected violations of this policy to the fullest extent possible under the circumstances.

These Investigation & Grievance Procedures apply to all suspected or alleged violations of this policy and will be used in place of any "Student Grievance Policy" that may be contained in any University catalog, handbook, or other publication or appear on the University's web site. In addition, any sanctions or other corrective actions imposed against students shall be imposed pursuant to these Investigation & Grievance Procedures, rather than pursuant to any "Student Code of Conduct Policy" or other set of policies and procedures governing student conduct, unless the University determines in its discretion that a Student Code of Conduct or other similar policy governing student conduct should be used to resolve a particular matter. In addition, the University may modify these Investigation & Resolution Procedures in the interests of promoting full and fair resolution of suspected or alleged incidents of Sexual Misconduct in accordance with applicable law.

B. Initial Informational Meeting with Title IX Deputy Coordinator

Within three (3) business days of the Title IX Deputy Coordinator receiving a report or notification of alleged Sexual Misconduct involving a currently enrolled student or faculty or

staff member, the Deputy Coordinator will request to meet individually with the Reported Victim. This initial meeting will usually occur within five (5) business days. At the meeting, the Deputy Coordinator will review the University's procedures, the rights of the Reported Victim or Reporting Party, and will share information about available resources and support services. The Deputy Coordinator may also explain any interim measures (see Section D) that will be in place while the investigation proceeds.

Once it has been determined that a formal investigation has been opened, based on the information gathered in the initial report as well as the Reported Victim's desires, or the University's determination of an immediate threat to the campus community, the Deputy Coordinator will contact the alleged perpetrator, referred to as a "Responding Party." The Responding Party will be given a Notification of Investigation Notice, and will be expected to follow up by attending an informational meeting with the Deputy Coordinator. At such meeting, the Deputy Coordinator will review the University's procedures, process, and the Responding Party's rights.

C. Investigation Process

The Title IX Coordinator will designate at least one investigator to conduct a prompt, thorough, fair, and impartial investigation of the reported conduct and prepare a report of Investigative Findings and Recommended Sanctions. The investigator may be an individual employed by SEU or an external party, in SEU's sole discretion. The University may also designate more than one investigator, in its sole discretion. Regardless of whether internal or external, the investigator will be selected from a group of qualified individuals and who are trained by the University for the purpose of conducting investigations under this policy.

The Title IX Coordinator will provide all of the parties with the name of the person(s) assigned to investigate the report. Any party having a conflict or potential conflict of interest with the investigator should inform the Title IX Deputy Coordinator as soon as practicable, but not more than three (3) days after receiving the names of the investigator(s). The Title IX Deputy Coordinator will consider the nature of the conflict and determine whether different individuals should be assigned to investigate. The Title IX Deputy Coordinator's determination regarding conflicts of interest is final.

Depending upon the nature of the alleged or suspected Sexual Misconduct, the relevant official (or his or her designee) will conduct an investigation either alone or with one or more other University officials as deemed appropriate by the University. The nature and extent of the investigation will vary depending upon the circumstances. Once a formal investigation of Sexual Misconduct begins investigations will generally include:

- 1) Separate meetings with the Reported Victim(s), Responding Party(ies), and relevant witnesses (if applicable).
- 2) Collection of all relevant information, including written statements by the Responding Party(ies), Reported Victim(s), and/or witnesses and physical evidence (if applicable).

- 3) Preparation and delivery of a Final Investigative Report, summarizing the investigation and recommendations, to the Title IX Coordinator.

To help ensure a prompt and thorough investigation, Reporting Parties are asked to provide as much information as possible including, but not limited to:

- The name, department, and position of the person or persons allegedly involved in the Sexual Misconduct.
- A description of any relevant incident(s), including the date(s), location(s), and the presence of any witnesses.
- The effect of the incident(s) on the Reported Victim's opportunity to benefit from the University's programs or activities.
- The names of other individuals who might have been subject to the same or similar acts of Sexual Misconduct.
- Although it is not required, any steps the Reported Victim or Reporting Party has taken to try to stop the Sexual Misconduct.
- Any other information the Reporting Party believes to be relevant.

Any Responding Parties are also expected to provide as much information as possible in connection with the investigation. Any party providing information relevant to an investigation may do so by e-mail, hardcopy, or in any other form convenient to the party and by delivery to the appropriate Deputy Title IX Coordinator.

Both Reporting and Responding Parties in any investigation will be provided with the following opportunities in connection with the resolution of suspected or alleged violations of this policy:

- 1) The opportunity to speak on their own behalf.
- 2) The opportunity to identify witnesses who can provide information about the alleged conduct at issue.
- 3) The opportunity to submit other evidence on their behalf.
- 4) The opportunity to review any information that will be offered by the other party in support of the other party's position (to the greatest extent possible and consistent with FERPA or other applicable law).
- 5) The right to simultaneously (to the greatest extent possible and consistent with FERPA or other applicable law) be informed in writing of the outcome of the investigation, any sanctions imposed, and the rationale for the decision and sanctions.
- 6) The opportunity to appeal the outcome of the investigation.

The investigation of any suspected or alleged Sexual Misconduct will be completed within sixty (60) days of the filing of a complaint or the date on which the University becomes aware of a suspected violation of this policy unless the University determines in its discretion that more time is required to complete the investigation. but the University will notify all parties involved, in writing, in the event that the investigation needs to be extended past the sixty (60) day timeframe.

D. Interim Measures

The University reserves the right to take any interim measures the University deems appropriate to protect the rights, interests, and personal safety of the Reported Victim, Reporting Party, and the University community pending the outcome of an investigation or grievance. Such interim measures can include, but are not limited to:

- 1) Change of an on-campus student's housing to a different on-campus location.
- 2) Assistance from University support staff in completing the relocation.
- 3) Arranging to dissolve a housing contract and pro-rating a refund.
- 4) Exam (paper, assignment) rescheduling.
- 5) Taking an incomplete in a class.
- 6) Transferring class sections.
- 7) Temporary withdrawal.
- 8) Alternative course completion options.
- 9) Removing a student from campus housing.
- 10) Issuing a "no contact" order and/or restricting or prohibiting contact with persons on campus.
- 11) Suspending any member of the SEU community, implementing interim removal from or restriction from particular areas of the campus.

E. Advisors

Any Reporting Party, Reported Victim or Responding Party involved in the conduct process may be accompanied by one advisor of their choosing throughout the investigation process. The role of an advisor is to provide a comforting and familiar presence for a student. The choice whether or not to invite an advisor is solely that of the student(s) involved. The Title IX office must be notified with an "Advisors in the Conduct Process" form that an advisor will be present at least two business days before the scheduled meeting, unless circumstances call for an expedited meeting.

An advisor may not speak in a hearing unless asked a direct question by the investigative officer. Advisors may not ask questions, interject, coach, advocate for, or otherwise speak on behalf of a Reporting Party, Responding Party, or witness. An advisor may not function as legal counsel or "represent" a participant in the investigation process. Advisors may not also serve as witnesses in a hearing about the same matter.

If an advisor is an attorney, or is acting under the supervision and direction of an attorney hired by a participant in the Investigation process, this information must be disclosed to the University, and the University reserves the right to have its own legal counsel present for the meeting. If any advisor conducts themselves in a manner inconsistent with these guidelines, then the individual will no longer be considered an advisor and the investigative officer may excuse the individual from the conduct process.

A student may also request that the University assign an advisor to them, who will be either a student or staff member to serve in such a capacity. Such requests do not guarantee that an advisor will be available, and should be made as soon as possible.

F. Witnesses

Witnesses are permitted in the investigation process and may be invited by anyone involved in the investigation, including but not limited to the Reporting Party, the Reported Victim, the Responding Party, and the investigative officer. A witness is someone who can provide a firsthand account of something seen, heard, or experienced relating to the alleged incident. “Character witnesses” and other witnesses deemed to be irrelevant by the investigative officer are not permitted.

A list of witnesses must be submitted prior to the investigation meeting. The list should include contact information and a brief description of each witness’s contribution.

G. Authorized Audio and Video Recording

In some cases, at the discretion of the University, audio or video of hearings may be recorded. Deliberations by investigative officers are never recorded. Any recording becomes property of the University and may be retained in the Title IX office. Recordings may be reviewed in deciding an appeal, or may be used internally for documentation or training purposes.

X. The Resolution Process

The resolution process applies to matters involving alleged or suspected sexual assault or sexual violence. The University may also elect to use the formal resolution process in any matter when the University deems it appropriate. As part of the formal resolution process, the University may determine that further steps are required to complete the University’s investigation. The following are the various attributes of the Resolution Process, and all must be present in order to insure the protection of the complainant and the completion of the University’s investigation:

A. Standard for Determining Responsibility.

The standard used to determine whether Sexual Misconduct has occurred is a whether it is “more likely than not” that the Responding Party violated this policy. This is often referred to as a “preponderance of the evidence” standard.

B. Sanctions; Corrective Actions.

The official conducting the investigation will, in collaboration from the Title IX Coordinator, determine whether a violation of this policy has occurred and what, if any, corrective action is appropriate. The University will take reasonable steps to prevent the

recurrence of any violations of this policy and to correct the discriminatory effects on the Reported Victim (and others, if appropriate).

Sanctions for such violations will vary depending on the circumstances, and may include but not be limited to any of the following:

Student Sanctions:

- 1) Written or verbal apology.
- 2) Discrimination or harassment education.
- 3) Verbal or written warning.
- 4) Withholding diploma.
- 5) Revocation of degree.
- 6) Transcript notation.
- 7) Probation.
- 8) Suspension.
- 9) Dismissal from the University.

Employee Sanctions:

- 1) Verbal or written warning.
- 2) Performance Improvement Plan.
- 3) Required counseling.
- 4) Required training or education.
- 5) Demotion.
- 6) Loss of any applicable pay increase.
- 7) Suspension without pay.
- 8) Suspension with pay.
- 9) Revocation of tenure.
- 10) Termination.

Notwithstanding the foregoing, any person found responsible for Non-Consensual Sexual Contact or Non-Consensual Sexual Intercourse will likely receive a sanction ranging from probation to expulsion, if a student, or from suspension to termination, if an employee, depending on the severity of the incident, and taking into account any previous disciplinary violations. Any person found responsible for Sexual Exploitation or Sexual Harassment will likely receive a recommended sanction ranging from warning to expulsion or termination, depending on the severity of the incident, and taking into account any previous disciplinary violations.

The University reserves the right to broaden or lessen any range of recommended sanctions in the case of serious mitigating circumstances or egregiously offensive behavior. Neither the investigating officers nor any appeals officer will deviate from the range of recommended sanctions unless compelling justification exists to do so.

The University will consider the safety and concerns of the Reporting Party, the Responding Party, all witnesses, and the entire SEU community in determining appropriate sanctions.

Employees who are found to have violated this policy may be terminated or subjected to other disciplinary action. Guests and other third parties who are found to have violated this policy are subject to corrective action deemed appropriate by the University, which may include removal from the University and termination of any applicable contractual or other arrangements. In instances where the University is unable to take disciplinary or other corrective action in response to a violation of this policy because a Reporting Party insists on confidentiality or for some other reason, the University will nonetheless pursue other steps to limit the effects of the conduct at issue and prevent its recurrence.

C. Notification of Outcome.

After the conclusion of the investigation, the University will provide written notification of the outcome to the Reporting Party, the Reported Victim, and the Responding Party. This notice shall be issued contemporaneously to all parties, to the extent practicable. The University may also disclose to the Reported Victim information about any sanctions or corrective actions taken that relate directly to the Reported Victim (e.g., the issuance of a “no contact” order). The University will maintain documentation of all investigations or other proceedings undertaken pursuant to this policy. In no event will the Reported Victim in matters involving an alleged violation of the Sexual Misconduct Policy be required to abide by a nondisclosure agreement that would prevent disclosure of the outcome.

XI. Right to Appeal

Once written notification of the resolution has been provided, all parties have the opportunity to appeal the all or part of the decision. An appeal is not a re-hearing of the case. The appellate officer, which shall be the Associate Vice President for Student Development or a designee, will review all appeal requests to determine if there are sufficient grounds for the appeal.

All sanctions imposed by the original investigators will be in effect during the appeal. A request may be made to the Title IX Coordinator to delay implementation of the sanctions until the appeal is decided, but the presumptive stance of the University is that the sanctions will go into effect immediately. Graduation, study abroad, internships/ externships, etc. do NOT in and of themselves constitute exigent circumstances, and students may not be able to participate in those activities during their appeal. In cases where the appeal results in reinstatement to the university or resumption of privileges, all reasonable attempts will be made to restore the student to their prior status, recognizing that some opportunities lost may be irreparable.

A. Grounds for Appeal

Any request for appeal must be based on one or more of the following grounds:

- 1) New Information Forthcoming - New substantive information available that could not have been discovered by a diligent party at the time of the investigation and that would have likely changed the outcome of the case.
- 2) Gross Violation of Process - A substantive procedural error or error in the interpretation of University policy occurred that denied the party the right to a fair investigation and decision.
- 3) Punishment inconsistent with the University norm – The finding was manifestly contrary to the information presented in the investigation or to established Community Standards. In other words, the decision was clearly unreasonable and unsupported by the great weight of information.

B. Timeline and Format

Any appeal must be submitted in writing to the Title IX Coordinator within four (4) business days of receiving the written decision. Failure to submit a request in this period of time waives the right to appeal and renders the decision final. Once an appeal has been submitted by one party, the other will be notified and will have another four (4) business days from the date such notice is given to review the appeal request and submit a response or a cross-appeal. If a cross-appeal is filed, the originally appealing party will be notified and will have another four (4) business days from the date such notice is given to respond to the cross-appeal. No further responses will be permitted. The response of each party to any appeal or cross-appeal will be shared with the other party.

For example, if the Responding Party files an appeal, the appeal will be shared with the Reporting Party/Reported Victim, who may respond to the allegations in the appeal and may also file a cross-appeal on separate grounds. This response and cross-appeal, if any will be shared with the Responding Party, as the initial appealing party. The Responding Party may then respond only to the cross-appeal, which response will be shared with the Reporting Party/Reported Victim, but no further responses or cross-appeals will be allowed.

No party is entitled to a hearing in connection with any appeal, but the Associate Vice President for Student Development may request written submissions from the parties or consider any other information as deemed appropriate.

C. Content

Requests for appeals must include the grounds for appeal, a personal statement explaining in detail why the party is contesting the results of the investigation, and any relevant documentation available that substantiates or clarifies the request for appeal. Such additional documentation may be submitted as well.

D. Review and Final Decision

All requests for appeals and responses will be considered by the Associate Vice President for Student Development or designee, who will determine whether there is sufficient basis for modifying the original decision.

Responsibility lies with the appealing student to provide clear and convincing information demonstrating that the original process or decision was substantively flawed.

The Associate Vice President of Student Development or designee will choose one of four possible outcomes for all appeals:

- 1) Affirm the original decision and uphold the original sanction(s).
- 2) Affirm the original decision but modify the original sanction(s).
- 3) Overturn all or part of the original decision and uphold, modify, or remove the sanction(s) appropriately.
- 4) Remand the case to be re-reviewed by different investigative officer(s).

Both parties will be informed in writing of the outcome of any appeal within fourteen (14) days of the date by which all requested information is received unless the Associate Vice President for Student Development determines that additional time is required.

XII. Parental Involvement

Title IX investigations are a process designed for the protection those within our SEU community. Because of their sensitive nature, only those who are directly involved with the situation may participate in the investigation. Outside involvement in the investigation hinders the University's ability to successfully complete the process.

However, as described above, any Reported Victim or Responding Party involved in a Title IX investigation may be accompanied by one advisor of their choice. The role of an advisor is to provide a comforting and familiar presence for a student or student organization. If a student so wishes, they may choose a parent to serve as their advisor during the investigation. Any parent interested in becoming an advisor must fill out the Advisor Application Form and submit the form prior to the scheduled meeting.

XIII. Prohibition against Retaliation

It is critically important that everyone in the SEU community feels free to report information that helps to ensure the safety and well-being of the community. The University will make every effort to ensure that no person will be subject to any adverse action (either by the University or by another person or group) because they report what they honestly believe to be Sexual Misconduct.

No individual who makes a complaint alleging a violation of this policy or who participates in the investigation or resolution of such a complaint will be subject to retaliation as a result of such activity or participation. Retaliation exists when action is taken against a participant in the investigation and resolution process that:

- 1) Adversely affects the individual's opportunity to benefit from the University's programs or activities.
- 2) Is motivated in whole or in part by the individual's participation in the investigation and resolution process.

In addition, any acts of retaliation by any faculty, staff, administrator, or student taken against a Reporting Party, Reported Victim, witness, or other individual following and in response to the reporting or investigation of an allegation of Sexual Misconduct will be considered a serious violation of the Community Standards and will result in appropriate disciplinary action, up to and including dismissal for students and termination of employment for faculty and staff. Retaliation may constitute a violation of this policy even when the initial report does not result in a finding of responsibility.

Also, no officer, employee, or agent of the University, may retaliate, intimidate, threaten, coerce, or otherwise discriminate against any individual for reporting an incident to the University or otherwise exercising their rights or responsibilities in the conduct process in good faith. Any individual who experiences retaliation by a member of the University community is encouraged to report such conduct directly to the appropriate Title IX Deputy Coordinator.

XIV. Fabricated Allegation

Any allegations of Sexual Misconduct that are suspected to be fabricated for the purpose of harassing the Responding Party or disrupting the University's operations are subject to these investigation and resolution procedures and could result in disciplinary action, up to and including dismissal for students and termination of employment for faculty and staff.

XV. Media Involvement

Sexual Misconduct is simultaneously a Title IX violation and an abuse of power. Consequently, it is desirable that all communication regarding incidents of Sexual Misconduct involving a University community member be handled with sensitivity toward the privacy of the victim and the rights of the Responding Party. It is possible that improper communication concerning such a violation may result in further harm to the victim or violate the rights of the Responding Party. As a result, the following guidelines for media communication are suggested:

- 1) All communication to the University community and public must be coordinated through the Vice President for Student Development.
- 2) Any public communication or media concerning an incident of Sexual Misconduct should be shown to the victim by the Vice President of Student Development to ensure the anonymity of the victim.

This version is the official version and supersedes all other versions.

Portions of this policy are based on a model policy provided by ATIXA and authored by the NCHERM Group, LLC