

SEXUAL MISCONDUCT POLICY AND RESOLUTION PROCESS (TITLE IX)

I. Introduction

A. Community Context

Southeastern University (“SEU” or the “University”) 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 misconduct.

This Sexual Misconduct Policy and Resolution Process (Title IX) (the “Policy”) contains specific procedures for the prevention of and response to conduct that constitutes Sexual Misconduct, as defined herein, and retaliation. 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 and retaliation. Further, SEU has a responsibility to respond quickly and effectively when the University becomes aware of Sexual Misconduct or retaliation. SEU is committed to prevention of all forms of Sexual Misconduct and retaliation, as well as to the protection and rehabilitation of victims of such acts. Investigations by SEU of reported Sexual Misconduct or retaliation 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 Respondent is found to have engaged in Sexual Misconduct or retaliation, 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.

C. University Policy on Non-Discrimination

SEU adheres, to the extent it is not exempt, to all federal and state civil rights laws and regulations prohibiting discrimination in private institutions of higher education. SEU does not discriminate on the basis of race, color, national or ethnic origin, sex, disability, handicap, age, military service or status, veteran status, AIDS/HIV status, or the sickle cell trait. This equal opportunity and non-discrimination policy

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applies to all University programs and activities, including admission to all the rights, privileges, programs, and activities generally accorded or made available to students at SEU and all aspects of employment, including but not limited to recruiting, hiring, placement, transfer, training, promotion, rates of pay, and other compensation, termination and all other terms conditions and privileges of employment. The University does not discriminate on any unlawful basis in administration of its educational policies, admissions policies, scholarship and loan programs, and athletic and other school-administered programs.

II. Relevant Definitions and Concepts

A. Administrative Resolution: a method of formal resolution designated by the University to address conduct that is not appropriate for resolution by a Formal Grievance Process and applicable only when Process A is not, referred to interchangeably in this Policy as Process B.

B. Advisor: a person chosen by a party or appointed by SEU 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.

C. Appeal Decision-maker: a member of the Pool who is appropriately trained to review appeals under this Policy and selected by the Title IX Coordinator to review an appeal in a Formal Grievance Process or an Administrative Resolution process.

D. Chair: the Decision-maker responsible for leading the hearing during a Formal Grievance Process.

E. Coercion: exerting unreasonable pressure on a person to engage in any activity by putting that person in fear of negative consequences in order to compel him or her to against his or her own will.

F. Complaint (formal): a document submitted or signed by a Complainant or signed by the Title IX Coordinator alleging Sexual Misconduct, or retaliation for engaging in a protected activity, against a Respondent and requesting that the University investigate the allegation. If Notice is submitted in a form that does not meet the definition of a Complaint, the Title IX Coordinator will contact the Complainant to ensure that the report is made in accord with the Complainant's wishes.

G. Complainant: any person who is alleged to be the victim of conduct that could be Sexual Misconduct or retaliation for engaging in a protected activity, whether or not the person chooses to submit a formal complaint.

H. Decision-maker: a member of the Pool who is appropriately trained to render a determination of responsibility under this Policy and selected by the Title IX Coordinator to render such determination in a Formal Grievance Process or an Administrative Resolution process.

I. Directly Related Evidence: evidence connected to the Complaint that is neither inculpatory (tending to prove a violation) nor exculpatory (tending to disprove a violation) and will not be relied upon in the investigation report.

J. Finding: a conclusion, by a preponderance of the evidence standard, that a particular event or fact did or did not occur as alleged.

K. Force: the use of physical violence, threats, intimidation (implied threats), and/or coercion that overcomes free will or resistance or that produces consent. Consent cannot be gained using force.

L. Formal Grievance Process: a method of formal resolution designated by the University to address conduct that falls within the policies included below, and which complies with the requirements of the Title IX regulations (34 CFR §106.45), referred to interchangeably in this Policy as Process A.

M. 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.

N. Intimidation: implied threats or acts that cause an unreasonable fear of harm in another.

O. Investigator: the person or persons trained and tasked by SEU to gather facts about an alleged violation of this Policy, assess relevance and credibility, synthesize the evidence, and compile this information into an investigation report and file of directly related evidence.

P. Notice: means that a student, employee, or third-party informs the Title IX Coordinator, Deputy Title IX Coordinator, or other Official with Authority of the alleged occurrence of Sexual Misconduct, retaliation, or any other alleged violation of this Policy.

Q. Official with Authority: an employee of SEU designated and vested with the responsibility to implement corrective measures for Sexual Misconduct or retaliation on behalf of the University.

R. Pool: the group of trained investigators, hearing officers, appeal officers, and Advisors who may perform any or all of these roles in a process pursuant to this Policy, though not at the same time or with respect to the same case.

S. Process A: the Formal Grievance Process, as detailed herein at Appendix A and defined above.

T. Process B: the Administrative Resolution process, as detailed herein at Appendix B and defined above.

U. Relevant Evidence: evidence that tends to prove or disprove an issue in the Complaint.

V. Respondent: any person who is alleged to have engaged in a form of Sexual Misconduct, retaliation, or other alleged violation of this Policy and becomes subject to one of the University’s resolution process.

W. Sexual Misconduct: all conduct constituting sexual harassment for purposes of Title IX, including quid pro quo harassment by SEU employees, sexual assault, dating violence, domestic violence, stalking (each as defined by the Cleary Act), and unwelcome conduct on the basis of sex that is so severe, pervasive, and objectively offensive that it denies a person access to SEU’s educational program or activity.

X. Threats: threatening or causing physical harm, extreme verbal abuse, or other conduct which threatens or endangers the health or safety of any person.

III. Scope and Jurisdiction

A. Individuals Covered by this Policy

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 contracted by SEU that interact with students, staff, faculty, or administration of SEU. However, the Respondent must be a member of the SEU community for SEU's policy to apply against that individual.

B. Conduct Covered by this Policy

This Policy covers the education program and activities of the University, which includes conduct that occurs: (i) on SEU's campus; (ii) on property or in buildings owned or controlled by SEU; (iii) at SEU-sponsored events; (iv) at regional campuses or extension sites, (v) online, using SEU's networks, technology, or equipment; or (vi) off campus, where members of the SEU community are involved and the conduct effectively serves to deprive someone of access to SEU's educational program and activities. It may also cover off-campus or online conduct when the Title IX Coordinator determines that the conduct affects a substantial University interest.

C. Determination of Jurisdiction

The University will evaluate all Notices/Complaints of potential Sexual Misconduct, retaliation, or other alleged violations of this Policy to determine if: (i) the conduct occurred in the context of SEU's employment or education program or activities in the United States; and/or (ii) has continuing effects on campus or in an off-campus SEU-sponsored program or activity.

For purposes of this Policy, a substantial University interest includes: (1) any action that constitutes a criminal offense as defined by law, including, but is not limited to, single or repeat violations of any local, state, or federal law; (2) 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; (3) 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 (4) any situation that is detrimental to the educational interests or mission of the University.

D. Process When Jurisdiction Exists

When an alleged violation of this Policy over which SEU has jurisdiction is reported, the allegations are subject to resolution using SEU's Process A or Process B, as determined by the Title IX Coordinator and as detailed below. The procedures below may be applied to specific incidents, to patterns, and/or to the campus climate, all of which may be addressed and investigated in accordance with this Policy.

E. Assistance for Complainants When No Jurisdiction Exists

In the event the Respondent is not a member of the SEU community in the United States, the University may still make supportive measures, resources, and remedies available to the Complainant anyway. In addition, the University may take other actions, as appropriate, to protect the Complainant from third-parties, such as barring individuals from accessing University property or events.

When the Respondent is enrolled in or employed by another institution, the Title IX Coordinator can assist the Complainant in liaising with the appropriate individual at that institution, as it may be possible to allege violations through that institution's policies.

Similarly, the Title IX Coordinator may be able to assist and support a student or employee Complainant who experiences Sexual Misconduct in an externship, study abroad program, or other environment external to the University where sexual harassment policies and procedures of the facilitating or host organization may give recourse to the Complainant.

IV. Administrative Contact Information

A. Title IX Team

Complaints or Notices, or inquiries about or concerns regarding this Policy and procedures, may be made internally to:

Title IX Coordinator

Stephanie Powell

Location: Pansler U210

Address: 1000 Longfellow Boulevard Lakeland, FL 33801

Phone: (863) 667-5236

Email: smpowell@seu.edu

Web: www.seu.edu/titleix

The Title IX Coordinator is responsible for monitoring, oversight, and overall implementation of Title IX Compliance practices and the prevention of Sexual Misconduct and retaliation 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.

Title IX Deputy Coordinator: *For Faculty, Staff, & Visitors*

Geoffrey Ott

Human Resources Director

Location: Buttercup House 1025

Address: 1000 Longfellow Boulevard Lakeland, FL 33801

Phone: 863-667-5182

Email: gdott@seu.edu

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.

B. Officials with Authority

SEU has designated the following administrators as Officials with Authority to address and correct Sexual Misconduct and/or retaliation. In addition to the Title IX Team members listed above, these Officials with Authority listed below may also accept Notice or Complaints on behalf of the University.

- President
- Vice Presidents
- Academic Deans

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The effective date of this policy is August 14, 2020

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

Portions of this policy are based on ATIXA 2020 One Policy, Two Procedures Model.

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- Athletic Director
- Director of Student Conduct
- Director of Residence Life

Except those individuals designated as confidential resources in Section VII.C. of this Policy, SEU has also classified all employees on campus, online, and at extension sites and regional campuses as Mandated Reporters of any knowledge they have that a member of the SEU community is experiencing Sexual Misconduct and/or retaliation.

The Southeastern University Mandatory Reporting policy can be found here: <https://seu.edu/wp-content/uploads/SEU-Faculty-Staff-Mandatory-Reporter-Policy.pdf>

If a Complainant expects formal action in response to their allegations, reporting to any Mandated Reporter can connect the Complainant with resources to report crimes and/or policy violations. Mandated Reporters will immediately share such reports with the Title IX Coordinator, who will take action when an incident is reported to the Office of Title IX Compliance.

V. Definitions of Particular Forms of 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 community standards, Student Handbook, course catalogue, Employee Handbook, Faculty Handbook, and/or this Policy. Sexual Misconduct is an umbrella term, and includes actual or attempted offenses of the following forms of misconduct.

A. Quid Pro Quo Harassment

Quid Pro Quo harassment occurs when:

- 1) an employee of SEU,
- 2) conditions, implicitly or explicitly, the provision of an aid, benefit, or service of SEU,
- 3) on an individual's participation in unwelcome sexual conduct.

B. Sexual Harassment

Sexual harassment is an umbrella term that generally includes the forms of Sexual Misconduct listed in this section, and as defined by the Clery Act.

1. Sexual Harassment is:
 - a. unwelcome conduct,
 - b. determined by a reasonable person,
 - c. to be so severe, and
 - d. pervasive, and
 - e. objectively offensive,
 - f. that it effectively denies a person equal access to SEU's education program or activity.¹

2. Sexual Assault is:
 - a. Sex Offenses, Forcible:
 - i. any sexual actⁱⁱ directed against another person,
 - ii. without the consent of the other person,
 - iii. including instances in which the other person is incapable of giving consent.
 - b. Sex Offenses, Non-Forcible:
 - i. Incest:
 - a) non-forcible sexual intercourse,
 - b) between persons who are related to each other,
 - c) within the degrees wherein marriage is prohibited by Florida law.
 - ii. Statutory Rape:
 - a) non-forcible sexual intercourse,
 - b) with a person who is under the statutory age of consent of Florida.
3. Dating Violence is:
 - a. violence,
 - b. on the basis of sex,
 - c. committed by a person,
 - d. who is in or has been in a social relationship of a romantic or intimate nature with the other person.ⁱⁱⁱ
4. Domestic Violence is:
 - a. violence,
 - b. on the basis of sex,
 - c. committed by:
 - i. a current or former spouse or intimate partner of the Complainant, or
 - ii. a person with whom the Complainant shares a child in common, or
 - iii. a person who is cohabitating with, or has cohabitated with, the Complainant as a spouse or intimate partner, or
 - iv. a person similarly situated to a spouse of the Complainant under the domestic or family violence laws of Florida, or
 - v. any other person against an adult or youth Complainant who is protected from that person's acts under the domestic or family violence laws of Florida.
5. Stalking is:
 - a. engaging in a course of conduct,
 - b. on the basis of sex,
 - c. directed at a specific person,
 - d. that would cause a reasonable person to:
 - i. fear for the person's own safety, or
 - ii. fear for the safety of others, or
 - iii. suffer substantial emotional distress.^{iv}

C. Other Conduct that May Constitute Sexual Misconduct

In addition to the forms of Sexual Misconduct described above, which are always considered sexual harassment prohibited by Title IX, SEU additionally prohibits the following conduct and recognizes such conduct as a potential form of sex discrimination that may be within or outside of Title IX when the act is based upon the Complainant's sex.

1. Sexual Exploitation, which 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 the 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.

2. Threatening or causing physical harm, extreme verbal, emotional, or psychological abuse, or other conduct which threatens or endangers the health or safety of any person, and that does not otherwise constitute one of the other Sexual Misconduct offenses.

3. Discrimination, defined as actions that deprive, limit, or deny other members of the SEU community of educational or employment access, benefits, or opportunities on the basis of sex.

4. Intimidation, defined as implied threats or acts that cause an unreasonable fear of harm in another, and do not otherwise constitute one of the other Sexual Misconduct offenses.

5. Hazing, defined as acts likely to cause physical or psychological harm or social ostracism to any person within the SEU community, when related to the admission, initiation, pledging, joining, or any other group-affiliation activity (as defined further in the Student Handbook).

6. Bullying, defined as:

- a. Repeated and/or severe,
- b. Aggressive behavior, that is
- c. Likely to intimidate or intentionally hurt, control, or diminish another person, physically and/or mentally.

Violation of any other University policy may also constitute a violation of Title IX when such violation is motivated by sex, and the result is a discriminatory limitation or denial of employment or educational access, benefits, or opportunities.

VI. Consent

All forms of Sexual Misconduct involve the absence of affirmative consent on the part of the Complainant. 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. Consent cannot be procured by use of physical force, threats, intimidating behavior, or coercion. Physical force includes, but is not limited to, hitting, punching, kicking, scratching, shoving, and restraining. Use of physical force or coercion to obtain consent will invalidate any consent given.
- I. An individual under the legal age cannot give effective consent.
- J. An individual who is asleep, unconscious, mentally disabled, physically restrained involuntarily, or who is incapacitated by reason of impairment from voluntary or involuntary consumption of alcohol, drugs, or any other substance cannot give effective consent. Sexual activity with someone known to be or who should be known to be incapacitated constitutes a violation of this Policy. The question of what the Respondent should have known is based on what an objectively reasonable person in the place of the Respondent, sober and exercising good judgment, would have known about the condition of the Complainant.
- K. 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.

VII. Reporting

A. Reporting Sexual Misconduct, Retaliation, or Other Alleged Violations of this Policy

All members of the SEU community are encouraged to contact an appropriate official as soon as possible after any alleged act of Sexual Misconduct, retaliation, or other alleged violation of this Policy has occurred, whether in the form of an assault, discrimination, harassment, or otherwise, to discuss the available options for reporting. In addition, all University employees (faculty, staff, and administrators, except for confidential resources as identified in Section VII.C.) are expected to immediately report actual or suspected violations of this Policy, regardless of the form in which it occurs.

SEU is committed to encouraging and protecting those who come forward about any incident they may have experienced or witnessed that may constitute a violation of this Policy. 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.

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

Notice or Complaints of Sexual Misconduct, retaliation, or other violations of this Policy may be made using any of the following options:

1. Reporting to Title IX Officers. File a Complaint with, or give verbal Notice to, the Title IX Coordinator, Title IX Deputy Coordinator, or Officials with Authority. Such a report may be made at any time (including during non-business hours) in-person, by mail, by phone, or by email using the contact information for the Title IX Coordinator or any other official listed below.

Title IX Coordinator

Stephanie Powell

Location: Pansler U210

Address: 1000 Longfellow Boulevard Lakeland, FL 33801

(t) 863-667-5236

(email) smpowell@seu.edu

Title IX Deputy Coordinator for Faculty, Staff, & Visitors

Geoffrey Ott

Human Resources Director

Location: Buttercup House 1025

Address: 1000 Longfellow Boulevard Lakeland, FL 33801

(t) 863-667-5182

(Email) gdott@seu.edu

2. Online Reporting Option: All members of the SEU community are encouraged to report incidents directly through the online reporting form at www.seu.edu/tilteix. Reports submitted through the online reporting form go directly to the Title IX Coordinator. Reporters can generally expect to receive follow up within three (3) business days of filing a report, if they indicated that they wish to be contacted. Anonymous reports are accepted, but can give rise to a need to investigate. The University endeavors to provide supportive measures to all Complainants, which is impossible with an anonymous report. Because reporting carries no obligation to initiate a formal Complaint, and because the University generally respects Complainant requests to dismiss Complaints unless there is an overriding and compelling threat to health and/or safety, the Complainant is largely in control and should not fear a loss of privacy by making a report including their name, which will allow the University to discuss and/or provide supportive measures.

3. Reporting to Faculty or Staff: Students may also report to any University faculty or staff member or University employee at an extension site or regional campus. All faculty, staff, and employees of SEU are mandatory reporters (except those who are explicitly designated as

confidential resources in Section VI. C. of this Policy). Within 24 hours of being notified of an alleged violation of this Policy, all faculty and staff are expected to report the information to the Title IX Coordinator.

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

Individuals 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 Coordinator. Employees must share all details of the reports they receive. Generally, participation in and/or responses to climate surveys, classroom writing assignments, human subjects research, or events such as Take Back the Night marches or speak-outs do not constitute Notice that must be reported to the Title IX Coordinator by employees.

Failure of a non-confidential employee to report an incident or incidents of Sexual Misconduct, retaliation, or other alleged violations of this Policy of which they become aware is a violation of University policy and can subject the employee to disciplinary action.

B. What Happens After a Report is Filed?

Any individual reporting Sexual Misconduct, retaliation, or other alleged violation of this Policy may decide whether and how they want to proceed with any formal Complaint or resolution process. A Complainant may choose to file a formal Complaint, pursue informal resolution through the University, and/or pursue resolution through the criminal or civil courts. Any Complainant may always initiate or withdraw a formal Complaint at any time. No University employee should minimize or downplay any report or pressure any Complainant to proceed in a way that makes the Complainant uncomfortable.

Complainants are advised, however, that in some limited circumstances, the Title IX Coordinator may be required to submit a formal Complaint and take action through the University regardless of the Complainant's wishes. In such instances, however, strong consideration will still be given to the Complainant's wishes.

1. Promptness. All allegations of violations of this Policy will be acted upon promptly by SEU once it has received Notice or a formal Complaint. Allegations made under this Policy can take 60-90 business days to resolve, typically. There are always exceptions and extenuating circumstances that can cause a resolution to take longer, but the University will avoid all undue delays within its control.

Any time the general timeframes for resolution outlined in SEU's procedures will be delayed, the University will provide written notice to the parties of the delay, the cause of the delay, and an estimate of the anticipated additional time that will be needed as a result of the delay.

2. When a Complainant Does Not Wish to Proceed. If a Complainant does not wish for their name to be shared or does not wish for a formal Complaint to be pursued, the Complainant may make such a request to the Title IX Coordinator or Deputy Coordinator, who will evaluate that

request in light of the University's duty to ensure the safety of the campus and comply with federal law.

The Title IX Coordinator has ultimate discretion over whether the University proceeds when the Complainant does not wish to do so, and the Title IX Coordinator may sign a formal Complaint to initiate a grievance process upon completion of an appropriate risk assessment that shows a compelling risk to health and/or safety that requires the University to pursue formal action to protect the SEU community.

In cases indicating pattern, predation, threat, weapons and/or violence, the University will likely be unable to honor a request for confidentiality.

The Title IX Coordinator will also consider the effect that non-participation by the Complainant may have on the availability of evidence and the University's ability to pursue a Formal Grievance Process fairly and effectively.

When the Title IX Coordinator executes the Complaint, the Title IX coordinator does not become the Complainant. The Complainant is the individual who is alleged to be the victim of conduct that could constitute a violation of this Policy.

When the University proceeds, the Complainant (or their Advisor) may have as much or as little involvement in the process as they wish. The Complainant retains all rights of a Complainant under this Policy irrespective of their level of participation. Typically, when the Complainant chooses not to participate, the Advisor may be appointed as proxy for the Complainant throughout the process, acting to ensure and protect the rights of the Complainant, though this does not extend to the provision of evidence or testimony.

The University's ability to remedy and respond to a Notice may be limited if the Complainant does not want the University to proceed with an investigation and/or resolution process. The goal is to provide the Complainant with as much control over the process as possible, while balancing the University's obligation to protect the SEU community.

In cases where the Complainant requests confidentiality/no formal action and the circumstances allow the University to honor that request, the University will offer informal resolution options, supportive measures, and remedies to the Complainant and the community, but will not otherwise pursue formal action. If the Complainant elects to take no action, he or she can change that decision if he or she decides to pursue a formal complaint at a later date. A Complainant has the right, and can expect, to have reports taken seriously by the University when a formal Complaint is submitted, and to have those incidents investigated and properly resolved through these procedures. However, delays may cause limitations on access to evidence, or present issues with respect to the status of the parties.

3. *Confidentiality of Notices and Complaints.* A Notice or formal Complaint still affords privacy to the Complainant, as only a small group of University officials who need to know will have access to or 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 SEU Care Team. Information will be shared as necessary with investigators, hearing panel members, Advisors, witnesses, and the Respondent. The circle of people with this knowledge will be kept as tight as possible to preserve a Complainant's rights and privacy.

C. Reporting to Confidential Resources

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

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

Health Professionals in Health Services
Smith Hall
863-667-5205
healthservices@seu.edu

Campus Pastor/Executive Director for Spiritual Formation:
Jonathan Rivera
Pansler U241
863-667-5064
jonrivera@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 for students or the Employee Assistance Program for employees 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 student or employee.

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

In addition, the following are other confidential support resources off-campus:

Peace River Victim Services
863-413-2707 (Confidential)
877-688-5077
1831 N. Crystal Lake Drive Lakeland, FL
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

D. Time Limits on Reporting

There is no time limit on providing Notice or a Complaint to the Title IX Coordinator. However, if the Respondent is no longer subject to the University's jurisdiction, or significant time has passed, the ability of the University to investigate, respond, and provide remedies may be more limited or even impossible. Acting on Notices or Complaints significantly impacted by the passage of time is in the sole discretion of the Title IX Coordinator, who may document allegations for future reference, offer supportive measures, or engage in informal (or formal) action, as appropriate.

E. Special Notes about Reporting Sexual Assault.

1. Reporting Steps. If you are the victim of a recent sexual assault:

a. **Get to a safe place as soon as you can.**

b. **Seek medical attention.** It is important to seek immediate and follow-up medical attention in an emergency room for several reasons:

- i. To assess and treat any physical injuries you may have sustained.
- ii. To determine the risk of sexually transmitted infections or pregnancy.
- iii. If you choose, you may have evidence collected to aid criminal prosecution if you later decide to file criminal charges.

c. **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.

d. **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 showering, bathing, washing your face or hands, douching, brushing your teeth, eating, drinking, or changing your clothes. Try not to urinate. 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).

2. Pressing Charges. Alleged violations of this Policy should be reported to the appropriate Title IX Deputy Officer identified above. In addition, a person who has experienced a sexual assault or other act of sexual violence may contact proper local law enforcement authorities (e.g., by calling 911) about possibly filing a criminal complaint. The Title IX Deputy Coordinator is available to assist individuals in making contact with any of the following appropriate law enforcement authorities upon request.

- Lakeland Police Department Victim Assistance 863-834-6914
219 N. Massachusetts Avenue Lakeland, FL
- Polk County Clerk of Court, Domestic Violence Department

To file civil Domestic Violence reports and obtain “Injunctions for Protection Against Domestic Violence”

Lakeland Branch:
930 E. Parker Street, Lakeland, FL 863-603-6412

Bartow Branch (Polk County Courthouse):
255 N. Broadway Street Bartow, FL 863-534-4184

- Clerk of the 10th Judicial Court of Polk County Florida
To file Injunctions (“Order of Protection” or “Restraining Orders”) in response to reported Dating/Domestic Violence, Stalking, or Sexual Violence.

Polk County Courthouse:
255 N. Broadway Street Bartow, FL 863-534-4000

Any pending criminal investigation or criminal proceeding may have some impact on the timing of the University’s investigation, but the University will commence its own investigation as soon as is practicable under the circumstances. The University reserves the right to commence and/or complete its own investigation prior to the completion of any criminal investigation or criminal proceeding.

F. Other Ways to Report

An employee or student may also file a complaint of Sexual Misconduct with:

- 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. Supportive Measures

SEU will offer and implement appropriate and reasonable supportive measures to the parties upon Notice or Complaint of alleged Sexual Misconduct, retaliation, or other violation of this Policy.

Supportive measures are non-disciplinary, non-punitive, individualized services offered as appropriate, as reasonably available, and without fee or charge to the parties to 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 Sexual Misconduct, retaliation, and other violations of this Policy.

The Title IX Coordinator or Title IX Deputy Coordinator will promptly make supportive measures available to the parties upon receiving Notice or a Complaint. At the time that supportive measures are offered, the University will normally inform the Complainant, in writing, that the Complainant may file a formal Complaint either at that time or in the future, if the Complainant has not done so already. The Title IX Coordinator will work with the Complainant to ensure that 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 to the extent practicable without impairing the University's ability to implement the supportive measures. SEU will attempt to ensure as minimal an academic/occupational impact on the parties as possible and implement measures in a way that does not unreasonably burden the other party.

Supportive measures may include, but are not limited to:

- Referral to counseling, medical, and/or other healthcare services;
- Referral to the Employee Assistance Program;
- Referral to community-based service providers;
- Student financial aid counseling;
- Education to the SEU community or subgroup(s) of the SEU community;
- Altering campus housing assignment(s);
- Altering work arrangements for employees or student-employees;
- Safety planning;
- Providing campus safety escorts;
- Providing transportation accommodations;
- Implementing contact limitations (no contact orders) between the parties;
- Academic support, extensions of deadlines, or other course/program-related adjustments;
- Trespass, Persona Non Grata (PNG), or Be-On-the-Lookout (BOLO) orders;
- Timely Warnings;
- Class schedule modifications, withdrawals, or leaves of absence;
- Increased security and monitoring of certain areas of the campus; and/or
- Any other actions deemed appropriate by the Title IX Coordinator or Title IX Deputy Coordinator.

Violations of no contact orders will be referred to appropriate student conduct or employee disciplinary processes for enforcement.

IX. Emergency Removal

The University may act to remove a student Respondent entirely or partially from its education program or activities on an emergency basis when an individualized safety and risk analysis has been conducted by the Title IX Coordinator and the SEU Care Team, and it has been determined that an immediate threat to the physical health or safety of any student or other individual justifies removal.

In all cases in which an emergency removal is imposed, the student Respondent will be given notice of the action and the option to request a meeting with the Title IX Coordinator prior to such action/removal being imposed, or as soon thereafter as reasonably possible, to show cause why the action/removal should not be implemented or should be modified. This meeting is not a hearing on the merits of the allegation(s), but rather is an administrative process intended to determine solely whether the emergency removal is appropriate. When this meeting is not requested by the student Respondent in a timely manner, objections to the emergency removal will be deemed waived. A Complainant and their Advisor may be permitted to participate in this meeting if the Title IX Coordinator or Title IX Deputy Coordinator determines it is equitable to do so.

This section also applies to any restrictions that a coach or athletic administrator may place on a student-athlete arising from allegations related to Title IX. There is no appeal process for emergency removal decisions.

A Respondent may be accompanied by an Advisor of their choice when meeting with the Title IX Coordinator for the emergency removal show cause meeting. The Respondent will be given access to a written summary of the basis for the emergency removal prior to the meeting to allow for adequate preparation.

The Title IX Coordinator has sole discretion under this Policy to implement or stay an emergency removal and to determine the conditions and duration of an emergency removal. Violation of an emergency removal under this Policy will be grounds for discipline, up to and including expulsion.

The University will implement the least restrictive emergency removal actions possible in light of the circumstances and safety concerns. As determined by the Title IX Coordinator, these actions could include, but are not limited to: removing a student Respondent from a residence hall, restricting a student Respondent's or employee's access to or use of facilities or equipment, allowing a student Respondent to withdraw or take grades of incomplete without financial penalty, authorizing an administrative leave, and suspending a student Respondent's participation in extracurricular activities, student employment, student organizational leadership, or intercollegiate/intramural athletics.

At the discretion of the Title IX Coordinator, alternative coursework options may be pursued to ensure as minimal an academic impact as possible on the parties.

X. Sanctions; Responsive Actions.

SEU relies upon the resolution processes described in Appendix A and/or Appendix B to determine whether or not the Policy has been violated. If there is a determination of responsibility for a Policy violation, the University will promptly implement effective remedies designed to ensure that it is not deliberately indifferent to Sexual Misconduct or retaliation, the potential recurrence thereof, or the effects thereof.

SEU reserves the right to impose any level of sanction for any offense under this Policy, depending on the circumstances, which may include but not be limited to any of the following:

Student / Student Organization Sanctions:

- Written or verbal apology.
- Required discrimination, harassment, retaliation, or sexual misconduct education.
- Verbal or written warning, which is a formal statement that the conduct was unacceptable and warning that further violations of any SEU policy, procedure, or directive will result in more severe sanctions/responsive action.
Required counseling, which is a mandate to meet with and engage in counseling with either SEU counselors or external counselors to better comprehend the misconduct and its effects.
- Probation, which is a written reprimand for violation of an SEU policy accompanied by specific restrictions on privileges for a period of time as well as a warning that further violations of any SEU policy, procedure, or directive will result in more severe sanctions/responsive action.
- Suspension, which is the termination of status as a student or student organization for a period of time, generally not to exceed two (2) years, and/or until specific criteria are met. Students who return from suspension will normally be on probation for the remainder of their tenure as a student at SEU.
- Expulsion, which is permanent termination of status and revocation of rights to be on campus for any reason or to attend SEU-sponsored events.

- Withholding diploma.
- Revocation of degree.

Employee Sanctions:

- Verbal or written warning.
- Performance Improvement Plan.
- Enhanced supervision, observation, or review.
- Required counseling.
- Required training or education.
- Probation.
- Denial of pay increase and/or loss of any applicable pay increase.
- Loss of supervisory responsibility.
- Demotion.
- Transfer or reassignment.
- Restriction of professional development resources.
- Suspension with pay.
- Suspension without pay.
- Revocation of tenure.
- Termination.

In addition to or in place of any of the above sanctions/responsive actions, the University may assign any other sanction or responsive action as deemed appropriate.

Notwithstanding the foregoing, any person found responsible for sexual assault will likely receive a sanction ranging from suspension 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 Misconduct will likely receive a sanction ranging from warning to expulsion or termination, depending on the severity of the incident, and taking into account any previous disciplinary violations.

Factors the University may consider when determining a sanction/responsive action may include, but are not limited to:

- 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 Misconduct and/or retaliation;
- The need for sanctions/responsive actions to prevent the future recurrence of Sexual Misconduct and/or retaliation;
- The need to remedy the effects of the Sexual Misconduct and/or retaliation on the Complainant and the community;
- The impact on the parties; and
- Any other information deemed relevant by the Decision-maker(s) and/or Title IX Coordinator, as appropriate.

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.

The sanctions determined appropriate by the Decision-maker 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.

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

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 Complainant 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.

XI. Long-Term Remedies / Other Actions

Following the conclusion of any resolution process under this Policy, and in addition to any sanctions implemented, the Title IX Coordinator may implement additional long-term remedies or actions with respect to the parties and/or the campus community that are intended to stop Sexual Misconduct and/or retaliation, remedy the effects of Sexual Misconduct, and prevent reoccurrence of Sexual Misconduct.

These long-term remedies/actions may include, but are not limited to:

- Referral to counseling and health services;
- Referral to the Employee Assistance Program;
- Education to the individual and/or the community;
- Permanent alteration of housing assignments;
- Permanent alteration of work arrangements for employees;
- Provision of campus safety escorts;
- Climate surveys;
- Policy modification and/or training;
- Provision of transportation accommodations;
- Implementation of long-term contact limitations between the parties; and
- Implementation of adjustments to academic deadlines, course schedules, etc.

At the discretion of the Title IX Coordinator, certain long-term supports or measures may also be provided to the parties even if no policy violation is found.

When no policy violation is found, the Title IX Coordinator will address any remedies owed by the University to the Respondent to ensure no effective denial of educational access has or will occur.

The University will endeavor to maintain the privacy of any long-term remedies/actions, provided that maintaining such privacy does not impair the University's ability to provide the remedy/action deemed appropriate.

XII. Failure to Comply with Sanctions, Interim or Long-Term Remedies, or Responsive Actions

All Respondents are expected to comply with the assigned sanctions and/or responsive actions contained in a final Notice of Outcome within the timeframe specified by the final Decision-maker(s) (including the Appeal Decision-maker) or the Title IX Coordinator, as appropriate.

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), up to and including expulsion from the University, or termination from employment with the University.

A temporary disciplinary suspension of privileges will only be lifted when compliance with the sanctions and/or responsive actions contained in the final Notice of Outcome is achieved by the Respondent to the satisfaction of the Title IX Coordinator.

XIII. Counterclaims

SEU will endeavor to ensure that any process under this Policy is not abused for retaliatory purposes. Counterclaims by the Respondent may be made in good faith, but are, on occasion, also made for purposes of retaliation.

SEU permits the filing of counterclaims, but uses the applicable initial assessment process, described in Appendix A and/or B, to assess whether the allegations are made in good faith. Counterclaims determined to be made in good faith will be processed using the resolution process applicable to the underlying Complaint. Occasionally, allegations and counterclaims can be resolved through the same investigation, at the discretion of the Title IX Coordinator. When simultaneous resolution is not possible or practicable, the counterclaims may be processed and resolved after resolution of the underlying allegation. Accordingly, a delay in the processing of counterclaims is permitted.

When counterclaims are not made in good faith, they will be considered retaliatory, and may constitute a violation of this Policy. Counterclaims made with retaliatory intent will not be permitted.

XIV. 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 or other violation of this Policy.

No individual who reports an incident that may allege a violation of this Policy, participates in the investigation or resolution of such an allegation, supports a Complainant or Respondent, assists in providing information relevant to an investigation, and/or acts in good faith to oppose conduct that constitutes a violation of this Policy will be subject to retaliation as a result of such activity or participation.

Acts of alleged retaliation should be reported immediately to the Title IX Coordinator and will be promptly investigated. SEU will take all appropriate and available steps to protect individuals who fear that they may be subjected to retaliation.

SEU will not, and all members of the SEU community are prohibited to, take or attempt to take materially adverse action by intimidating, threatening, coercing, harassing, or discriminating against any individual for the purpose of interfering with any right or privilege secured by law or this Policy, or because the individual has given a Notice, made a Complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing related to Sexual Misconduct, retaliation, or other alleged violation of this Policy. Any such acts of retaliation by any SEU employee or student will be considered a serious violation of the Community Standards and will result in appropriate disciplinary action, up to and including expulsion for students and termination of employment for employees. Retaliation may constitute a violation of this Policy even when the initial report does not result in a finding of responsibility.

Filing a complaint within Process B could be considered retaliatory if those charges could be applicable under Process A, when the Process B charges are made for the purpose of interfering with or circumventing any right or privilege provided afforded within Process A that is not provided by Process B. Therefore, SEU will vet all Complaints carefully to ensure this does not happen, and to assure that Complaints are tracked to the appropriate process.

XV. Federal Timely Warning Obligations

Parties reporting sexual assault, domestic violence, dating violence, and/or stalking should be aware that under the Clery Act, SEU must issue timely warnings for incidents reported to the University that pose a serious or continuing threat of bodily harm or danger to members of the campus community.

SEU will ensure that a Complainant's name and other identifying information is not disclosed in the timely warning, while still providing enough information for SEU community members to make safety decisions in light of the potential danger.

XVI. False Allegations

The University will not tolerate intentional false reporting of incidents under this Policy. Any allegations of Sexual Misconduct that are suspected to be false for the purpose of harassing the Respondent or disrupting the University's operations are subject to these investigation and resolution procedures and could result in disciplinary action, up to and including expulsion for students and termination of employment for employees. Additionally, witnesses or parties who knowingly provide false evidence, tamper with or destroy evidence, or deliberately mislead an Investigator may also be subject to disciplinary action. This paragraph does not apply to allegations that are made in good faith but ultimately found to be erroneous or that do not result in a determination of a policy violation.

XVII. Disciplinary Amnesty for Complainants and Witnesses

SEU encourages the reporting of Sexual Misconduct, retaliation, or other alleged violation of this Policy by victims and witnesses. Sometimes, Complainants or witnesses of Sexual Misconduct, retaliation, or other potential violations of this Policy may be hesitant to report such conduct because they fear that they themselves will be accused of or disciplined for violations of the SEU Student Handbook or other policies (for example, a student who has been drinking might hesitate to help take an individual who has experienced sexual assault to Campus Safety & Security or Residence Life officials).

It is in the best interests of the SEU community that as many Complainants 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 parties and witnesses who report suspected violations of this Policy, in good faith, amnesty from minor policy violations related to the reported incident. While all policy violations cannot be overlooked, the University will provide educational options, rather than punishment, to those who offer their assistance to others in need of assistance in the event of Sexual Misconduct.

However, Respondents are generally not eligible for this form amnesty. The University's decision not to offer Respondents amnesty is based on neither sex nor gender, but on the fact that the rationale for amnesty – the incentive to report serious misconduct – is rarely applicable to Respondents.

XVIII. Bystander Intervention

SEU expects all members of the community to take reasonable and prudent actions to prevent or stop an act of Sexual Misconduct or other potential violations of this Policy. There are safe and positive options that anyone may carry out to prevent harm or to intervene when there is a risk of Sexual Misconduct or other violation of this Policy occurring. Taking action may include direct non-violent intervention, calling law enforcement, and seeking assistance from a person in authority. Any individual choosing to exercise this positive moral obligation in good faith and a reasonable manner will be supported by the University and protected from retaliation for his or her actions.

Sometimes, students are hesitant to offer assistance to others for fear that they may get themselves in trouble. The University has a policy of amnesty from minor policy violations for all individuals who offer help to others in the event of Sexual Misconduct, retaliation, or other violations of this Policy.

XIX. Risk Reduction Tips

The University desires that no person experience or engage in any act of Sexual Misconduct on its campus or in connection with University activities. The following risk reduction tips are offered to increase empowerment and decrease perpetration and bystander inaction in order to promote safety and to help individuals and communities within the University address conditions that facilitate Sexual Misconduct.

- Clearly communicate your intentions to your romantic partner and give them a chance to clearly relate their intentions to you.
- Understand and respect personal boundaries in all circumstances.
- Try to remove yourself from the physical presence of persons or circumstances that make you uncomfortable.
- Take affirmative responsibility for alcohol intake/drug use and acknowledge that alcohol/drugs impair the ability to exercise good judgment.
- Give thought to sharing your intimate content, pictures, images and videos with others, even those you may trust; give equal thought to re-sharing or viewing content, picture, images, or videos shared with you by others.
- Find someone nearby and ask for help.
- Take care of your friends and ask that they take care of you. A real friend will challenge you if you are about to make a mistake. Respect them when they do.

XX. Formal Grievance Process and Administrative Resolution Process Pools

Both the Process A Formal Grievance Process and the Process B Administrative Resolution Process rely on a pool of University officials (“the Pool”) to carry out the process. Members of the Pool will be announced annually to all students, employees, prospective students, and prospective employees.

A. Pool Member Roles

Members of the Pool are trained annually, and can serve in the following roles, at the direction of the Title IX Coordinator:

- To provide appropriate intake of and initial guidance pertaining to Complaints and Notices;
- To act as an optional process Advisor to the parties;
- To perform or assist with initial assessment;
- To investigate Complaints, Notices, and allegations;
- To serve as a hearing facilitator;
- To serve as a Decision-maker; or
- To serve as an Appeal Decision-maker.

B. Pool Member Training

Members of the Pool will receive annual training based on their respective roles. This training may include, but is not limited to:

- The scope of this Policy;
- How to conduct investigations and hearings that protect the safety of Complainants and Respondents, and promote accountability;
- Implicit bias;
- Disparate treatment and impact;
- Reporting, confidentiality, and privacy requirements;
- Applicable laws, regulations, and federal regulatory guidance;
- How to implement appropriate and situation-specific remedies;
- How to investigate in a thorough, reliable, and impartial manner;
- How to uphold fairness, equity, and due process;
- How to weigh evidence;
- How to conduct questioning;
- How to assess credibility;
- Types of evidence;
- Deliberation;
- Impartiality and objectivity;
- How to render findings and generate clear, concise, evidence-based rationales;
- The definitions of all offenses;
- How to apply the definition of consent (or the absence or negation of consent) consistently, impartially, and in accordance with policy;
- How to conduct an investigation and grievance process including hearings, appeals, and informal resolution processes;

- How to serve impartially by avoiding prejudgment of the facts at issue, conflicts of interest, and bias;
- Any technology to be used at a hearing, whether live or not;
- Issues of relevance of questions and evidence;
- Issues of relevance to create an investigation report that fairly summarizes relevant evidence;
- How to determine appropriate sanctions in reference to all forms of Sexual Misconduct, retaliation, and other Policy violation allegations; and
- Recordkeeping.

Specific training may also be provided for Appeal Decision-makers, intake personnel, Advisors (who are University employees), and Chairs. All Pool members will be required to attend training annually. The materials used to train all members of the Pool are publicly posted here: <https://www.seu.edu/training-information-title-ix/>

C. Pool Membership

The Pool will normally include three (3) or more hearing officers and Decision-makers and four (4) or more Investigators. The hearing officers and Decision-makers will generally be comprised of individuals from Student Development and upper-level administration. The Investigators will generally be comprised of individuals from Student Development and Human Resources.

Pool members will normally be appointed to one-year terms. Individuals who are interested in serving in the Pool are encouraged to contact the Title IX Coordinator.

XXI. Parent Involvement

The resolution processes in this Policy are designed for the protection of those within the SEU community. Because of their sensitive nature, only those who are directly involved with the situation may participate in the resolution process. Outside involvement in the process hinders the University's ability to successfully complete the process.

However, any Complainant or Respondent involved in a Title IX resolution process may be accompanied by an Advisor of their choice. If a student so wishes, they may choose a parent to serve as their Advisor.

XXII. Media Involvement

Sexual Misconduct and retaliation are 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 Complainant and the rights of the Respondent. It is possible that improper communication concerning such a violation may result in further harm to the Complainant or violate the rights of the Respondent. As a result, the following guidelines for media communication are suggested:

1. All communication to the University community and public regarding an allegation, process, sanction, and/or remedy under this Policy 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 Complainant by the Vice President of Student Development to ensure the Complainant is satisfied with the anonymity of the communication.

XXIII. Disabilities Accommodations in the Resolution Process

SEU is committed to providing reasonable accommodations and support to qualified students, employees, or others with disabilities to ensure equal access to the University's resolution processes under this Policy.

Anyone needing such accommodations or support should contact the Director of Disability Services (if a student) or Human Resources (if an employee). These offices 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.

XXIV. Statement of Rights of Parties

For a summary of the rights of parties under this Policy, see Appendix "C".

XXI. Revision of this Policy and Procedures

This Policy supersedes any previous policy or policies addressing harassment, sexual misconduct and/or retaliation under Title IX and will be reviewed and updated annually 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.

During the resolution process, the Title IX Coordinator may make minor modifications to procedures that do not materially jeopardize the fairness of the process to any party. The Title IX Coordinator may also vary procedures materially with notice upon determining that changes to law or regulation require policy or procedural alterations not reflected in this Policy.

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 its form and content.

APPENDIX A

“PROCESS A” FORMAL GRIEVANCE PROCESS FOR ALLEGED VIOLATIONS OF THE POLICY ON SEXUAL MISCONDUCT

A-1. Overview

SEU will act on any formal or informal Notice or Complaint that is received by the Title IX Coordinator or any other Official with Authority by applying these procedures, known as “Process A” or the “Formal Grievance Process.”

The procedures below apply **only** to qualifying allegations of Sexual Misconduct (including sexual assault, dating violence, domestic violence, and stalking, as defined above) involving students, staff, administrators, or faculty members and will be followed in place of the “Student Conduct Procedure” or employee disciplinary process that may be contained in any other SEU catalog, handbook, policy, or other publication or that appears anywhere on the University’s web site.

If a dismissal of the Complaint or Notice occurs under this Process A, please see Appendix B for a description of the procedures applicable to the resolution of such offenses, known as “Process B.” Process B can also apply to allegations of Sexual Misconduct when this Process A is not applicable, as determined by the Title IX Coordinator.

The procedures below may be used to address collateral misconduct arising from the investigation of or occurring in conjunction with reported Sexual Misconduct (e.g., vandalism, physical abuse of another). All other allegations of misconduct unrelated to incidents covered by this Policy will be addressed through procedures described in the student, faculty, and employee handbooks.

In addition, any sanctions or other responsive actions imposed against students shall be imposed pursuant to these resolution procedures, rather than pursuant to the Student Conduct Procedure contained in the Student Handbook or other set of policies and procedures governing student conduct, unless the University, in its sole discretion, determines otherwise. In addition, the University may modify these resolution process procedures in the interests of promoting full and fair resolution of suspected or alleged incidents of Sexual Misconduct in accordance with applicable law.

A-2. Initial Assessment

Upon receipt of a Complaint or Notice, the Title IX Coordinator will conduct a prompt initial assessment to determine the next steps the University needs to take. In conducting the initial assessment, the Title IX Coordinator will normally request to meet individually with the Complainant, typically within one to five business days. The steps in an initial assessment will generally include:

i. If Notice is given, the Title IX Coordinator will seek to determine if the person impacted wishes to make a formal Complaint, and will assist them to do so, if desired. If the impacted person does not wish to do so, the Title IX Coordinator will determine whether to initiate a Complaint because a violence risk assessment indicates a compelling threat to health and/or safety.

ii. If a formal Complaint is received, the Title IX Coordinator will assess its sufficiency and work with the Complainant to make sure it is correctly completed.

- iii. The Title IX Coordinator will reach out to the Complainant to offer supportive measures.
- iv. The Title IX Coordinator will work with the Complainant to ensure they are aware of the right to have an Advisor.
- v. The Title IX Coordinator will work with the Complainant to determine whether the Complainant prefers a supportive and remedial response, an informal resolution option, or a Formal Grievance Process.
 - a. If a supportive and remedial response is preferred, the Title IX Coordinator will work with the Complainant to identify his or her wishes, assesses the request, and implement accordingly. No Formal Grievance Process will be initiated, though the Complainant can elect to initiate one later, if desired.
 - b. If an informal resolution option is preferred, the Title IX Coordinator will assess whether the Complaint is suitable for informal resolution and may 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 will determine if the misconduct alleged falls within the scope of Title IX:
 - (1) If it does, the Title IX Coordinator will initiate the Formal Grievance Process, directing an investigation to address:
 - (a) an incident, and/or
 - (b) a pattern of alleged misconduct, and/or
 - (c) a culture/climate concern, based on the nature of the Complaint.
 - (2) If it does not, the Title IX Coordinator will determine that Title IX does not apply, “dismiss” that aspect of the Complaint, if any, to which Title IX does not apply, assess which policies may apply, and refer the matter for resolution under Process B. Dismissal of a Complaint under Title IX is solely a procedural requirement under Title IX and does not limit the University’s authority to address a Complaint with other appropriate process and remedies.

Upon completion of the initial assessment, the Title IX Coordinator will initiate at least one of the following responses:

- Offering supportive measures because the Complainant does not want to file a formal Complaint;
- An informal resolution process (upon submission of a formal Complaint); and/or
- A Formal Grievance Process including an investigation and a hearing (upon submission of a formal Complaint).

A-3. Dismissal (Mandatory and Discretionary)

The University must dismiss a Complaint or any allegations therein if, at any time during the investigation or hearing, it is determined that:

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- The conduct alleged in the Complaint would not constitute Sexual Misconduct, even if proved;
- The conduct did not occur in an educational program or activity controlled by SEU and/or SEU does not have control of the Respondent;
- The conduct did not occur against a person in the United States; or
- At the time of filing the Complaint, the Complainant is not participating in or attempting to participate in an education program or activity of SEU. A Complainant in these circumstances may still be eligible for supportive measures, but the Formal Grievance Process is not applicable.

The University may dismiss a Complaint or any allegations therein if, at any time during the investigation or hearing:

- A Complainant notifies the Title IX Coordinator in writing that the Complainant would like to withdraw the Complaint or any allegations therein;
- The Respondent is no longer enrolled in or employed by the University; or
- Specific circumstances prevent the University from gathering evidence sufficient to reach a determination as to the Complaint or the allegations therein.

Upon any dismissal, the University will promptly send written notice of the dismissal and the rationale for doing so simultaneously to the parties.

This dismissal decision is appealable by any party under the procedures for appeal below. A Complainant who decides to withdraw a Complaint may later request to reinstate it or refile it.

A Complaint dismissed from the Formal Grievance Process may still be processed through the Administrative Resolution Process, or Process B.

A-4. Right to an Advisor

Any Complainant or Respondent may have an Advisor of their choosing present with them for all meetings, interviews, and hearings within the Formal Grievance Process, if they choose. The choice whether or not to invite an Advisor is solely that of the student(s) involved. Parties also have the right to choose not to have an Advisor in the initial stages of the resolution process, prior to a hearing.

It is expected that the parties will identify their Advisor (using an “Advisors in the Conduct Process” form available from the Title IX office) to the Title IX office at least two (2) business days before any scheduled meeting within this resolution process at which the Advisor will be present, unless circumstances call for an expedited meeting and such advance notice is not practicable. Each party must identify their Advisor no later than two (2) business days prior to the first day of the hearing.

Once a party has identified his or her Advisor, the party will not need to re-identify his or her Advisor to the Title IX Coordinator prior to the first meeting with the Investigator or the first day of the hearing, unless the identity of the Advisor changes.

SEU may permit a party to have more than one Advisor upon special request. Such requests should be submitted in writing to the Title IX Coordinator. The decision to grant a request for multiple Advisors is at the sole discretion of the Title IX Coordinator and will be granted equitably to all parties.

A-4.1 Who Can Serve as an Advisor

A party may select whoever they wish to serve as their Advisor as long as long as the Advisor is eligible and available. A party may not insist on an Advisor who does not have the time, inclination, or availability to serve as an Advisor. Additionally, the Advisor cannot be in a position of potentially conflicting roles (e.g. a supervisor who may have to implement and monitor sanction, a Title IX office employee who has an active role in the matter, etc.). The Advisor may be a friend, mentor, family member, attorney, or any other individual a party chooses to advise, support, and/or consult with them throughout the resolution process. A party may choose an Advisor from inside or outside of the SEU community.

The Title IX Coordinator will also offer to assign a trained Advisor for any party if the party so chooses. If a party chooses an Advisor from the Pool available from the University, the Advisor will be trained by the University and be familiar with the University's resolution process. If a party chooses an Advisor from outside the pool of those identified by the University, the Advisor may not have been trained by the University and may not be familiar with University policies and procedures.

Choosing an Advisor who is also a witness in the process creates potential for bias and conflict-of-interest. A party who chooses an Advisor who is also a witness can anticipate that issues of potential bias will be explored by the hearing Decision-maker(s).

A-4.2 Advisor's Role in Meetings and Interviews

The role of an Advisor is to provide support, guidance, or advice to a student. A party may be accompanied by their Advisor in all meetings and interviews at which the party is entitled to be present, including intake and interviews. Advisors should help their party prepare for each meeting and are expected to advise ethically, with integrity, and in good faith.

SEU cannot guarantee equal advisory rights, meaning that if one party selects an Advisor who is an attorney, but the other party does not or cannot afford an attorney, the University is not obligated to provide the other party an attorney.

A-4.3 Advisor's Role in Hearings / SEU-Appointed Advisor

Cross-examination of witnesses and parties is permitted during the hearing in a Formal Grievance Process, but the cross-examination must be conducted by the parties' Advisors. The parties are not permitted to directly question each other or any witnesses. If a party does not have an Advisor for a hearing, SEU will appoint a trained Advisor for the limited purpose of conducting any cross-examination.

A party may reject this appointment and choose their own Advisor, but they may not proceed in a hearing without an Advisor. If the party's Advisor will not conduct questioning, the University will appoint an Advisor who will do so, regardless of the participation or non-participation of the advised party in the hearing itself. Extensive questioning of the parties and witnesses may also be conducted by the Decision-maker(s) during the hearing.

A-4.4 Pre-Interview Meetings

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

A-4.5 Advisor Violations of University 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 University 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-maker(s) except when conducting cross-examination during a hearing.

The parties are expected to ask and respond to questions on their own behalf throughout the investigation phase of the resolution process. Although the Advisor generally may not speak on behalf of their advisee, the Advisor may consult with their advisee, either privately as needed, or by conferring or passing notes during any resolution process meeting or interview. For longer or more involved discussions, the parties and their Advisors should ask for breaks to allow for private consultation.

Any Advisor who oversteps their role as defined by this policy will be warned only once. If the Advisor continues to disrupt or otherwise fails to respect the limits of the Advisor role, the meeting will be ended, or other appropriate measures implemented. Subsequently, the Title IX Coordinator will determine how to address the Advisor's non-compliance and future role.

A-4.6 Sharing Information with the Advisor

The University expects that a party may wish to share documentation and evidence related to the allegations with their Advisor. Parties may share this information directly with their Advisor or other individuals if they wish. Doing so may help the parties participate more meaningfully in the resolution process.

The University will also provide a consent form that authorizes the University to share such information directly with an Advisor. A party must either complete and submit this form to the Title IX Coordinator or provide similar documentation demonstrating consent to a release of information to the Advisor before SEU will provide records directly to an Advisor.

Because the Formal Grievance Process is a University process and not a legal process, the University will not comply with a request that all communication with a party be made through an attorney Advisor.

A-4.7 Privacy of Records Shared with Advisor

Advisors are expected to maintain the privacy of the records shared with them. These records may not be shared with third parties, disclosed publicly, or used for purposes not explicitly authorized by the University. SEU may seek to restrict the role of any Advisor who does not respect the sensitive nature of the process or who fails to abide by the University's privacy expectations.

A-4.8 Expectations of an Advisor

The University generally expects an Advisor to adjust their schedule to allow him or her to attend University meetings when planned, but may change scheduled meetings to accommodate an Advisor's inability to attend, if doing so does not cause an unreasonable delay.

The University may also make reasonable provisions to allow an Advisor who cannot attend in person to attend a meeting by telephone, video conferencing, or other similar technologies as may be convenient and available.

If any Advisor conducts themselves in a manner inconsistent with the guidelines set out in this Section A-4, then that individual will no longer be considered an Advisor and the Investigator(s) or Decision-maker(s) may excuse the individual from the resolution process.

A-4.9 Changing Advisors

A party may elect to change Advisors during the process and is not obligated to use the same Advisor throughout. A party is expected to provide timely notice to the Title IX Coordinator if the party changes Advisors at any time. If a party changes Advisors, any consent to share information with the previous Advisor is terminated, and a signed consent and release for the new Advisor must be secured.

A-5. Privacy in the Resolution Processes

Resolution proceedings under this Policy are private. All persons present at any time during any formal or informal resolution process are expected to maintain the privacy of the proceedings.

Although this expectation of privacy exists, the parties have discretion to share their own knowledge and evidence with others if they so choose, with the exception of information that parties agree not to disclose related to Informal Resolution, discussed below.

A-6. Ensuring Impartiality in the Resolution Process

Any individual materially involved in the administration of the resolution process, including the Title IX Coordinator, Investigator(s), and Decision-maker(s), may neither have nor demonstrate a conflict of interest or bias for a party generally, or for a specific Complainant or Respondent.

The Title IX Coordinator will vet the assigned Investigator(s) to ensure impartiality by ensuring there are no actual or apparent conflicts of interest or disqualifying biases. A party may, at any time during the resolution process, raise a concern regarding bias or conflict of interest, and the Title IX Coordinator will determine whether the concern is reasonable and supportable. If so, another Pool member will be assigned and the impact of the bias or conflict, if any, will be remedied. If the source of the conflict of interest or bias is the Title IX Coordinator, the party should raise his or her concerns with the Vice President for Student Development.

The Formal Grievance Process involves an objective evaluation of all relevant evidence obtained, including evidence that supports that the Respondent engaged in a policy violation and evidence that supports that the Respondent did not engage in a policy violation. Credibility determinations may not be based solely on an individual's status or participation as a Complainant, Respondent, or witness.

The University operates with the presumption that the Respondent is not responsible for the reported misconduct unless and until the Respondent is determined to be responsible for a policy violation by the applicable standard of proof.

A-7. Resolution Timeline

The University will make a good faith effort to complete the resolution process within a 60-90 business day time period, including appeal. The time for completion of the resolution process can be extended as necessary for appropriate cause by the Title IX Coordinator, who will provide written notice and rationale for any extensions or delays to the parties as appropriate, as well as an estimate of how much additional time will be needed to complete the process.

A-8. Informal Resolution

An Informal Resolution of a Complaint may occur when:

- The Title IX Coordinator can resolve the matter informally by providing supportive measures (only) to remedy the situation;
- The parties agree to resolve the matter through an alternate resolution mechanism as described below, usually before a formal Investigation takes place; or
- The Respondent accepts responsibility for violating policy, and desires to accept a sanction and end the resolution process.

To initiate an Informal Resolution, a Complainant needs to submit a formal Complaint. A Respondent who wishes to initiate an Informal Resolution should contact the Title IX Coordinator.

It is not necessary to pursue Informal Resolution first in order to pursue a Formal Grievance Process, and any party participating in Informal Resolution can stop the process at any time and begin or resume the Formal Grievance Process.

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 the University.

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

Informal Resolution is not available and will not be used by the University to resolve a Complaint in which the Complainant is a student and the Respondent is an employee.

A-8.1 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:

- The parties' amenability to Alternate Resolution;
- Likelihood of potential resolution, taking into account any power dynamics between the parties;
- The parties' motivation to participate;
- Civility of the parties;

- Results of a violence risk assessment/ongoing risk analysis;
- Disciplinary history;
- Whether an emergency removal is needed;
- Skill of the Alternate Resolution facilitator with this type of allegation;
- Complaint complexity;
- Emotional investment/capability of the parties;
- Rationality of the parties;
- Goals of the parties; and/or
- Adequate resources to invest in Alternate Resolution (time, staff, etc.).

The ultimate determination of whether Alternate Resolution is available or successful is to be made by the Title IX Coordinator.

The Title IX Coordinator will maintain records of any resolution that is reached, and failure to abide by the resolution agreement may result in appropriate responsive/disciplinary actions. Results of Complaints resolved by Alternate Resolution are not appealable.

A-8.2 Respondent Accepts Responsibility for Alleged Violations

The Respondent may accept responsibility for all or part of the alleged policy violations at any point during the resolution process. If the Respondent indicates an intent to accept responsibility for all of the alleged misconduct, the Formal Grievance Process will be paused, and the Title IX Coordinator will determine whether an Informal Resolution is appropriate.

If Informal Resolution is applicable, the Title IX Coordinator will determine whether all parties and the University are able to agree on responsibility, sanctions, and/or remedies. If so, the Title IX Coordinator will implement the accepted finding that the Respondent is in violation of University policy and will implement the agreed-upon sanctions and/or remedies, in coordination with other appropriate administrator(s), as necessary.

An Informal Resolution achieved pursuant to this mechanism is not subject to appeal once all parties indicate their written assent to all agreed upon terms of resolution.

In the event the parties cannot agree on all terms of resolution despite the Respondent accepting responsibility for all of the alleged misconduct, the Formal Grievance Process will resume at the same point where it was paused.

A-8.3 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 subject to appeal once all parties indicate their written assent to all agreed upon terms of resolution.

A-9. Notice of Investigation and Allegations

If it has been determined that a Formal Grievance Process should proceed (based on the information gathered in the initial assessment as well as the Complainant’s desires, or the University’s determination of an immediate threat to the campus community), the Title IX Coordinator will provide written notice of the investigation and allegations (the “NOIA”) to the Respondent and the Complainant. The Title IX

Coordinator will also give the Complainant advance notice of when the NOIA will be delivered to the Respondent.

The NOIA will include:

- A meaningful summary of all of allegations;
- The identity of the involved parties (if known);
- The precise misconduct being alleged;
- The date and location of the alleged incident(s) (if known);
- The specific policies implicated;
- A description of the applicable procedures;
- A statement of the potential sanctions/responsive actions that could result;
- A statement that the University presumes the Respondent is not responsible for the reported misconduct unless and until the evidence supports a different determination;
- A statement that determinations of responsibility are made at the conclusion of the process and that the parties will be given an opportunity to inspect and review all directly related and/or relevant evidence obtained during the review and comment period;
- A statement about the University's policy on retaliation;
- Information about the privacy of the process;
- Information on the right and need for each party to have an Advisor of their choosing and suggestions for ways to identify an Advisor;
- A statement informing the parties that the University's Policy prohibits knowingly making false statements, including knowingly submitting false information during the resolution process;
- Detail on how the party may request disability accommodations during the interview process;
- A link to the University's VAWA Brochure;
- 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
- An instruction to preserve any evidence that is directly related to the allegations.

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

The NOIA will be in writing and may be delivered in person or emailed to the parties' SEU-issued email or designated accounts. Once emailed and/or received in-person, the NOIA will be deemed presumptively delivered.

A-10. Investigation

A-10.1 Appointment of Investigators

If it has been determined that the Formal Grievance Process should proceed, the Title IX Coordinator will appoint at least 1 Investigator from the Pool to conduct a prompt, thorough, fair, and impartial investigation of the reported conduct.

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.

A-10.2 Investigation Timeline

The University will endeavor to complete the investigation as promptly as circumstances permit (normally within thirty (30) business days from the NOIA) and communicate regularly with the parties about the progress and timing of the investigation. However, some investigations may take longer depending on the nature, extent, and complexity of the allegations, availability of witnesses, police involvement, and other factors.

A-10.3 Delays in the Investigation Process and Interaction with Law Enforcement

The University may undertake a short delay in the investigation (several days to a few weeks) if circumstances require. Such circumstances include, but are not limited to: a request from law enforcement to temporarily delay the investigation, the need for language assistance, the absence of parties and/or witnesses, and/or accommodations for disabilities or health conditions.

The University will communicate in writing the anticipated duration of the delay and reason for the delay to the parties, and provide the parties with status updates if necessary. The University will promptly resume its investigation and resolution process as soon as feasible. During such a delay, SEU will implement supportive measures as deemed appropriate.

SEU will not typically alter or dismiss a resolution process under the Policy on the sole grounds that civil or criminal charges involving the underlying incident(s) have been filed or that criminal charges have been dismissed or reduced.

A-10.4 Investigation Process

SEU will endeavor to ensure all investigations are thorough, reliable, impartial, prompt, and fair. Investigations will involve interviews with all relevant parties and witnesses; obtaining available, relevant evidence; and identifying sources of expert information, as necessary.

All parties will have a full and fair opportunity, through the investigation process, to suggest witnesses and questions, to provide evidence and expert witnesses, and to fully review and respond to all evidence on the record.

The Investigator(s) will typically take the following steps, if not already completed (not necessarily in this order):

- Determine the identity and contact information of the Complainant;
- In coordination with appropriate University officials (e.g., the Title IX Coordinator), initiate or assist with any necessary supportive measures;
- Identify all policies implicated by the alleged misconduct and notify the Complainant and Respondent of all of the specific policies implicated;
- Assist the Title IX Coordinator with conducting a prompt initial assessment to determine if the allegations indicate a potential policy violation;
- 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;
- Meet with the Complainant to finalize their interview/statement, if necessary;

- Prepare the initial Notice of Investigation and Allegation (NOIA). The NOIA may be amended with any additional or dismissed allegations;
- Provide each interviewed party and witness an opportunity to review and verify the Investigator's summary notes of the relevant evidence/testimony from their respective interviews and meetings;
- Make good faith efforts to notify the parties of any meeting or interview involving the other party, in advance when possible;
- 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;
- Interview all available, relevant witnesses and conduct follow-up interviews as necessary;
- 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;
- Complete the investigation promptly and without unreasonable deviation from the intended timeline;
- Provide regular status updates to the parties throughout the investigation;
- 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;
- Write a comprehensive investigation report fully summarizing the investigation, all witness interviews, and addressing all relevant evidence and include appendices identifying, summarizing, or attaching relevant physical or documentary evidence;
- Prior to the conclusion of the investigation, provide the parties and their respective Advisors (if so desired by the parties) a secured electronic or hard copy of the draft investigation report as well as an opportunity to inspect and review all of the evidence obtained as part of the investigation that is directly related to the alleged misconduct, including evidence upon which the University does not intend to rely in reaching a determination, for a ten (10) business day review and comment period so that each party may meaningfully respond to the evidence. The parties may elect to waive the full ten days. Each copy of the materials shared will be watermarked on each page with the role of the person receiving it (e.g., Complainant, Respondent, Complainant's Advisor, Respondent's Advisor);
- The Investigator(s) may elect to respond in writing in the investigation report to the parties' submitted responses and/or to share the responses between the parties for additional responses;
- The Investigator(s) will incorporate relevant elements of the parties' written responses into the final investigation report, include any additional relevant evidence, make any necessary revisions, and finalize the report. The Investigator(s) will document all rationales for any changes made after the parties' review and comment period;
- If the Title IX Coordinator is not acting as an investigator, the Investigator(s) will share the report with the Title IX Coordinator for their review and feedback;
- The Investigator will incorporate any relevant feedback, and share the final report with all parties and their Advisors through secure electronic transmission or hard copy at least ten (10) business days prior to a hearing. The parties will also be provided with a file of any directly related evidence that was not included in the report.

While face-to-face interviews (either in person or via video conferencing) are the preferred method for interviewing parties, witnesses, and experts, other means, such as but not limited to phone interviews, may

be offered and used, at the discretion of the Investigator in order to move the investigation forward. For example, witnesses may provide written statements in lieu of interviews or choose to respond to written questions, if deemed appropriate by the Investigator. 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. SEU will take appropriate steps to reasonably ensure the security and privacy of interviews that are not conducted in-person.

Every opportunity will be provided for a party to participate in the investigation process; however, if a party chooses not to participate, the investigation will continue and a decision will be rendered based on the information gathered.

The objective of the investigation is to gather, assess, and synthesize evidence. The Investigator should not make conclusions, engage in policy analysis, or render recommendations as part of the investigation report.

A-10.5 Witnesses

A witness is someone, other than a party, who can provide a firsthand account of something seen, heard, or experienced relating to the alleged misconduct.

Witnesses who are employees of SEU are generally expected to cooperate with and participate in the investigation and resolution process. Witnesses who are students or who are individuals from outside the SEU community are encouraged to cooperate with and participate in the investigation and resolution process to share what they know about a Complaint.

A-10.6 Recording of Investigation Meetings and Interviews

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

A-11. Evidentiary Considerations in the Investigation and Hearing Stages

Neither the Investigator nor the Decision-maker will 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.

Previous disciplinary action of any kind involving the Respondent may be considered in determining an appropriate sanction upon a determination of responsibility. This information is only considered at the sanction stage of the process, and is not shared until then.

In addition, neither the Investigator nor the Decision-maker will consider, disclose, request, require, allow, rely upon, or otherwise permit inquiry into the medical treatments records of a party or information protected by a legally recognized privilege unless the party provides written consent and/or waives any applicable privilege.

A-12. Referral for Hearing

If the Complaint is not resolved through Informal Resolution while the investigation is ongoing, once the final investigation report is shared with the parties, the Title IX Coordinator will refer the matter for a hearing.

The hearing will be ten (10) or more business days from the conclusion of the investigation, which is the date when the final investigation report is transmitted to the parties and the Decision-maker. This timeframe may be expedited if all parties and the Decision-maker agree.

A-13. The Hearing Stage

A-13.1 Hearing Decision-Maker Composition

The Title IX Coordinator will select an appropriate Decision-maker or Decision-makers from the Pool depending on whether the Respondent is an employee or a student. Allegations involving student-employees in the context of their employment will be directed to the appropriate Decision-maker depending on the context and nature of the alleged misconduct.

The University will designate a single Decision-maker or a three-member panel from the Pool, at the discretion of the Title IX Coordinator. The single Decision-maker will also Chair the hearing. With a panel, one of the three members will be appointed as Chair by the Title IX Coordinator.

The Decision-maker(s) 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.

Those who have served as Investigators will be witnesses in the hearing and therefore may not serve as Decision-makers. Those who are serving as Advisors for any party may not serve as Decision-makers in that matter.

The Title IX Coordinator may not serve as a Decision-maker or Chair in the matter but may serve as an administrative facilitator of the hearing if their previous role(s) in the matter do not create a conflict of interest. Otherwise, a designee may fulfill this role. The hearing will convene at a time determined by the Chair or designee.

A-13.2 Notice of Hearing

No less than ten (10) business days prior to the hearing, the Title IX Coordinator or the Chair will send notice of the hearing to the parties. Once mailed, emailed, and/or received in-person, notice will be presumptively delivered.

The notice of the hearing will normally contain:

- A description of the alleged violation(s), a list of all policies allegedly violated, a description of the applicable procedures, and a statement of the potential sanctions/responsive actions that could result.
- The time, date, and location of the hearing and a reminder that attendance is mandatory, superseding all other campus activities.

- Information about any technology that will be used to facilitate the hearing.
- Information about the option for the live hearing to occur with the parties located in separate rooms using technology that enables the Decision-maker(s) and parties to see and hear a party or witness answering questions. Such a request must be raised with the Title IX Coordinator at least five (5) business days prior to the hearing.
- A list of all those who will attend the hearing, along with an invitation to object to any Decision-maker on the basis of demonstrated bias. Such an objection must be raised with the Title IX Coordinator at least two (2) business days prior to the hearing.
- Information on whether the hearing will be recorded and how parties may access the recording after the hearing.
- A statement that if any party or witness does not appear at the scheduled hearing, the hearing may be held in their absence, and the party's or witness's testimony and any statements given prior to the hearing will not be considered by the Decision-maker(s).
- Notification that the parties may have the assistance of an Advisor of their choosing at the hearing. The party must notify the Title IX Coordinator if they do not have an Advisor, and the University will appoint one. Each party must have an Advisor present at the hearing. There are no exceptions.
- A copy of all the materials provided to the Decision-maker(s) about the matter, unless they have been provided to the parties already.
- An invitation to each party to submit to the Chair an impact statement pre-hearing that the Decision-maker will review during any sanction determination.
- An invitation to contact the Title IX Coordinator to arrange any disability accommodations, language assistance, and/or interpretation services that may be needed at the hearing, at least seven (7) business days prior to the hearing.
- Whether parties may or may not bring mobile phones/devices into the hearing.

Hearings for alleged misconduct that occurs near or after the end of an academic term (assuming the Respondent is still subject to this Policy) and are unable to be resolved prior to the end of that term will typically be held immediately after the end of the term or during the summer, as needed, to meet the resolution timeline typically followed by the University and remain within the 60-90 business day goal for resolution.

A-13.3 Alternative Hearing Participation Options

If a party prefers not to attend or cannot attend the hearing in person, the party should request alternative arrangements from the Title IX Coordinator or the Chair at least five (5) business days prior to the hearing.

The Title IX Coordinator or the Chair can arrange to use technology to allow remote testimony without compromising the fairness of the hearing. Remote options may also be needed for witnesses who cannot appear in person. Any witness who cannot attend in person should let the Title IX Coordinator or the Chair know at least five (5) business days prior to the hearing so that appropriate arrangements can be made.

A-13.4 Pre-Hearing Preparations

At least ten (10) business days prior to the hearing, the Chair or hearing facilitator, after any necessary consultation with the parties, Investigator(s) and/or Title IX Coordinator, will provide the names of persons

who will be participating in the hearing, all pertinent documentary evidence, and the final investigation report to the parties, to the extent such information has not already been given to the parties.

Any witness scheduled to participate in the hearing must have been first interviewed by the Investigator(s) or have proffered a written statement or answered written questions, unless all parties and the Chair assent to the witness's participation in the hearing without having participated in the investigation. The same holds for any evidence that is first offered at the hearing. If the parties and Chair do not all assent to the admission of evidence newly offered at the hearing, the Chair may delay the hearing and instruct that the investigation needs to be re-opened to consider that evidence.

At least five (5) days in advance of the hearing, the Title IX Coordinator will give the parties a list of the names of the Decision-maker(s). All objections to any Decision-maker must be raised in writing, detailing the rationale for the objection, and must be submitted to the Title IX Coordinator as soon as possible and no later than two (2) days prior to the hearing. Decision-makers will only be removed if the Title IX Coordinator concludes that their bias or conflict of interest precludes an impartial hearing of the allegation(s).

The Title IX Coordinator will also give the Decision-maker(s) a list of the names of all parties, witnesses, and Advisors at least five (5) business days in advance of the hearing. Any Decision-maker who determines that he or she cannot make an objective determination due to the identity of the parties, witnesses, and Advisors must recuse themselves(s) as a Decision-maker in advance of the hearing. If a Decision-maker is unsure of whether a bias or conflict of interest exists, they must raise the concern to the Title IX Coordinator as soon as possible.

During the ten (10) business day period prior to the hearing, the parties will have the opportunity for continued review and comment on the final investigation report and available evidence. That review and comment can be shared with the Chair at the pre-hearing meeting or at the hearing and will be exchanged between each party by the Chair.

A-13.5 Pre-Hearing Meetings

The Chair may convene one or more pre-hearing meeting with the parties and/or their Advisors. The purpose of pre-hearing meetings is primarily to determine evidentiary matters.

The Chair may invite parties and/or their Advisors to submit the questions or topics the parties and/or their Advisors wish to ask or discuss at the hearing, so that the Chair can: (a) rule on their relevance ahead of time to avoid any improper evidentiary introduction in the hearing, or (b) provide recommendations for more appropriate phrasing. However, this advance review opportunity does not preclude the Advisors from asking a question for the first time at the hearing or from asking for a reconsideration based on any new information or testimony offered at the hearing.

The Chair may also consider arguments about the relevancy of evidence identified in the final investigation report. Parties and/or their Advisors may argue that evidence identified by the Investigator as relevant is, in fact, not relevant or that evidence identified as directly related but not relevant by the Investigator(s) is, in fact, relevant.

The Chair may also decide, with the full agreement of the parties, that certain witnesses do not need to be present at the hearing if their testimony can be adequately summarized by the Investigator(s) in the investigation report or during the hearing.

The Chair must document and share with each party the Chair's rationale for any evidentiary exclusion or inclusion determination made at a pre-hearing meeting prior to the hearing to assist in preparation for the hearing. The Chair may consult with legal counsel and/or the Title IX Coordinator or ask either or both to attend pre-hearing meetings.

The pre-hearing meeting(s) will not be recorded.

A-13.6 Hearing Procedures

At the hearing, the Decision-maker(s) has the authority to hear and make determinations on all allegations of Sexual Misconduct and/or retaliation and may also hear and make determinations on any additional alleged SEU policy violations that have occurred in concert with the alleged Sexual Misconduct and/or retaliation, even though those collateral allegations may not specifically fall within this Policy.

Participants at the hearing will include at a minimum, the Chair, any additional Decision-makers, the Investigator(s) who conducted the investigation, the parties (or three (3) organizational representatives when an organization is the Respondent), Advisors to the parties, any called witnesses, the Title IX Coordinator and anyone providing authorized accommodations or assistive services.

The Chair will answer all questions of procedure. Anyone appearing at the hearing to provide information will respond to questions on their own behalf.

The Chair will allow witnesses who have relevant information to appear at a portion of the hearing in order to respond to specific questions from the Decision-maker(s) and the parties and the witnesses will then be excused.

Hearings (but not deliberations) will be recorded by the University for purposes of review in the event of an appeal. The parties may not record the proceedings and no other unauthorized recordings are permitted.

The Decision-maker(s), the parties, their Advisors, and appropriate administrators of the University will be permitted to listen to the recording in a controlled environment determined by the Title IX Coordinator. No person will be given or be allowed to make a copy of the recording without permission of the Title IX Coordinator.

A-13.7 Joint Hearings

In hearings involving more than one Respondent or in which two (2) or more Complainants have accused the same Respondent of substantially similar conduct, the default procedure will be to hear the allegations jointly.

However, the Title IX Coordinator may permit the investigation and/or hearings to be conducted separately if there is a compelling reason to do so. In joint hearings, separate determinations of responsibility will be made for each Respondent with respect to each alleged policy violation.

A-13.8 The Order of the Hearing

A-13.8.1 Introduction and Explanation of Procedure

The Chair will explain the procedures and introduce the participants, and may permit a final opportunity for challenge or recusal of the Decision-maker(s) on the basis of bias or conflict of

interest. The Chair will rule on any such challenge unless the Chair is the individual who is the subject of the challenge, in which case the Title IX Coordinator or another member of the panel will review and decide the challenge.

The Chair or hearing facilitator will conduct the hearing according to a hearing script. At the hearing, recording, witness logistics, party logistics, curation of documents, separation of the parties, and other administrative elements of the hearing process may be managed by a non-voting hearing facilitator appointed by the Title IX Coordinator. The hearing facilitator may attend to: logistics of rooms for various parties/witnesses as they wait; flow of parties/witnesses in and out of the hearing space; ensuring recording and/or virtual conferencing technology is working as intended; copying and distributing materials to participants, as appropriate, etc.

A-13.8.2 Investigator Presents the Final Investigation Report

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.

Neither the parties nor the Decision-maker(s) should ask the Investigator(s) their opinions on credibility, recommended findings, or determinations, and the Investigators, Advisors, and parties will refrain from discussion of or questions about these assessments. If such information is introduced, the Chair will direct that it be disregarded.

A-13.8.3 Testimony and Questioning

Once the Investigator(s) present their report and are questioned, the parties and witnesses may provide relevant information in turn, beginning with the Complainant, and then in the order determined by the Chair. The parties/witnesses will submit to questioning by the Decision-maker(s) and then by the parties through their Advisors (“cross-examination”).

All questions are subject to a relevance determination by the Chair. The Advisor, who will remain seated during questioning, will pose the proposed question orally, electronically, or in writing (orally is the default, but other means of submission may be permitted by the Chair upon request if agreed to by all parties and the Chair), the proceeding will pause to allow the Chair to consider it (and state it if it has not been stated aloud), and the Chair will determine whether the question will be permitted, disallowed, or rephrased.

The Chair may invite explanation or persuasive statements regarding relevance with the Advisors, if the Chair so chooses. The Chair will then state his or her decision on the question for the record and advise the party/witness to whom the question was directed, accordingly. The Chair will explain any decision to exclude a question as not relevant, or to reframe it for relevance.

The Chair will limit or disallow questions on the basis that they are irrelevant, unduly repetitious (and thus irrelevant), or abusive. The Chair has final say on all questions and determinations of relevance. The Chair may ask Advisors to explain why a question is or is not relevant from their perspective, but will not entertain argument from the Advisors on relevance once the Chair has ruled on a question.

If the parties raise an issue of bias or conflict of interest of an Investigator or Decision-maker during

the hearing, the Chair may elect to address those issues and/or refer them to the Title IX Coordinator, and/or preserve them for appeal. If bias is not in issue during the hearing, the Chair should not permit irrelevant questions that probe for bias.

A-13.8.4 Refusal to Submit to Cross-Examination and Inferences

If a party or witness refuses to submit to cross-examination at the hearing, all statements given by that party or witness (whether at the hearing or as included in the final investigation report) will be excluded from consideration and will be disregarded by the Decision-maker(s) when making the ultimate determination of responsibility. Refusal to participate in cross-examination includes refusing to attend the hearing and/or attending the hearing but refusing to answer all relevant questions directed at them on cross-examination. Refusal to answer questions from the Decision-maker(s) does not constitute a refusal to participate in cross-examination, so long as the party or witness is willing to answer all relevant questions from the other party's Advisor on cross-examination.

In sum, the statements of any party or witness who does not participate in cross-examination are inadmissible in their entirety. However, evidence provided by that witness or party that is something other than a statement by the party or witness who refuses to submit to cross-examination may be considered.

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 Sexual Misconduct are considered at the same hearing, the Decision-maker(s) may consider all evidence they deem relevant, may rely on any relevant statement as long as the opportunity for cross-examination is afforded to all parties through their Advisors, and may draw reasonable inferences from any decision by any party or witness not to participate or respond to questions related to charges of policy violations other than alleged Sexual Misconduct.

A-13.8.5 Conduct of Advisors at the Hearing

If a party's Advisor of choice refuses to comply with the University's established rules of decorum for the hearing, the University may require the party to use a different Advisor. If a University-provided Advisor refuses to comply with the rules of decorum, the University may provide that party with a different Advisor to conduct cross-examination on behalf of that party.

A-13.8.5 Deliberation, Decision-Making, and Standard of Proof

Upon the conclusion of testimony and cross-examination, the Decision-maker(s) will deliberate in closed session to determine whether the Respondent is responsible or not responsible for the policy violation(s) in question. If a panel is used, a simple majority vote is required to determine the finding. The preponderance of the evidence standard of proof will be used, meaning the Decision-maker(s) will determine whether it is more likely than not that a policy violation occurred or did not occur. The hearing facilitator may be invited to attend the deliberation by the Chair, but is there only to facilitate procedurally, not to address the substance of the allegations.

When there is a finding of responsibility on one or more of the allegations, the Decision-maker(s) may then consider the previously submitted party impact statements in determining appropriate sanction(s).

The Chair will ensure that each of the parties has an opportunity to review any impact statement submitted by the other party. The Decision-maker(s) may – at their discretion – consider the statements, but they are not binding.

The Decision-maker(s) will review the impact statements and any pertinent conduct history provided by the Office of Student Conduct and will determine the appropriate sanction(s) in consultation with other appropriate administrators, as required.

The Chair will then prepare a written deliberation statement detailing the determination, the rationale, the evidence used in support of the determination, the evidence not relied upon in the determination, the credibility assessments, and any sanctions, and will deliver the deliberation statement to the Title IX Coordinator within two (2) business days of the end of deliberations, unless the Title IX Coordinator grants an extension. If an extension is granted, the Title IX Coordinator will notify the parties.

A-13.9 Notice of Outcome.

The Chair will then work with the Title IX Coordinator to prepare a Notice of Outcome based upon the contents of the deliberation statement. The Notice of Outcome will include the final determination, rationale, and any applicable sanction(s). The Title IX Coordinator will normally deliver the Notice of Outcome to the parties and their Advisors within seven (7) business days of receiving the Decision-maker(s)' deliberation statement.

The Notice of Outcome will be delivered to the parties simultaneously. Notification will be made in writing and may be delivered by one or more of the following methods: in person, mailed via certified mail to the local or permanent address of the parties as indicated in official University records, or emailed to the parties' SEU-issued email or otherwise approved account. Once mailed, emailed, and/or received in-person, the Notice of Outcome will be presumptively delivered.

The Notice of Outcome will articulate the specific policy(ies) reported to have been violated, including the relevant policy section, and will contain a description of the procedural steps taken by the University from the receipt of the report of alleged violation to the determination, including any and all notifications to the parties, interviews with parties and witnesses, site visits, methods used to obtain evidence, and hearings held.

The Notice of Outcome will specify the finding on each alleged policy violation; the findings of fact that support the determination; conclusions regarding the application of the relevant policy to the facts at issue; a statement of, and rationale for, the result of each allegation to the extent the University is permitted to share such information under state or federal law; and any sanctions issued which the University is permitted to share according to state or federal law. The Complainant's Notice of Outcome will also specify any remedies provided to the Complainant designed to ensure access to the University's educational or employment program or activity. The Respondent's Notice of Outcome will normally not include remedies the University is providing the Complainant unless the remedy directly relates to the Respondent.

The Notice of Outcome will also include information on when the results are considered by the University to be final, any changes that occur prior to finalization, and the relevant procedures and bases for any

available appeal options.

A-14. Appeals

Any party may file for appeal (“Request for Appeal”) in writing to the Title IX Coordinator within three (3) business days of the delivery of the Notice of Outcome. Failure to submit a Request for Appeal in this period of time waives the right to appeal and renders the Notice of Outcome final.

All appeals will be decided by a single Appeal Decision-maker, who will also serve as Chair of the appeal. No Appeal Decision-maker will have been involved in the previous stages of the same process, including any dismissal appeal that may have been heard earlier in the process.

A-14.1 Grounds for Appeal / Review for Standing

The Request for Appeal will be forwarded to the Appeal Decision-maker for an initial consideration to determine if the request meets the grounds for appeal (a “Review for Standing”).

A Review for Standing 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.

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

1. New evidence that was not reasonably available at the time of the hearing regarding responsibility or dismissal, and that could affect the outcome of the matter;
2. Procedural irregularity that affected the outcome of the matter; or
3. The Title IX Coordinator, Investigator(s), or Decision-maker(s) had a conflict of interest or bias for or against Complainants or Respondents generally or the specific Complainant or Respondent, and that bias affected the outcome of the matter.

If the Request for Appeal does not state one or more grounds for appeal as described above, the Request for Appeal will be denied by the Appeal Decision-maker and the parties and their Advisors will be notified in writing of the denial and the rationale.

If the Request for Appeal does state one or more grounds for appeal, then the Appeal Decision-maker will notify the other party(ies) and their Advisors, the Title IX Coordinator, and, when appropriate, the Investigators and/or the original Decision-maker(s) that the Request for Appeal will be considered.

A-14.2 Appeal Process

The Appeal Decision-maker will mail, email, or provide a hard copy of the Request for Appeal and the approved grounds for appeal to the party(ies), their Advisors, the Title IX Coordinator, and, when appropriate, the Investigators and/or the original Decision-maker(s). All of these individuals will have three (3) business days from receipt of this notice from the Appeal Decision-maker to submit a response to the portion of the Request for Appeal that was approved and involves them. All responses will be forwarded by the Appeal Decision-maker to all parties for review and comment.

The non-appealing party (if any) may also choose to raise a new ground for appeal at this time. If so, that counter Request for Appeal will be reviewed by the Appeal Decision-maker to determine if it states one or more grounds for appeal. If approved, the Appeal Decision-maker will forward the counter Request for Appeal to the party who initially requested an appeal, the Investigator(s), and/or original Decision-maker(s),

as necessary, who will have an additional three (3) business days from the date of receipt of the notice of the counter Request for Appeal to submit a response to the portion of the counter Request for Appeal that was approved and applies to them. All responses will be forwarded by the Appeal Decision-maker to all parties for review and comment.

Neither party may submit any new requests for appeal after the deadlines set out in this subsection. The Appeal Decision-maker will collect any additional information needed and all documentation regarding the approved grounds for appeal and the responses thereto. The Appeal Decision-maker will normally render a decision based on the written responses received in no more than seven (7) business days following the last deadline for parties to submit written responses, barring exigent circumstances. There will be no live hearing on Requests for Appeal.

The Appeal Decision-maker will apply the preponderance of the evidence standard to all appeal decisions rendered.

A-14.3 Sanctions Status During the Appeal

Any sanctions imposed as a result of the hearing will be “stayed” – meaning put on hold - 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 the emergency removal procedures (detailed in Section VIII, above) for a hearing on the justification for doing so will be conducted within 48 hours of delivery of the Notice of Outcome.

A-14.4 Appeal Considerations

- Decisions on by the Appeal Decision-maker are to be deferential to the original decision, making changes to the finding only when there is clear error and to the sanction(s)/responsive action(s) only if there is a compelling justification to do so.
- Appeals are not intended to provide for a full re-hearing (de novo) of the allegation(s). In most cases, appeals are confined to a review of the written documentation or record of the original hearing and pertinent documentation regarding the specific grounds for appeal.
- An appeal is not an opportunity for Appeal Decision-makers to substitute their judgment for that of the original Decision-maker(s) merely because they disagree with the finding and/or sanction(s).
- The Appeal Decision-maker may consult with the Title IX Coordinator on questions of procedure or rationale, for clarification, if needed. Documentation of all such consultation will be maintained.
- Appeals granted based on new evidence should normally be remanded to the original Investigator(s) and/or Decision-maker(s) for reconsideration. Other appeals may be remanded at the discretion of the Title IX Coordinator or, in limited circumstances, remanded as decided by the Appeal Decision-maker.
- Once an appeal is decided, the outcome is final. Further appeals are not permitted, even if a decision or sanction is changed on remand (except in cases when an entirely new hearing is conducted).
- In rare cases where a procedural error cannot be cured by remand to the original Decision-maker(s) (as in cases of bias), the Appeal Decision-maker may order a new hearing with a new Decision-maker(s).

- The results of a remand to a Decision-maker(s) cannot be appealed. The results of a new hearing can be appealed, once, on any of the three available appeal grounds.
- In cases in which the appeal results in reinstatement to the University or resumption of privileges for the Respondent, all reasonable attempts will be made to restore the Respondent to his or her prior status before any sanction(s)/responsive action(s) were imposed. However, some opportunities lost by the Respondent in the interim may be irreparable in the short term.

A-14.5 Notice of Appeal Outcome

The Appeal Decision-maker will work with the Title IX Coordinator to prepare a Notice of Appeal Outcome that specifies: (a) the decision on each approved ground for appeal, and (b) the rationale for each decision based on his or her review of the Request for Appeal and the responses submitted. The Title IX Coordinator will send the Notice of Appeal Outcome in writing to all parties simultaneously by one or more of the following methods: in person, mailed via certified mail to the local or permanent address of the parties as indicated in official University records, or emailed to the parties' SEU-issued email or otherwise approved account. Once mailed, emailed and/or received in-person, notice will be presumptively delivered. The Notice of Appeal Outcome will also detail any specific instructions for remand or reconsideration, any sanctions that may result which the University is permitted to share according to state or federal law, and the rationale supporting the essential findings to the extent the University is permitted to share under state or federal law.

A-15. Withdrawal or Resignation While Charges are Pending; Respondent Refusal to Participate

Generally, if a Respondent decides not to participate in a resolution process under this Process A, the process will proceed to a reasonable resolution without his or her participation.

A-15.1 Withdrawal of Student Respondents

If a student Respondent withdraws or takes a leave from the University for a specified period of time (e.g., one semester or term) while a Process A resolution process is pending, the resolution process may continue with or without the Respondent's remote participation, or it may be suspended and continued upon the student Respondent's return. Generally, a student who has temporarily withdrawn will not be permitted to return to any program or campus of SEU unless and until the resolution process is completed and all sanctions have been satisfied.

Should a student Respondent permanently withdraw from the University while a Process A resolution process is pending, the process will end because the University will no longer have disciplinary jurisdiction over the withdrawn student. However, the University will continue to address and remedy any systemic issues, variables that contributed to the alleged violation(s), and any ongoing effects of the alleged Sexual Misconduct, retaliation, or other violation of this Policy.

A-15.2 Resignation of Employee Respondents

Should an employee Respondent resign his or her employment with the University while a Process A resolution process is pending, the resolution process will end because the University will no longer have disciplinary jurisdiction over the resigned employee. However, the University will continue to address and remedy any systemic issues, variables that contributed to the alleged violation(s), and any ongoing effects of the alleged Sexual Misconduct, retaliation, or other violation of this Policy.

A-16. Recordkeeping

SEU will maintain the following records for a period of seven (7) years:

- Each Sexual Misconduct Formal Grievance Process including any determination regarding responsibility and any audio or audiovisual recording or transcript required under federal regulation;
- Any disciplinary sanctions imposed on the Respondent;
- Any remedies provided to the Complainant designed to restore or preserve equal access to the University's education program or activity;
- Any appeal and the result therefrom;
- Any Informal Resolution and the result therefrom;
- All materials used to train Title IX Coordinators, Investigators, Decision-makers, Chairs, and any person who facilitates an Informal Resolution process. SEU will make these training materials publicly available on its Title IX website; and
- Any actions, including any supportive measures, taken in response to a report, Notice, or Complaint of Sexual Misconduct, including: (a) the basis for all conclusions that the response was not deliberately indifferent; (b) any measures designed to restore or preserve equal access to the University's education program or activity; and (c) if no supportive measures were provided to the Complainant, documentation of the reasons why such a response was not clearly unreasonable in light of the known circumstances.

APPENDIX B

“PROCESS B”

ADMINISTRATIVE RESOLUTION PROCESS FOR ALLEGED VIOLATIONS OF THE POLICY ON SEXUAL MISCONDUCT

B-1. Overview

SEU will act on any formal or informal allegation or Notice that is received by the Title IX Coordinator or a member of the administration, faculty, or other employee (with the exception of confidential resources), as articulated in this Policy.

The procedures described below apply to all allegations of harassment or discrimination on the basis of sex/gender involving students, staff, faculty members, or third parties, or any other violation of this Policy, and will be used in place of the “Student Conduct Procedure” or employee disciplinary process that may be contained in any other SEU catalog, handbook, or other publication or that appears anywhere on the University’s web site.

This Process B may apply to allegations of Sexual Misconduct subject to the Formal Grievance Process that have been dismissed, and to allegations of harassing or discriminatory conduct to which the Formal Grievance Process does not apply, or conduct which otherwise constitutes a violation of this Policy, as determined by the Title IX Coordinator.

These procedures may also be used to address collateral misconduct arising from the investigation of or occurring in conjunction with harassing or discriminatory conduct (e.g., vandalism, physical abuse of another). All other allegations of misconduct unrelated to incidents covered by this Policy will be addressed through the procedures elaborated in the respective student, faculty, and employee handbooks.

B-2. Initial Assessment

Upon intake or receipt of a Complaint or Notice, , the Title IX Coordinator will conduct an initial assessment, which typically takes one to five business days. The steps in an initial assessment will generally include:

- i. The Title IX Coordinator will reach out to the Complainant to offer supportive measures.
- ii. The Title IX Coordinator will work with the Complainant to ensure they are aware of the right to have an Advisor.
- iii. The Title IX Coordinator will work with the Complainant to determine whether the Complainant prefers a supportive and remedial response, an informal resolution option, or an Administrative Resolution.
 - a. If a supportive and remedial response is preferred, the Title IX Coordinator will work with the Complainant to identify his or her wishes and will endeavor to facilitate implementation of those wishes. No Administrative Resolution will be initiated, though the Complainant can elect to initiate one later, if desired.

b. If an informal resolution option is preferred, the Title IX Coordinator will assess whether the allegations are suitable for informal resolution and may seek to determine if the Respondent is also willing to engage in informal resolution.

c. If Administrative Resolution is preferred, the Title IX Coordinator will initiate the investigation process and determine whether the scope of the investigation will address:

- (1) an incident;
- (2) a potential pattern of misconduct, and/or
- (3) a culture/climate issue.

Based on the initial assessment, the Title IX Coordinator will initiate one of the following processes:

- If there is insufficient evidence to support a finding of reasonable cause to believe the Respondent violated policy, the process will be closed with no further action.
- Informal Resolution, which is typically used for less serious offenses, when all parties agree to Alternate Resolution, when the Respondent is willing to accept responsibility for violating policy, or when Complainant expresses a preference for a supportive measures and remedies-only response.
- Administrative Resolution, which is a structured investigation of policy violation(s) resulting in recommended findings, subject to a determination by Decision-maker(s) and the opportunity to appeal to an Appeal Decision-maker.

The determination of which process will be followed will consider the preference of the parties, but is ultimately at the discretion of the Title IX Coordinator. At any point during the initial assessment or structured investigation, if the Title IX Coordinator determines that there is no reasonable cause to support the conclusion that this Policy has been violated, the process will end, and the parties will be notified.

B-3. Advisors

Any Complainant or Respondent involved in a Process B proceeding may be accompanied by one Advisor of their choosing throughout the resolution process. The choice whether or not to invite an Advisor is solely that of the student(s) involved.

The Title IX office must be notified at least two (2) business days before any scheduled meeting with an “Advisors in the Conduct Process” form that an Advisor will be present, unless circumstances call for an expedited meeting. A party may elect to change advisors during the process, provided that the party gives the Title IX Coordinator timely notice of such change.

A student may also request that the University assign an Advisor to them, who will be either a student or staff member trained to serve in such a capacity. Such requests do not guarantee that an Advisor will be available. Accordingly, students should make their request for a University-assigned Advisor as soon as possible.

B-3.1 Advisor's Role in Proceedings

The role of an Advisor is to provide support, guidance, and advice to a student. Advisors may not ask questions, interject, coach, advocate for, or otherwise speak on behalf of their advisee in a meeting, interview or hearing and should request or wait for a break in the proceeding if they wish to interact with University officials. The parties are expected to ask and respond to questions on their own behalf throughout the investigation phase of the resolution process. Advisors may confer quietly with their advisees as necessary, as long as they do not disrupt the process. For longer or more involved discussions, the parties and their advisors should ask for breaks or step out of meetings to allow for private conversation.

The University generally expects an Advisor to adjust his or her schedule to allow him or her to attend University meetings when planned. However, the University may occasionally change scheduled meetings to accommodate an Advisor's inability to attend, if doing so does not cause an unreasonable delay.

The University may also make reasonable provisions to allow an Advisor who cannot attend in person to attend a meeting by telephone, video conferencing, or other similar technologies as may be convenient and available.

The University reserves the right to deny a party whose Advisor is disruptive or does not abide by University policies and procedures the continued participation of that Advisor in the process and/or to find that party responsible for a violation of this Policy.

B-3.2 Expectations of the Parties with Respect to Advisors

Each party may choose an Advisor who is eligible and available. A party may not insist on an Advisor who does not have the time, inclination, or availability to serve as an Advisor. The Advisor can be anyone, but should not be someone who is also a witness in the process.

Upon written request of a party, the University will copy the Advisor on all communications between the University and the party so long as the Advisor has signed the University's consent and non-disclosure form.

B-4. Privacy in the Resolution Process

All proceedings under this Policy are private. All persons present at any time during the resolution process are expected to maintain the privacy of the proceedings.

While this expectation of privacy exists, the parties have discretion to share their own experiences with others if they so choose.

B-5. Resolution Timeline

The University will make a good faith effort to complete the resolution process as promptly as circumstances permit (generally within 60-90 days, including appeal), and will communicate regularly with the parties to update them on the progress and timing of the investigation and process. The time for completion of the process can be extended as necessary by the Title IX Coordinator for appropriate cause, with notice to the parties as appropriate.

The University may undertake a short delay in its investigation (several days to weeks, to allow evidence collection) when criminal charges based on the same allegation involved in the resolution process are being

investigated by law enforcement. The University will promptly resume its investigation and resolution process once notified by law enforcement that the initial evidence collection process is complete.

University action(s) are not typically altered or precluded on the grounds that civil or criminal charges involving the underlying incident(s) have been filed or that criminal charges have been dismissed or reduced.

B-6. Resolution Options

B-6.1 Informal Resolution

Informal Resolution may occur when: (a) the parties voluntarily agree to resolve the matter through Alternate Resolution, (b) the Respondent accepts responsibility for violating Policy, or (c) the Title IX Coordinator can resolve the matter informally by providing remedies to resolve the situation.

It is not necessary to pursue Informal Resolution first in order to pursue Administrative Resolution, and any party participating in Informal Resolution can stop the process at any time and request the Administrative Resolution process. Further, if an attempt at Informal Resolution fails, Administrative Resolution may be pursued at the request of a party or at the discretion of the Title IX Coordinator.

B-6.1.1 Alternate Resolution

Alternate Resolution is an informal process, such as mediation or restorative practices, by which a mutual agreement between the parties to resolve an allegation is reached. It may be used for less serious allegations and is encouraged as an alternative to the Administrative Resolution process (described below) to resolve conflicts. The parties must consent to the use of Alternate Resolution.

The Title IX Coordinator will determine if Alternate Resolution is appropriate, based on the willingness of the parties, the nature of the allegations at issue, and the likelihood that Alternate Resolution will be an effective means for resolving the allegations.

In an Alternate Resolution meeting, a trained administrator will facilitate a dialogue with the parties to achieve an effective resolution, if possible. The University will not impose sanctions as the result of an Alternate Resolution process, though the parties may agree to accept sanctions and/or appropriate remedies voluntary as part of the agreed-upon resolution.

The Title IX Coordinator will maintain records of any resolution that is reached, and failure to abide by the resolution agreement can result in appropriate responsive/disciplinary actions.

Alternate Resolution is not typically the primary resolution mechanism used to address reports of violent behavior of any kind or in other cases of serious violations of this Policy, though it may be made available after the Administrative Resolution process is completed should the parties and the Title IX Coordinator believe it could be beneficial.

The results of Alternate Resolution are not appealable.

B-6.1.2 Respondent Accepts Responsibility for Alleged Violations

The Respondent may accept responsibility for all or part of the alleged misconduct at any point during the resolution process. If the Respondent accepts responsibility, the Title IX Coordinator

will make a determination that the individual is in violation of this Policy and determine appropriate sanction(s) or responsive actions.

If the Respondent accepts responsibility for all the alleged policy violations and the Title IX Coordinator has determined appropriate sanction(s) or responsive actions, which are promptly implemented, the process is over. The Complainant will be informed of this outcome.

If the Respondent accepts responsibility for some of the alleged policy violations and the Title IX Coordinator has determined appropriate sanction(s) or responsive actions, which are promptly implemented, for those violations, then the remaining allegations will continue to be investigated and resolved. The Complainant will be informed of this outcome. The parties may still be able to seek Alternate Resolution on the remaining allegations, or may continue with the Administrative Resolution process.

B-6.1.3 Negotiated Resolution

The Title IX Coordinator, with the consent of the parties, may negotiate and implement any agreement to resolve the allegations that satisfies all parties and the University.

B-6.2 Administrative Resolution

Administrative Resolution may be pursued at any time during a process pursuant to this Policy for any allegation for which the Respondent has not accepted responsibility that constitutes conduct covered by this Policy. The Administrative Resolution Process involves an NOI and then proceeds to investigation, determination, notice of determination, and opportunity for appeal, all as described in more detail below.

B-7. Notice of Investigation

If Administrative Resolution is initiated, the Title IX Coordinator will provide a written Notice of Investigation (“NOI”) to the Respondent. The NOI may be delivered by one or more of the following methods: in person, mailed via certified mail to the local or permanent address of the parties as indicated in official University records, or emailed to the parties’ SEU-issued or designated email account. Once mailed, emailed, and/or received in-person, notice will be presumptively delivered.

The NOI will generally include a meaningful summary of the allegations, if known at the time, a list of all policies allegedly violated, a description of the applicable procedures, and a statement of the potential sanctions/responsive actions that could result. Alternatively, the policies allegedly violated may be explained in writing at a later date, as the investigation progresses and details become clearer. The NOI should also give an instruction to the parties to preserve any evidence that is directly related to the allegations and inform the parties of their right to have the assistance of an Advisor, who could be a member of the Pool or an Advisor of their choosing present for all meetings attended by the party.

After receipt of this notice, the Respondent will be expected to follow up by attending an informational meeting with the Title IX Coordinator. At such meeting, the Title IX Coordinator will review the University’s procedures, process, and the Respondent’s rights. The Title IX Coordinator will typically give the Respondent at least 48 hours advance notice of the meeting so that the Respondent can identify and choose an Advisor, if any, to accompany him or her to the interview.

B-8. Investigation

B-8.1 Appointment of Investigators

Following delivery of the NOI, the Title IX Coordinator will appoint one or more Pool members to serve as Investigator(s) to conduct the investigation. Identification of the Investigator(s) by the Title IX Coordinator will usually occur within two (2) days of determining that an investigation should proceed.

The Title IX Coordinator will vet the assigned Investigator(s) to ensure impartiality by ensuring there are no conflicts of interest or disqualifying bias.

The parties may, at any time during the Administrative Resolution process, raise a concern regarding bias or conflict of interest, and the Title IX Coordinator will determine whether the concern is reasonable and supportable. If so, another Investigator will be assigned and the impact of the bias or conflict, if any, will be remedied. If the bias or conflict relates to the Title IX Coordinator, concerns should be raised with the Vice President for Student Development.

Investigations will typically involve interviews with all relevant parties and witnesses, obtaining available, relevant evidence, and identifying sources of expert information, as necessary.

All parties will have a full and fair opportunity, through the investigation process, to suggest witnesses and questions, to provide evidence, and to fully review and respond to all evidence, on the record.

B-8.2 Investigation Process

The Investigators typically take the following steps, if not already completed (not necessarily in this order):

- Determine the identity and contact information of the Complainant;
- In coordination with appropriate University officials, initiate or assist with any necessary supportive measures;
- Identify all policies implicated by the alleged misconduct;
- Assist the Title IX Coordinator with conducting an initial assessment to determine if there is reasonable cause to believe the Respondent has violated policy;
- Commence a thorough, reliable, and impartial investigation by developing a strategic investigation plan, including a witness list, evidence list, intended investigation timeframe, and order of interviews for all parties and witnesses;
- Meet with the Complainant to finalize his or her statement, if necessary;
- Prepare the initial Notice of Investigation (NOI) on the basis of the initial assessment. Notice may be one step or multiple steps, depending on how the investigation unfolds, and potential policy violations may be added or dropped as more is learned. Investigators will update the NOI accordingly and provide it to the parties;
- Provide the parties and witnesses with an opportunity to review and verify the Investigator's summary notes from interviews and meetings with that specific party or witness;
- Make good faith efforts to notify the parties of any meeting or interview involving the other party, in advance when possible;
- Interview all relevant individuals and conduct follow-up interviews as necessary;

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The effective date of this policy is August 14, 2020

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

Portions of this policy are based on ATIXA 2020 One Policy, Two Procedures Model.

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- Allow each party the opportunity to suggest questions they wish the Investigator(s) to ask of the other party and witnesses;
- Complete the investigation promptly and without unreasonable deviation from the intended timeline;
- Provide regular status updates to the parties throughout the investigation;
- Prior to the conclusion of the investigation, summarize for the parties the list of witnesses whose information will be used to render a finding;
- Write a comprehensive investigation report fully summarizing the investigation and all evidence;
- Provide parties with a copy of the draft investigation report when it is completed, including all relevant evidence, analysis, credibility assessments, and recommended finding(s);
- Provide each party with a full and fair opportunity to respond to the report in writing within 3 days and incorporate that response into the report;
- Choose to respond in writing in the report to the responses of the parties, and/or to share the responses between the parties for their responses, while also ensuring that they do not create a never-ending feedback loop;
- If the Title IX Coordinator is not acting as an investigator, share the report with the Title IX Coordinator for his or her review and feedback;
- Provide the final report to the Decision-Maker(s); and
- Recommend to the Title IX Coordinator a finding, based on a preponderance of the evidence (whether it is more likely than not that a policy violation occurred).

B-8.3. Witnesses

Witnesses are permitted in the investigation process and may be invited by anyone involved in the investigation, including but not limited to the Complainant, Respondent, and the Investigator(s). A witness is someone who can provide a firsthand account of something seen, heard, or experienced relating to the allegations.

Witnesses who are faculty or staff of SEU are expected to cooperate with and participate in the University's investigation and resolution process. Failure of a witness to cooperate with and/or participate in the investigation or resolution process may result in disciplinary action up to and including termination of employment.

The parties should submit their list of witnesses prior to the investigation meeting. The list should include contact information and a brief description of each witness's expected contribution to the investigation.

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.

B-8.4 Remote Investigation Processes

Parties and witnesses may be interviewed remotely by phone, video conferencing, or similar technologies if the Investigator(s) determine that timeliness or efficiency dictates a need for remote interviewing. Where remote technologies are used, the University will make reasonable efforts to ensure the privacy and security of the communication technology, and that any technology does not work to the detriment of any party or subject them to unfairness.

B-8.5 Evidentiary Issues

Any evidence that is relevant and credible may be considered, including an individual's prior misconduct history as well as evidence indicating a pattern of misconduct. Irrelevant or immaterial evidence will be disregarded, including evidence this is lacking in credibility or that is improperly prejudicial.

B-8.5.1 Sexual history/patterns

Unless the Title IX Coordinator determines it is appropriate, the investigation and the determination will not consider: (1) incidents not directly related to the possible policy violation, unless they evidence a pattern; (2) the sexual history of the parties (though there may be a limited exception made with regard to the sexual history between the parties); or (3) the character of the parties.

B-8.5.2 Previous allegations/violations

While previous conduct violations by the Respondent are not generally admissible as information supporting the current allegation, the Investigator(s) may supply the Title IX Coordinator with information about previous good faith allegations and/or findings against the Respondent, when that information suggests potential pattern and/or predatory conduct.

Previous disciplinary action of any kind involving the Respondent may be considered in determining the appropriate sanction(s).

B-8.5.3 Character witnesses

Neither the Title IX Coordinator nor the Investigator(s) will meet with character witnesses, but the Investigator(s) may accept up to two (2) letters supporting the character of each of the parties. Such letters must be provided to the Investigator(s) prior to the report being finalized; otherwise, the parties have waived their right to provide such letters.

B-8.6 Recording

No unauthorized audio or video recording of any kind is permitted during investigation meetings. If the Investigator(s) elects to audio and/or video record interviews or the University elects to audio and/or video record investigation meetings, all involved parties will be made aware of and must consent to the audio and/or video recording.

Deliberations by Investigator(s) are never recorded.

Any recording will be the 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.

B-9. Determination and Standard of Proof

Within two to three days of receiving the Investigator's recommendation, a trained, designated Decision-maker from the Pool will review the report and all responses, and then make a determination on the basis of the preponderance of the evidence.

If the record is incomplete, the Decision-maker may direct a re-opening of the investigation, or may direct or conduct any additional inquiry necessary, including informally meeting with the parties or any witnesses, if needed.

The recommendation of the Investigator(s) should be strongly considered, but is not binding on the Decision-maker. The Decision-maker may invite and consider impact statements from the parties if and when determining appropriate sanction(s), if any.

B-10. Notification of Outcome

The Title IX Coordinator will then timely provide the parties with a written Notice of Outcome that includes findings, a detailed rationale for such findings, and any sanction(s).

The Notice of Outcome will ideally be simultaneously delivered to the parties, but in any case without significant time delay between notifications. The Notice of Outcome may be delivered by one or more of the following methods: in person; mailed via certified mail to the local or permanent address of the parties as indicated in official University records; or emailed to the parties' SEU-issued or designated email account. Once mailed, emailed, and/or received in-person, notice is presumptively delivered.

The Notification of Outcome will specify the finding for each alleged policy violation, the rationale supporting the essential findings to the extent the University is permitted to share under state or federal law, and any sanction(s) that may result which the University is permitted to share pursuant to state or federal law. The Notice of Outcome will also detail when the determination is considered final, any changes that are made prior to finalization, the grounds on which the parties may appeal, and the steps the parties may take to request an appeal.

B-11. Appeals

Any party may file for appeal ("Request for Appeal") in writing to the Title IX Coordinator within three (3) business days of the delivery of the Notice of Outcome. Failure to submit a Request for Appeal in this period of time waives the right to appeal and renders the Notice of Outcome final.

All appeals will be decided by a single Appeal Decision-maker, who will also serve as Chair of the appeal. No Appeal Decision-maker will have been involved in the previous stages of the same process, including any dismissal appeal that may have been heard earlier in the process.

All sanctions imposed by the original determination and Notice of Outcome 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 for the Respondent, all reasonable attempts will be made to restore the student to his or her prior status before any sanctions / responsive action(s) were imposed. However, some opportunities lost by the Respondent in the interim may be irreparable in the short term.

B-11.1 Grounds for Appeal

The Request for Appeal will be forwarded to the Appeal Decision-maker for an initial consideration to determine if the request meets the grounds for appeal (a "Review for Standing").

A Review for Standing 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.

Any party may appeal. All Requests for Appeal must be based on one or more of the following grounds:

- A procedural error or omission occurred that significantly impacted the outcome of the investigation (e.g., substantiated bias, material deviation from established procedures); or
- New evidence that was not reasonably available at the time the determination regarding responsibility, and that could affect the outcome of the matter. A summary of this new evidence and its potential impact must be included in the Request for Appeal.

If the Request for Appeal does not state one or more grounds for appeal, the Request for Appeal will be denied by the Appeal Decision-maker and the parties will be notified in writing of the denial and the rationale.

B-11.2 Appeal Process

Once an appeal has been submitted by one party, the Title IX Coordinator will notify the other party and that party will have three (3) business days from the date such notice is delivered to review the Request for Appeal and submit a response or a cross-appeal. If a cross-appeal is filed, the originally appealing party will be notified by the Title IX Coordinator and will have another three (3) business days from the date such notice is delivered to respond to the cross-appeal. No further responses will be permitted. The response of each party to any appeal or cross-appeal should be delivered to the Appeal Decision-maker and the Title IX Coordinator, who will share the response with the other party.

For example, if the Respondent files an appeal, the appeal will be shared with the Complainant, 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 Respondent, as the initial appealing party. The Respondent may then respond only to the cross-appeal, which response will be shared with the Complainant, but no further responses or cross-appeals will be allowed.

When the Appeal Decision-maker finds that at least one of the grounds for appeal is met by at least one party, additional principles governing the review of appeals include the following:

- Decisions by the Appeal Decision-maker are to be deferential to the original decision, making changes to the finding only when there is clear error and to the sanction(s)/responsive action(s) only if there is compelling justification to do so.
- Appeals are not intended to be full re-hearings (de novo) of the allegation(s). In most cases, appeals are confined to a review of the written documentation or record of the investigation and pertinent documentation regarding the grounds for appeal.
- An appeal is not an opportunity for the Appeal Decision-maker to substitute his or her judgment for that of the original Investigator(s) or Decision-maker merely because he or she disagrees with the finding and/or sanction(s).
- Appeals granted based on new evidence should normally be remanded to the Investigator(s) for reconsideration. Other appeals may be remanded at the discretion of the Appeal Decision-maker.

- Once an appeal is decided, the outcome is final; further appeals are not permitted, even if a determination or sanction is changed on remand.
- In rare cases when a procedural error cannot be cured by remand to the original Investigator(s) and/or Decision-maker (as in cases of bias), the Appeal Decision-maker may recommend a new investigation and/or Administrative Resolution process with a new Investigator.
- The result of a remand to the Investigator(s) or Decision-maker cannot be appealed. The results of a new investigation or Administrative Resolution process can be appealed once, on any of the otherwise applicable grounds for appeals.

B-11.3 Notice of Appeal Outcome

All parties will be informed in writing within 14 business days of the outcome of the appeal. The parties will be notified simultaneously, or without significant time delay between notifications, and in accordance with the standards for Notice of Outcome as defined above.

B-12. Withdrawal or Resignation While Charges are Pending; Respondent Refusal to Participate

Generally, if a Respondent decides not to participate in a resolution process under this Process B, the process will proceed to a reasonable resolution without his or her participation.

If a student is the Respondent in a pending resolution process under this Process B, SEU may place a hold on the student's account, which may impact the student's ability to graduate and/or to receive an official transcript/diploma. Such hold will remain in place until the process is complete and all sanctions have been satisfied. Holds placed on a student account pursuant to this section will be applicable to all SEU campuses, including extension sites, regional campuses, and other Unrestricted Education programs such as SEU Online.

B-12.1 Withdrawal of Student Respondents

If a student Respondent withdraws or takes a leave from the University for a specified period of time (e.g., one semester or term) while a Process B resolution process is pending, the resolution process may continue with or without the Respondent's remote participation, or it may be suspended and continued upon the student Respondent's return. Generally, a student who has temporarily withdrawn will not be permitted to return to any program or campus of SEU unless and until the resolution process is completed and all sanctions have been satisfied.

Should a student Respondent permanently withdraw from the University while a Process B resolution process is pending, the process will end because the University will no longer have disciplinary jurisdiction over the withdrawn student. However, the University will continue to address and remedy any systemic issues, variables that contributed to the alleged violation(s), and any ongoing effects of the alleged Sexual Misconduct, retaliation, or other violation of this Policy. The hold on the withdrawn student Respondent's account will not be lifted, and the withdrawn student Respondent may be barred from SEU property and/or events.

B-12.2 Resignation of Employee Respondents

Should an employee Respondent resign his or her employment with the University while a Process B resolution process is pending, the resolution process will end because the University will no longer have disciplinary jurisdiction over the resigned employee. However, the University will continue to address and remedy any systemic issues, variables that contributed to the alleged violation(s), and any ongoing effects of the alleged Sexual Misconduct, retaliation, or other violation of this Policy.

The employee Respondent who resigns will not be eligible for rehire with SEU, and the records retained by the Title IX Coordinator and Human Resources will reflect that status.

B-13. Recordkeeping

Records of all allegations, investigations, and resolutions made pursuant to this Policy will be kept by the University in the Title IX Office as required by state or federal law or University policy.

APPENDIX C:

Rights of Parties in Title IX Processes

Each party in any process under this Policy has the following rights:

- The right to an equitable investigation and resolution of all credible allegations of prohibited harassment or retaliation made in good faith to University officials;
- The right to timely written notice of all alleged violations, including the identity of the parties involved (if known), the precise misconduct being alleged, the date and location of the alleged misconduct (if known), the implicated policies and procedures, and possible sanctions;
- The right to timely written notice of any material adjustments to the allegations (e.g., additional incidents or allegations, additional Complainants, unsubstantiated allegations) and any attendant adjustments needed to clarify potentially implicated policy violations;
- The right to be informed in advance of any public release of information regarding the allegation(s) or underlying incident(s), whenever possible;
- The right not to have any personally identifiable information released to the public without consent provided, except to the extent permitted by law;
- The right to be treated with respect by University officials;
- The right to have University policies and procedures followed without material deviation;
- The right not to be pressured to mediate or otherwise informally resolve any reported misconduct involving violence, including sexual violence;
- The right not to be discouraged by University officials from reporting Sexual Misconduct and/or retaliation to both on-campus and off-campus authorities;
- The right to be informed by University officials of options to notify proper law enforcement authorities, including local police, and the option(s) to be assisted by University officials in notifying such authorities, if the party so chooses. This also includes the right not to be pressured to report, as well;
- The right to have allegations of violations of this Policy responded to promptly and with sensitivity by University officials;
- The right to be informed of available interim actions and supportive measures, such as counseling; advocacy; health care; student financial aid, visa, and immigration assistance; or other services, both on campus and in the community;
- The right to a University-implemented no-contact order or a no-trespass order against a non-affiliated third party when a person has engaged in or threatens to engage in stalking, threatening, harassing, or other improper conduct;
- The right to be informed of available assistance in changing academic, living, and/or working situations after an alleged incident of Sexual Misconduct, retaliation, or other violations of this Policy, if such changes are reasonably available. No formal report, or investigation, either campus or criminal, needs to occur before this option is available. Such actions may include, but are not limited to:
 - Relocating an on-campus student's housing to a different on-campus location;
 - Assistance from University staff in completing the relocation;

- Changing an employee's work environment (e.g., reporting structure, office/workspace relocation);
 - Transportation accommodations;
 - Visa/immigration assistance;
 - Arranging to dissolve a housing contract and a pro-rated refund;
 - Exam, paper, and/or assignment rescheduling or adjustment;
 - Receiving an incomplete in, or a withdrawal from, a class (may be retroactive);
 - Transferring class sections;
 - Temporary withdrawal/leave of absence (may be retroactive);
 - Campus safety escorts; or
 - Alternative course completion options;
- The right to have the University maintain supportive measures for as long as necessary and for supportive measures to remain private, provided privacy does not impair the University's ability to provide the supportive measures;
 - The right to receive sufficiently advanced, written notice of any meeting or interview involving the other party, when possible;
 - The right to ask the Investigator(s) and Decision-maker(s) to identify and question relevant witnesses, including expert witnesses;
 - The right to provide the Investigator(s)/Decision-maker(s) with a list of questions that, if deemed relevant by the Investigator(s)/Chair, may be asked of any party or witness;
 - The right not to have irrelevant prior sexual history or character admitted as evidence;
 - The right to know the relevant and directly related evidence obtained and to respond to that evidence;
 - The right to a fair opportunity to provide the Investigator(s) with an account of the alleged misconduct and have that account be on the record;
 - The right to receive a copy of the investigation report, including all factual, policy, and/or credibility analyses performed, and all relevant and directly related evidence available and used to produce the investigation report, subject to the privacy limitations imposed by state and federal law, prior to any hearing, and the right to have at least ten (10) business days to review the report prior to any hearing;
 - The right to respond to the investigation report, including comments providing any additional relevant evidence after the opportunity to review the investigation report, and to have that response on the record;
 - The right to be informed of the names of all witnesses whose information will be used to make a finding, in advance of that finding, when relevant;
 - The right to regular updates on the status of the investigation and/or resolution;
 - The right to have reports of alleged violations of this Policy addressed by Investigators, Title IX Coordinators, and Decision-maker(s) who have received relevant annual training;
 - The right to a Hearing Panel that is not single-sex in its composition, if a panel is used;
 - The right to preservation of privacy, to the extent possible and permitted by law;

- The right to meetings, interviews, and/or hearings that are closed to the public;
- The right to petition that any University representative in the process be recused on the basis of disqualifying bias and/or conflict of interest;
- The right to have an Advisor of their choice to accompany and assist the party in all meetings and/or interviews associated with the resolution process;
- The right to have the University compel the participation of faculty and staff witnesses;
- The right to the use of the appropriate standard of evidence - preponderance of the evidence - to make a finding after an objective evaluation of all relevant evidence;
- The right to be present, including presence via remote technology, during all testimony given and evidence presented during any Formal Grievance Procedure hearing;
- The right to have an impact statement considered by the Decision-maker(s) following a determination of responsibility for any allegation, but prior to sanctioning;
- The right to be promptly informed in a written Notice of Outcome letter of the finding(s) and sanction(s) of the resolution process and a detailed rationale of the decision (including an explanation of how credibility was assessed), delivered simultaneously (or without undue delay between delivery) to the parties;
- The right to be informed in writing of when a decision by the University is considered final and any changes to the sanction(s) that occur before the decision is finalized;
- The right to be informed of the opportunity to appeal the finding(s) and sanction(s) of the resolution process, and the procedures for doing so in accordance with the standards for appeal established by the University;
- The right to a fundamentally fair resolution as defined in these procedures.

APPENDIX D:
Endnotes – Expanded Definitions

ⁱ Unwelcomeness is subjective and determined by the Complainant (except when the Complainant is younger than the age of consent). Severity, pervasiveness, and objective offensiveness are evaluated based on the totality of the circumstances from the perspective of a reasonable person in the same or similar circumstances (“in the shoes of the Complainant”), including the context in which the alleged incident occurred and any similar, previous patterns that may be evidenced.

ⁱⁱ Sexual acts include:

a. Forcible Rape:

- penetration,
- no matter how slight,
- of the vagina or anus with any body part or object, or
- oral penetration by a sex organ of another person,
- without the consent of the person.

b. Forcible Sodomy:

- oral or anal sexual intercourse with another person,
- forcibly, and/or
- against that person’s will (non-consensually), or
- not forcibly or against the person’s will in instances in which the person is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity.

c. Sexual Assault with an Object:

- the use of an object or instrument to penetrate,
- however slightly,
- the genital or anal opening of the body of another person,
- forcibly, and/or
- against that person’s will (non-consensually), or
- not forcibly or against the person’s will in instances in which the person is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity.

d. Forcible Fondling:

- the touching of the private body parts of another person (buttocks, groin, breasts),
- for the purpose of sexual gratification,
- forcibly, and/or
- against that person’s will (non-consensually), or
- not forcibly or against the person’s will in instances in which the person is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity.

ⁱⁱⁱ The existence of a romantic or intimate social relationship shall be determined based on the Complainant’s statement and with consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship. For the purposes of this definition, dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse. Dating violence does not include acts covered under the definition of Domestic Violence.

^{iv} For the purposes of the definition of stalking:

- Course of conduct means two or more acts, including, but not limited to 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.
- Reasonable person means a reasonable person under similar circumstances and with similar identities to the Complainant.
- Substantial emotional distress means significant mental suffering or anguish that may but does not necessarily require medical or other professional treatment or counseling.