

All students have the right to be free from discrimination or harassment based on any person or group of persons based on race, color, national origin, ancestry, religion, sex, sexual orientation including gender identity, marital status, age, physical or mental disability, military status, unfavorable discharge from military service, or veteran's status, in accordance with applicable federal, state and local laws.

All students alleged to have violated any provision of the Student Conduct Code have the right to procedural due process. All students have the right to be free from unreasonable restrictions or intrusions upon privacy, personal property or dignity, in accordance with the provisions of this Code.

assault, dating violence, domestic violence, stalking, and retaliation in any form is a violation of this Policy and will not be tolerated at Southern Illinois University Carbondale. This Policy applies to all employees, students, contractors, and visitors of Southern Illinois University Carbondale. These standards apply to all regardless of gender, sexual orientation, or gender identity of any of the individuals involved. By providing resources for prevention, education, support, investigation, and a fair disciplinary process, SIUC seeks to eliminate sexual harassment, sexual misconduct, sexual assault, dating violence, domestic violence, and stalking.

This Policy also prohibits knowingly reporting false complaints and knowingly providing false information during the investigation of a complaint. All University employees are responsible for taking reasonable and necessary action to prevent the Prohibited Conduct. Further, all members of the University community are expected to contribute to an environment free of sexual harassment, sexual misconduct, sexual assault, dating violence, domestic violence, and stalking and are encouraged to report promptly (pursuant to campus procedures contained herein) any conduct that could be in violation of this policy. These Policy and Procedures apply to the Carbondale campus and all of its locations, including but not limited to the School of Medicine, and govern reporting, investigation, and resolution of all claims of Prohibited Conduct.

To ensure compliance with federal and state civil rights laws and regulations, and to affirm its commitment to promoting the goals of fairness and equity in all aspects of the educational program or activity, SIUC has developed internal policies and procedures that provide a prompt, fair, and impartial process for those involved in an allegation of Prohibited Conduct. SIUC values and upholds the equal dignity of all members of its community and strives to balance the rights of the parties in the grievance process during what is often a difficult time for all those involved. SIUC reserves the right to address offensive conduct and/or harassment that does not rise to the level of creating a hostile environment or that is of a generic nature and not based on a protected status.

This policy shall not abridge any individual's speech and due process rights under the First and Fourteenth Amendments; nor shall it abridge principles or rights of academic freedom or the University's educational mission. Prohibited sexual harassment, sexual misconduct, sexual assault, dating violence, domestic violence, stalking and discrimination do not constitute expression protected as a matter of academic freedom.

## B. GLOSSARY

**Actual Notice** means notice of an allegation of Prohibited Conduct to the SIUC Title IX

**Advisor** means a person chosen by a party or appointed by SIUC to accompany the party to meetings related to the resolution process, to advise the party on that process, and to conduct cross-examination for the party at the hearing, if any.

**Coercion** means unreasonable pressure for sexual activity. Coercive conduct differs from seductive conduct based on factors such as the type and/or extent of the pressure used to obtain consent. When someone makes clear that they do not want to engage in certain sexual activity, that they want to stop, or that they do not want to go past a certain point of sexual interaction, continued pressure beyond that point can be coercive.

**Complainant** means an individual who is alleged to be the victim of conduct that could constitute Prohibited Conduct as defined in this policy based on a protected class; or retaliation for engaging in a protected activity.

**Complaint (formal)** means a document submitted or signed by a Complainant or signed by the Title IX Coordinator alleging the Respondent engaged in Prohibited Conduct and requesting that the University investigate the allegation.

**Confidential Advisor** means an employee, officially designated as such pursuant to the Illinois Preventing Sexual Violence in Higher Education Act, who has the responsibility of providing emergency and on-going support to student survivors of Prohibited Conduct. A Confidential Advisor is not a Mandated Reporter of Prohibited Conduct (irrespective of Clery Act Campus Security Authority status) but may assist a Complainant in making such a report. The Confidential Advisor also works with the Title IX Coordinator regarding supportive measures.

**Confidentiality** means keeping information secret. Some employees who may maintain confidentiality on campus include those who provide services related to medical and clinical care, mental health providers, and counselors.

**Consent** means a clear, affirmative, unambiguous and freely given agreement to engage in a specific sexual activity. Consent is demonstrated verbally or through actions that clearly indicate a willingness to engage in the specific sexual activity. Lack of verbal or physical resistance does not constitute consent. Consent to engage in sexual activity with one person does not constitute consent to engage in sexual activity with another person, and consent for a specific activity does not imply consent for any other activity. Use of alcohol, drugs, or other intoxicants does not diminish one's responsibility to obtain consent.

Consent must be knowing and voluntary. To give consent, a person must be awake, of legal age, and have the capacity to reasonably understand the nature of his/her actions.



Force

**Official with Authority (OWA)** means an employee of the University explicitly vested with the responsibility to implement corrective measures for Prohibited Conduct on behalf of the University.

**Parties** include the Complainant(s) and Respondent(s), collectively.



b. Forcible Sodomy:

- b. An employee of the University conditioning the provision of an aid, benefit, or service of the University on an individual's participation in unwelcome sexual conduct.

**Sexual Harassment (Employment)** means any unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when:

well-being. For the purposes of this definition course of conduct means two or more acts in which the Respondent directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with a person's property. Substantial emotional distress means significant mental suffering or anguish that may but does not necessarily require medical or other professional treatment or counseling.

**Student** means any individual who has accepted an offer of admission, or who is registered or enrolled for credit or non-credit bearing coursework, and who maintains an ongoing relationship with SIUC.

**Title IX Coordinator** means the individual(s) designated by the University to ensure compliance with Title IX and the University's Title IX program and other policies of SIUC. References to the Coordinator throughout this policy may also encompass a designee of the Coordinator for specific tasks.

**Title IX Team** refers to those individuals involved in the assessment and resolutions of allegations of violations of this policy. These individuals include the Title IX Coordinator, investigators, and any member of the Grievance Process Pool.

### **Title IX Coordinator**

The Director of the Office of Equity and Compliance serves as the Title IX Coordinator and oversees implementation of this policy. The Title IX Coordinator has the primary responsibility for coordinating the University's efforts related to the intake, investigation, resolution, and implementation of supportive measures to stop, remediate, and prevent Prohibited Conduct. In instances where one of the involved parties reports directly to the Chancellor, the Chancellor shall appoint an outside individual to act in the place of the Director and conduct any related investigation.

## **C. INDEPENDENCE AND CONFLICT-OF-INTEREST**

The Title IX Coordinator manages the Title IX Team and acts with independence and authority free from bias and conflicts of interest. The Title IX Coordinator oversees all resolutions and supportive measures under this policy and these procedures. The members of the Title IX Team are vetted and trained to ensure they are not biased for or against any party in a specific case, or for or against Complainants and/or Respondents, generally.

To raise any concern involving bias or conflict of interest by the Title IX Coordinator, contact the Office of the Chancellor. In addition, reports of misconduct committed by the Title IX Coordinator should be reported to the Office of the Chancellor. Reports to the Office of the Chancellor may be submitted to the following:

Office of the Chancellor  
Southern Illinois University Carbondale,  
MC 4304  
Carbondale, IL 62901 (618)  
453-2341  
chancellor@siu.edu

#### **D. OFFICIALS WITH AUTHORITY/MANDATED REPORTERS**

SIUC has determined that the following administrators are Officials with Authority to accept notices of Prohibited Conduct. In addition to the Title IX Team members listed on the website, these Officials with Authority listed below may also accept notice or complaints on behalf of SIUC. Officials with Authority are: the Vice Chancellor for Student Affairs, the Dean of Students, the Director of Student Rights and Responsibilities, the Director of Human Resources, the Director of Athletics, and Confidential Advisors. These individuals may accept notices of allegations and refer them to the Title IX Coordinator but will not investigate any complaints.

SIUC has also classified most employees as Mandated Reporters of any knowledge they have that a member of the community is experiencing Prohibited Conduct. Mandated reporters should keep the information they receive private, but they cannot guarantee confidentiality.

All University employees (faculty, staff, administrators) are expected to report actual or suspected Prohibited Conduct to appropriate officials immediately unless they are required by their profession to keep the information confidential (e.g. Counseling and Psychological Services). These reports should be made at [safe.siu.edu](http://safe.siu.edu) or by contacting the Office of Equity and Compliance. It is important to note, mandated reporters are NOT confidential resources.

#### **E. REPORTING/CONFIDENTIAL RESOURCES**

In order to make informed choices, it is important to be aware of confidentiality and mandatory reporting requirements when consulting campus resources. On campus, some resources may maintain confidentiality and are not required to report actual or suspected gender-based violence. They may offer options and resources without any





Dr. Paul Frazier, Vice Chancellor for Diversity, Equity, and Inclusion  
Southern Illinois University Carbondale  
Office of Equity and Compliance  
900 S. Normal Ave  
Woody Hall Room 478 Mail Code 4316  
Carbondale, IL 62901  
618-453-4807 equity@siu.edu  
**ELECTRONICALLY @**  
**SAFE.SIU.EDU**

**DEPARTMENT OF PUBLIC SAFETY**  
SOUTHERN ILLINOIS UNIVERSITY  
Trueblood Hall  
Carbondale, IL 62901  
618/453-3771  
Emergencies should dial 911

**SIUC CONFIDENTIAL ADVISOR**  
Rose Robinson-Berkman  
Student Health Center, Room 120  
374 E. Grand Ave.  
Carbondale, IL 62901  
618/453-4429  
confidentialadvisor@siu.edu

For assistance off-campus:

**SURVIVOR EMPOWERMENT**  
**CENTER (OFF CAMPUS)**  
610 S. Thompson St.  
Carbondale, IL 62901  
Phone: 618/549-4807  
24-hour crisis hotline: 800/334-2094  
Website: [www.empoweringsurvivors.org](http://www.empoweringsurvivors.org)

**CARBONDALE POLICE DEPARTMENT**  
501 S. Washington St.  
Carbondale, IL 62901  
618/457-3200  
Emergencies should dial 911





restore or preserve access to the University's education program or activity, including measures designed to protect the safety of all parties or the University's educational environment, and/or deter Prohibited Conduct.

The Title IX Coordinator, normally through the Confidential Advisor, promptly makes supportive measures available to the parties upon receiving notice or a complaint. At the time that supportive measures are offered, the University will inform the Complainant, in writing, that they may file a formal complaint with the University either at that time or in the future, if they have not done so already.

The Confidential Advisor, under the supervision of the Title IX Coordinator, will work with the Complainant to ensure that the Complainant's wishes are taken into account with respect to the supportive measures that are planned and implemented.

The University will maintain the privacy of the supportive measures, provided that privacy does not impair SIUC's ability to provide the supportive measures. SIUC will act to ensure as minimal an academic/occupational impact on the parties as possible. SIUC will implement measures in a way that does not unreasonably burden the other party.

Supportive Measures may include, but are not limited to: academic, living, dining, transportation, or working modifications; no contact orders; and/or adherence to state issued orders of protection.

Violations of no contact orders will be referred to appropriate student or employee conduct processes for enforcement, and to the Department of Public Safety.

## I. **EMERGENCY REMOVAL/INTERIM SEPARATION**

### 1. **Individualized Safety and Risk Analysis.**

Based on an Initial Report or Formal Complaint of Title IX Prohibited Conduct, the Title IX Coordinator, in consultation with the Threat Assessment Team or others as appropriate, may undertake an individualized safety and risk analysis to determine whether the allegations indicate the Respondent poses an immediate threat to the physical health or

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organization that is officially recognized by the University. Both study-abroad programs and off-campus locations that are not within a University Program or Activity are not covered by the Title IX regulations.

Conduct that falls outside the jurisdictional or definitional scope of Title IX, however, may still violate this Policy or other University policies, and may be addressed through this policy and procedure or other University processes.

This policy applies to the effects of off-campus misconduct that effectively deprive someone of access to University's educational program. SIUC may also extend jurisdiction to off-campus and/or to online conduct when the Title IX Coordinator determines that the conduct affects a substantial University interest.

Regardless of where the conduct occurred, the University will address notice/complaints to determine whether the conduct occurred in the context of its employment or educational program or activity and/or has continuing effects on campus or in an offcampus sponsored program or activity. A substantial University interest includes:

- a. Any action that constitutes a criminal offense as defined by law. This includes, but is not limited to, single or repeat violations of any local, state, or federal law;
- b. Any situation in which it is determined that the Respondent poses an immediate threat to the physical health or safety of any student or other individual;
- c. Any situation that significantly impinges upon the rights, property, or achievements of oneself or others or significantly breaches the peace and/or causes social disorder; and/or
- d. Any situation that is detrimental to the educational interests or mission of the University.

If the Respondent is unknown or is not a member of the SIUC community, the Title IX Coordinator (or designee) will assist the Complainant in identifying appropriate campus and local resources and support options and/or, when criminal conduct is alleged, in contacting local or campus law enforcement if the individual would like to file a police report.

Further, even when the Respondent is not a member of SIUC's community, supportive measures, remedies, and resources may be accessible to the Complainant by contacting the Title IX Coordinator or Confidential Advisor. In addition, the University may take other actions as appropriate to protect the Complainant against third parties, such as barring individuals from University property and/or events.



sexual harassment or sexual misconduct, and as such, is prohibited conduct per this policy.

O. **FALSE ALLEGATIONS AND EVIDENCE**

Deliberately false and/or malicious accusations under this policy are a serious offense and will be subject to appropriate disciplinary action. This does not include allegations that are made in good faith but are ultimately shown to be erroneous or do not result in a policy violation determination.

Additionally, witnesses and parties knowingly providing false evidence, tampering with or des20 Td( )

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The University will not sanction a Complainant or another individual participating in the grievance procedures under this policy for a student conduct code violation that is revealed in the course of the investigation unless the University determines the violation was egregious such as an act that places the health or safety of another person at risk. Whether to make a charge of a violation of the student Conduct Code is within the discretion of Student Rights and Responsibilities.

The decision not to offer amnesty is based on neither sex nor gender, but on the fact that collateral misconduct is typically addressed for all students within a progressive discipline system, and the rationale for amnesty – the incentive to report serious misconduct – is rarely applicable to Respondent with respect to a Complainant.

II.



the Complainant to supplement or complete a formal complaint as defined and required by this policy and Title IX.

4. The Title IX Coordinator (or designee) advises the Complainant that they have the right to have an Advisor.
5. The Title IX Coordinator (or designee) works with the Complainant to determine whether the Complainant prefers a supportive and remedial response, an informal resolution option, and/or a formal investigation and grievance process.
  - a. If a supportive and remedial response is preferred, the Title IX Coordinator, through the Confidential Advisor, works with the Complainant to identify their wishes, assesses the request, and implements accordingly. The Complainant may elect to initiate a formal complaint later, if they decide that they do not want to file a formal complaint at this time.
  - b. After a formal complaint is filed, if a Complainant indicates that the informal resolution option is preferred, the Title IX Coordinator assesses whether the complaint is suitable for informal resolution, which informal mechanism may serve the situation best or is available, and the if the Title IX Coordinator determines that informal resolution is an option, seek to determine if the Respondent is also willing to engage in informal resolution.
  - c. If a Formal Grievance Process is preferred, the Title IX Coordinator determines if the misconduct alleged falls within the scope of Title

Prohibited Conduct Process of these procedures.  
Dismissing a complaint under Title IX is solely a procedural  
requirement under Title IX and does not limit the SIUC's







questioning of the parties and witnesses will also be conducted by the Decision-maker(s) during the hearing.

#### 5. Pre-Interview Meetings w/ Advisors

Advisors may request to meet with the administrative officials conducting interviews/meetings in advance of these interviews or meetings. This pre-meeting allows Advisors to clarify and understand their role and University's policies and procedures.

#### 6. Advisor Violations of SIUC Policy

All Advisors are subject to the same University policies and procedures, whether they are attorneys or not. Advisors are expected to advise their advisees without disrupting proceedings. Advisors should not address SIUC officials in a meeting or interview unless invited to (e.g., asking procedural questions). The Advisor may not make a presentation or represent their advisee during any meeting or proceeding and may not speak on behalf of the advisee to the Investigator(s) or other Decision-



For representation, Respondents may wish to contact organizations such as:

FACE (<http://www.facecampusequality.org>)

SAVE (<http://www.saveservices.org>).

Complainants may wish to contact organizations such as:

- The Victim Rights Law Center (<http://www.victimrights.org>),
- The National Center for Victims of Crime  
<http://www.victimsofcrime.org>), which maintains t

2. The investigatory and hearing process, including the processes for investigation, hearing, appeals, and informal resolution;
3. Implicit bias;
4. Disparate treatment and impact;
5. Reporting, confidentiality, and privacy requirements;
6. Applicable laws, regulations, and federal regulatory guidance;
7. How to uphold fairness, equity, and due process;
8. How to conduct questioning;
9. The definitions of all offenses;
10. How to apply definitions used by the University with respect to consent (or the absence or negation of consent) consistently, impartially, and in accordance with policy;
11. conflicts of interest, and bias;
12. Any technology to be used by the individual;
13. Issues of relevance of questions and evidence; and
14. Recordkeeping

Specific training is also provided for Appeal Decision-makers, and Chairs. All Pool members are required to attend these trainings annually.

Notice will be given to both parties in regards to what pool members will be assigned to their investigations and hearings. If a party believes that any member assigned to their case has a conflict of interest, they can request for a substitution. Requests for substitutions should be submitted to the Title IX Coordinator who will make a final determination as to whether or not there is a conflict or whether or not a member will be removed.

#### **H. RESOLUTION PROCESSES PRIVACY**

Resolution proceedings are private. All persons present at any time during the resolution process are expected to maintain the privacy of the proceedings in accordance with University policy. Although there is an expectation of privacy around what Investigators share with parties during interviews, the parties have discretion to share their own knowledge and evidence with others if they so choose. However, the parties will be subject to any agreement not to disclose entered into as part of the Informal Resolution process. SIUC encourages parties to discuss any sharing of information with their Advisors before doing so.

#### **I. INFORMAL RESOLUTION.**

The informal resolution may include three different types of approaches: 1.

When the Title IX Coordinator can resolve the matter informally by providing supportive measures (only) to remedy the situation;

2. When the parties agree to resolve the matter through an alternate resolution mechanism as described below, usually before a formal investigation takes place;
3. When the Respondent accepts responsibility for violating policy, and desires to accept a sanction and end the resolution process (similar to above, but usually occurs post-investigation)

To initiate Informal Resolution, a Complainant needs to submit a formal complaint. A Respondent who wishes to initiate Informal Resolution should contact the Title IX Coordinator. Please note that the Informal Resolution process cannot be used for allegations of misconduct by employees when the Complainant is a student.

Parties are not required to pursue Informal Resolution in order to pursue a Formal Grievance Process. Further, any party participating in Informal Resolution can stop the process at any time and begin or resume the Formal Grievance Process. The parties may agree to engage in the Informal Resolution process at any time prior to the decision after the hearing.

Prior to implementing Informal Resolution, the University will provide the parties with written notice of the reported misconduct and any sanctions or measures that may result from participating in such a process, including information regarding any records that will be maintained or shared by SIUC.

The University will obtain voluntary, written confirmation that all parties wish to attempt to resolve the matter through Informal Resolution before proceeding and will not pressure the parties to participate in Informal Resolution.

1. Supportive Measures.

A Complainant may choose to request supportive measures only to remedy the situation. The Title IX Coordinator will review the request to determine whether the University can honor this request in accordance with this policy. Supportive measures are available if a Complainant chooses to request a different or additional resolution method as well.

2. Alternate Resolution Mechanism.

Alternate Resolution is an informal mechanism, by which the parties reach a mutually agreed upon resolution of an allegation. All parties must consent to the use of an Alternate Resolution mechanism.

The Title IX Coordinator may look to the following factors to assess whether Alternate Resolution is appropriate, or which form of Alternate Resolution may be most successful for the parties:

- a. The parties' amenability to Alternate Resolution;
- b. Likelihood of potential resolution, taking into account any power dynamics between the parties;
- c. The parties' motivation to participate;
- d. Civility of the parties;
- e. Results of a violence risk assessment/ongoing risk analysis;
- f. Disciplinary history;
- g. Whether an emergency removal is needed;
- h. Skill o- o an5MCID 32 0 tititi - o Resoliplinary h8tt 89 (ip)-4-ol dW-10 (is)CID 20 x(s)2 (s)2

This result is not subject to appeal once all parties indicate their written assent to all agreed upon terms of resolution. When the parties cannot agree on all terms of resolution, the Formal Grievance Process will resume at the same point where it was paused.

When a resolution is accomplished, the appropriate sanction or responsive actions are promptly implemented in order to effectively stop the Prohibited Conduct, prevent its recurrence, and remedy the effects of the discriminatory conduct, both on the Complainant and the community.

#### 4. Negotiated Resolution

The Title IX Coordinator, with the consent of the parties, may negotiate and implement an agreement to resolve the allegations that satisfies all parties and the University. Negotiated Resolutions are not appealable.

### J. **FORMAL GRIEVANCE PROCESS**

#### 1. **Impartiality**

All investigations are thorough, reliable, impartial, prompt, and fair. Any individual



- j. A statement about the University's policy on retaliation;
- k. Information about the privacy of the process;
- l. Information on the availability and need for each party to have an Advisor of their choosing and suggestions for ways to identify an Advisor;
- m. A statement informing the parties that the SIUC's Policy prohibits knowingly making false statements, including knowingly submitting false information during the resolution process;
- n. Detail on how the party may request disability accommodations during the interview process;
- o. A link to the University's VAWA Brochure;
- p. The name(s) of the Investigator(s), along with a process to identify, in advance of the interview process, to the Title IX Coordinator any conflict of interest that the Investigator(s) may have; and
- q. An instruction to preserve any evidence that is directly related to the allegations.

Amendments and updates to the NOIA may be made as the investigation progresses and more information becomes available regarding the addition or dismissal of various charges.

Notice will be made in writing and may be delivered by one or more of the following methods: in person, mailed to the local or permanent address(es) of the parties as indicated in official University records, or emailed to the parties SIUC-issued email or designated accounts. Once mailed, emailed, and/or received in-person, notice will be presumptively delivered.

## K. INVESTIGATIONS

### 1. Steps in the Inve

- a. Commence a thorough, reliable, and impartial investigation by identifying issues and developing a strategic investigation plan, including a witness list, evidence list, intended investigation timeframe, and order of interviews for all witnesses and the parties;
- b. Meet with the Complainant to finalize their interview/statement, if necessary;
- c. Cooperate with Law Enforcement;
- d. Provide each interviewed party and witness an opportunity to review and verify the Investigator's summary notes (or transcript) of the relevant evidence/testimony from their respective interviews and meetings;
- e. Make good faith efforts to notify the parties of any meeting or interview involving the other party, in advance when possible;
- f. When participation of a party is expected, provide that party with written notice of the date, time, and location of the meeting, as well as the expected participants and purpose;
  - a. Allow both the Complainant and Respondent to provide evidence and witnesses;
- g. Allow both the Complainant and Respondent the opportunity to provide questions to be asked of the parties of witnesses;
- h. Interview all available, relevant witnesses and conduct follow-up interviews as necessary;
  - a. Allow each party the opportunity to suggest witnesses and questions they wish the Investigator(s) to ask of the other party and witnesses, and document in the report which questions were asked, with a rationale for any changes or omissions;
- i. Complete the investigation promptly and without unreasonable deviation from the intended timeline;
- j. Provide regular status updates to the parties throughout the investigation;
- k. Prior to the conclusion of the investigation, provide the parties and their respective Advisors (if so desired by the parties) with a list of witnesses whose information will be used to render a finding;
- l. Write a comprehensive investigation report fully summarizing the investigation, all witness interviews, and addressing all relevant evidence. Appendices including relevant physical or documentary evidence will be included;

- m. The Investigator(s) gather, assess, and synthesize evidence, but make no conclusions, engage in no policy analysis, and render no

Although in-person interviews for parties and all potential witnesses are ideal, circumstances (e.g., study abroad, summer break, COVID 19) may require individuals to be interviewed remotely. Skype, Zoom, FaceTime, WebEx, or similar technologies may be used for interviews if the Investigator(s) determine that timeliness or efficiency dictate a need for remote interviewing. SIUC will take appropriate steps to reasonably ensure the security/privacy of remote interviews.

Witnesses may also provide written statements in lieu of interviews or choose to respond to written questions, if deemed appropriate by the Investigator(s), though not preferred. If a witness submits a written statement but does not intend to be and is not present for cross examination at a hearing, their written statement may not be used as evidence.

### 3. **Recording of Interviews**

No unauthorized audio or video recording of any kind is permitted during investigation meetings. If Investigator(s) elect to audio and/or video record interviews, all involved parties must be made aware of audio and/or video recording. It is recommended that Investigators record all interviews if possible.

### 4. **Evidentiary Considerations in the Investigation**

The investigation does not consider: 1) incidents not directly related to the possible violation, unless they evidence a pattern; 2) the character of the parties; or 3) questions and evidence about the Complainant's sexual predisposition or prior sexual behavior, unless such questions and evidence about the Complainant's prior sexual behavior are offered to prove that someone other than the Respondent committed the conduct alleged by the Complainant, or if the questions and evidence concern specific incidents of the Complainant's prior sexual behavior with respect to the Respondent and are offered to prove consent.

### 5. **Referral for Hearing**

- a. **Process A – Title IX.** At the conclusion of an investigation under Process A – Title IX Process and provided that the complaint is not resolved through Informal Resolution, once the final investigation report is shared with the parties, under Process A- Title IX Process, the Title IX Coordinator will refer the matter for a live hearing.
- b. **Process B – Prohibited Conduct under SIU policies.** At the conclusion of an investigation under Process B: Prohibited

Conduct under SIU policies provided that the complaint is not resolved through the Informal Resolution, the Title IX Coordinator will refer the matter for a live hearing if the Respondent is a student. However, if there is a finding of a possible policy violation at the conclusion of the investigation and the Respondent is an employee, the Title IX Coordinator will refer the matter to the Appropriate Vice Chancellor and/or the Director of Labor and Employee Relations for consideration of discipline under the appropriate policy, procedures, or collective bargaining agreement, including but not limited to the State University Civil Service System requirements.

- c. Timeline. If a live hearing is to occur under either Process A – Title IX Process or Process B – Prohibited Conduct Process, the hearing shall be at least ten (10) business days after the date the final investigative report is transmitted to the parties and the Decision-maker unless all parties and the Decision-maker agree to an expedited timeline.
- d. Selection of Decision makers. The Title IX Coordinator will select an appropriate Decision-maker(s) from the Pool depending on whether the Respondent is an employee or a student.

## L. HEARING PROCESS

### 1. Hearing Decision-Maker Composition

The University will designate a three-member panel from the Pool, at the discretion of the Title IX Coordinator. One of the three members will be appointed as Chair by the Title IX Coordinator.

The Decision-makers will not have had any previous involvement with the investigation. The Title IX Coordinator may elect to have an alternate from the Pool sit in throughout the hearing process in the event that a substitute is needed for any reason.









Participants at the hearing will include the Chair, any additional panelists, the hearing facilitator, the Investigator(s) who conducted the investigation, the parties (or three (3) organizational representatives when an o

The Investigator(s) will then present a summary of the final investigation report, including items that are contested and those that are not, and will be subject to questioning by the Decision-maker(s) and the parties (through their Advisors). The Investigator(s) will be present during the entire hearing process, but not during deliberations.

If the parties raise an issue of bias or conflict of interest of an Investigator or Decisionmaker at the hearing, the Chair may elect to address those issues, consult with legal counsel, and/or refer them to the Title IX Coordinator, and/or preserve them for appeal. If bias is not in issue at the hearing, the Chair should not permit irrelevant questions that probe for bias.

## 12. Refusal to Submit to Cross-Examination and Inferences

If a party or witness chooses not to submit to cross-examination at the hearing, either because they do not attend the meeting, or they attend but refuse to participate in questioning, then the Decision-maker(s) may not rely on any prior statement made by that party or witness at the hearing (including those contained in the investigation report) in the ultimate determination of responsibility.

The Decision-maker(s) must disregard that statement. Evidence provided that is something other than a statement by the party or witness may be considered.

If the party or witness attends the hearing and answers some cross-examination questions, only statements related to the cross-examination questions they refuse to answer cannot be relied upon. However, if the statements of the party who is refusing to submit to cross-examination or refuses to attend the hearing are the subject of the allegation itself (e.g., the case is about verbal harassment or a quid pro quo offer), then those statements are not precluded from admission. Similarly, statements can be relied upon when questions are posed by the Decision-maker(s), as distinguished from questions posed by Advisors through cross-examination.

The Decision-maker(s) may not draw any inference solely from a party's or witness's absence from the hearing or refusal to answer cross-examination or other questions.

If charges of policy violations other than Prohibited Conduct are considered at the same hearing, the Decision-





- The nature, severity of, and circumstances surrounding the violation(s)
- The Respondent’s disciplinary history
- Previous allegations or allegations involving similar conduct
- The need for sanctions/responsive actions to bring an end to the sexual Harassment, Sexual Misconduct, Sexual Assault, Dating Violence, Domestic Violence, Stalking, and/or retaliation
- The need for sanctions/responsive actions to prevent the future recurrence of sexual harassment, Sexual Misconduct, Sexual Assault, Dating Violence, Domestic Violence, Stalking, and/or retaliation
- The need to remedy the effects of the sexual harassment, Sexual Misconduct, Sexual Assault, Dating Violence, Domestic Violence, Stalking, and/or retaliation on the Complainant and the community
- The impact on the parties
- Any other information deemed relevant by the Decision-maker(s)

The sanctions will be implemented as soon as is feasible, either upon the outcome of any appeal or the expiration of the window to appeal without an appeal being requested.

The sanctions described in this policy are not exclusive of, and may be in addition to, other actions taken or sanctions imposed by external authorities.

a. Student Sanctions

Any sanction which the Decision Makers believe to be appropriate may be assigned in response to the violation. Common sanctions include but are not limited to:

- i. Probation – Removal of a student from good conduct standing. This sanction prevents a student from representing the University in extracurricular activities or serving in formal leadership roles on campus. It is a formal warning to the student that the behaviors exhibited by the violation are unacceptable in an educational community and serves as notice that any further violations of any provision of this Code will call into question the student’s right to remain a member of the University community. Probation is issued for a stated period of time appropriate to the type of violation and the student’s history of violations of this Code, after which time a student’s good conduct standing is restored.
- ii. Suspension – An involuntary separation of a student from the



with the conference Administrator in order to confirm satisfactory completion of the assigned sanction. The student is responsible for any costs associated with this assessment and all required follow-up meetings, sessions or assessments.

- viii. Mandatory Program Sponsorship – A requirement to research, plan, and execute a program on a topic which the Administrator determines to be appropriate to the nature of the violation. The Administrator will specify the type and nature of the program, as well as determine specific requirements, which may include advertising, co-sponsorship or attendance goals, which must be met.
- ix. Restriction on Activity – Restriction of a specific activity directly related to a violation for a specified period of time.
- x. Written Assignment – A designated written activity related to the specific violation(s). To be completed as assigned by the conference Administrator.
- xi. Written Warning – An articulated statement that behaviors exhibited are inconsistent with the values and standards set forth by the University and are not acceptable behavior for students of the University.

- b. Organizational Sanctions: Any sanction permitted for violations of the Student Conduct Code. Deactivation, loss of recognition, loss of some or all privileges (including University registration) for a specified period of time.
- c. Employee Sanctions/Responsive Actions: Responsive actions for an employee who has engaged in Prohibited Conduct shall be in accordance with any applicable collective bargaining agreement. If disciplinary action is to be taken, discipline shall be pursuant to the applicable collective bargaining agreement.

Student Rights and Responsibilities or the appropriate Vice Chancellor will implement the sanctions on behalf of the university. Remedies will be overseen by the Title IX coordinator or their designee.

#### 17. Withdrawal or Resignation While Charges Pending

Students: Should a student decide to not participate in the resolution process, the process



3. Review by Appeal Chair.

The Request for Appeal will be forwarded to the Appeal Chair for consideration to determine if the request meets the grounds for appeal (a Review for Standing). This review is not a review of the merits of the appeal, but solely a determination as to whether the request meets the grounds and is timely filed.

If any of the grounds in the Request for Appeal do not meet the grounds in this Policy, that request will be denied by the Appeal Chair and the parties and their Advisors will be notified in writing o



Notification will be made in writing and may be delivered by one or more of the following methods: in person, mailed to the local or permanent address of the parties as indicated in official institutional records, or emailed to the parties' SIU-issued email or otherwise approved account. Once mailed, emailed and/or received in-person, notice will be presumptively delivered.

7. Sanctions Status During the Appeal

Any sanctions imposed as a result of the hearing are stayed during the appeal process. Supportive measures may be reinstated, subject to the same supportive measure procedures above.

If any of the sanctions are to be implemented immediately post-hearing, but pre-appeal, then emergency removal procedures (detailed above) for a hearing on the justification for doing so must be permitted within two days of implementation.

SIU may still place holds on official transcripts, diplomas, graduations, and course registration pending the outcome of an appeal when the original sanctions included separation.

8. Long-Term Remedies/Other Actions ST 27 JOL (S) 27 (25) JEM (2) P 42 (a) 06433 ((r) 13) (1) (s) 16 (5) 6

Failure to abide by the sanction(s)/action(s) imposed by the date specified, whether by refusal, neglect, or any other reason, may result in additional sanction(s)/action(s), including suspension, expulsion, and/or termination from the University and may be noted on a student's official transcript.

A suspension will only be lifted when compliance is achieved to the satisfaction of the Title IX Coordinator.

#### **O. RECORDKEEPING**

SIUC will maintain for a period of at least seven (7) years records of:

1. Each Prohibited Conduct investigation including any determination regarding responsibility and any audio or audiovisual recording or transcript required under federal regulation;
2. Any disciplinary sanctions imposed on the Respondent;
3. Any remedies provided to the Complainant designed to restore or preserve equal access to the University's education program or activity;
4. Any appeal and the result therefrom;
5. Any Informal Resolution and the result therefrom;
6. All materials used to train Title IX Coordinators, Investigators, Decision-makers, and any person who facilitates an Informal Resolution process. SIUC will make these training materials publicly available on SIUC's website; and
7. Any actions, including any supportive measures, taken in response to a report or formal complaint of Prohibited Conduct including:
  - i. The basis for all conclusions that the response was not deliberately indifferent;
  - ii. Any measures designed to restore or preserve equal access to the SIUC's education program or activity; and
  - iii. If no supportive measures were provided to the Complainant, document the reasons why such a response was given and why such a response was not unreasonable in light of the known circumstances.

#### **P. DISABILITY ACCOMMODATIONS IN THE RESOLUTION PROCESS**

SIUC is committed to providing reasonable accommodations and support to qualified students, employees, or others with disabilities to ensure equal access to the SIUC's resolution process.

Anyone needing such accommodations or support should contact the ADA Coordinator who will review the request and, in consultation with the person requesting the accommodation and the Title IX Coordinator, determine which accommodations are appropriate and necessary for full participation in the process.

### III. REVISION OF THIS POLICY AND PROCEDURES

This Policy and procedures takes precedence over any previous policy(ies) addressing Prohibited Conduct under Title IX and will be reviewed and updated periodically by the Title IX Coordinator. The University reserves the right to make changes to this document as necessary, and once those changes are posted online, they are in effect.

If government laws or regulations change – or court decisions alter – the requirements in a way that impacts this document, this document will be construed to comply with the most recent government regulations or holdings.

This document does not create legally enforceable protections beyond the protection of the background state and federal laws which frame such policies and codes, generally.

This Policy and procedures are effective August 14, 2020, and are not retroactive.

#### Attribution

This document was adapted from a Model Interim Sexual Harassment Policies and Procedures provided by Association of Title IX Administrators (“ATIXA”).

ATIXA 2020 INTERIM MODEL SEXUAL HARASSMENT POLICIES AND PROCEDURES  
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