

Sexual Misconduct Policy

Policy Statement

Southeastern Louisiana University, hereinafter referred to as Recipient, prohibits sexual misconduct and is committed to providing a learning, working, and living environment that promotes integrity, civility, and mutual respect in an environment free from sexual misconduct as provided in Title IX and other applicable laws. Recipient shall take prompt and appropriate action to investigate and effectively discipline those accused of such conduct in a manner consistent with the law and due process. Recipient shall provide support and assistance to those alleging sexual misconduct and shall report instances of sexual misconduct in accordance with law. Recipient will strive to create and maintain safe learning, working, and living environments for all individuals who participate in Recipient's education programs and activities, including online instruction. Any non-confidential report of sexual misconduct, as defined herein, must be investigated, addressed, and resolved by Recipient under the appropriate policy and procedures.

Purpose of Policy

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

- Title IX of the 1972 Education Amendments which (i) prohibits discrimination on the basis of sex in educational institutions and (ii) requires colleges and universities receiving federal funding to combat gender-based violence and harassment, and respond to survivors' needs in order to ensure that all students have equal access to education;
- The Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (Clery Act), which requires (i) policies and procedures for sexual assault and (ii) requires timely warning and external reporting of crimes;
- Section 304 of the Violence Against Women Reauthorization Act of 2013 (VAWA), which extends the Clery Act to include dating violence, domestic violence and stalking.

Applicability

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

third parties.

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

For all other types of sexual misconduct not covered by Title IX, this Policy applies generally to sexual misconduct on Recipient's premises; at Recipient-affiliated educational, athletic, or extracurricular programs or activities that have an adverse effect on the education or employment of a member of the Recipient's community; or that otherwise threatens the health and/or safety of a member of the Recipient's community. Recipient may address such misconduct in any manner Recipient chooses, including providing supportive measures or pursuing discipline as prescribed by the Code of Student Conduct (for students) or the appropriate employment policy (for employees).

Definitions

Coercion. The use of express or implied threats, intimidation, or physical force which places an individual in fear of immediate harm or physical injury or causes a person to engage in unwelcome sexual activity. Coercion also includes administering a drug, intoxicant, or similar substance with the intent to impair that person's ability to consent prior to engaging in sexual activity.

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

Consent. Consent to engage in sexual activity must exist from beginning to end of each instance of sexual activity. Consent is demonstrated through mutually understandable words and/or actions that clearly indicate a willingness to engage in a specific sexual activity. Silence alone, without actions evidencing permission, does not demonstrate consent. Consent must be knowing and voluntary. To give consent, a person must be of legal age. Assent does not constitute consent if obtained through coercion or from an individual whom respondent knows, or reasonably should know, is Incapacitated. The responsibility of obtaining consent rests with the person initiating sexual activity. Use of alcohol or drugs does not diminish one's responsibility to obtain consent. Consent to engage in sexual activity may be withdrawn by any person at any time. Once withdrawal of consent has been expressed, the sexual activity must cease. Consent is automatically withdrawn by a person who is no longer capable of giving consent. A current or previous consensual dating or sexual relationship between the parties does not itself imply consent or preclude a finding of responsibility.

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

Incapacitation. An individual is considered to be incapacitated if, by reason of mental or

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physical condition, the individual is manifestly unable to make a knowing and deliberate choice to engage in sexual activity. Being drunk or intoxicated can lead to incapacitation; however, someone who is drunk or intoxicated is not necessarily incapacitated, as incapacitation is a state beyond drunkenness or intoxication. Individuals who are asleep, unresponsive or unconscious are incapacitated. Other indicators that an individual may be Incapacitated include, but are not limited to, inability to communicate coherently, inability to dress/undress without assistance, inability to walk without assistance, slurred speech, loss of coordination, vomiting, or inability to perform other physical or cognitive tasks without assistance.

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

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

Perpetrator. An individual found guilty of sexual misconduct.

Program or Activity. Includes locations, events or circumstances over which the Recipient exercised substantial control over both the Respondent and the context in which the sexual harassment occurs, and also includes any building owned or controlled by a student organization that is officially recognized by Recipient.

Recipient. An education entity receiving federal funds.

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

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

Retaliation. Acts or attempted acts for the purpose of interfering with any report, investigation, or proceeding under this Policy, or as retribution or revenge against anyone who has reported Sexual Misconduct or who has participated (or is expected to participate) in any manner in an investigation, or proceeding under this Policy. Prohibited retaliatory acts include, but are not limited to, intimidation, threats, coercion, and discrimination. Title IX prohibits retaliation. For purposes of this Policy, an attempt requires a substantial step towards committing a violation.

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

Family violence, as defined by Louisiana law. Means any assault, battery, or other physical abuse, which occurs between family or household members who reside together or who formerly resided together. La. RS § 46.2121.1(2)

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

Non-Consensual Sexual Intercourse. Having, or attempting to have, sexual intercourse, cunnilingus, or fellatio without consent. Sexual intercourse is defined as anal or vaginal penetration by a penis, tongue, finger, or inanimate object.

Sexual Assault as defined by the Clery Act. An offense that meets the definition of rape, fondling, incest, or statutory rape as used in the FBI's Uniform Crime Reporting program.

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

Sexual Exploitation. An act attempted or committed by a person for sexual gratification, financial gain, or other advancement through the abuse or exploitation of another person's sexuality. Examples of sexual exploitation include, but are not limited to, non-consensual observation of individuals who are undressed or engaging in sexual acts, non-consensual audiotaping or videotaping of sexual activity, prostituting another person, allowing others to observe a personal consensual sexual act without the knowledge or consent of all involved parties, and knowingly exposing an individual to a sexually transmitted infection without that individual's knowledge.

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

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

Stalking, as defined by Clery Act. Intentional and repeated following or harassing that would cause a reasonable person to feel alarmed or that would cause a reasonable person to suffer emotional distress or Intentional and repeated uninvited presence at another person's home, workplace, school, or any other place which would cause a reasonable person to be alarmed or would cause a reasonable person to suffer emotional distress as a result of verbal or behaviorally implied threats of death, bodily

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

Dating Violence, as defined by the Clery Act. Violence including, but not limited to, sexual or physical abuse or the threat of such abuse, committed by a person who is or has been in a social relationship of a romantic or intimate nature with the alleged victim. The existence of such a relationship will be determined based on a consideration of the length and type of relationship and the frequency of interaction.

Dating Violence, as defined by Louisiana law. Includes, but is not limited to, physical or sexual abuse and any offense against the person as defined in the Criminal Code of Louisiana, except negligent injury and defamation, committed by one dating partner against the other. La. RS § 46.2151(C). For purposes of this Section, “dating partner” means any person who is, or has been, in a social relationship of a romantic or intimate nature with the victim and where the existence of such a relationship shall be determined based on a consideration of the following factors: (1) The length of the relationship. (2) The type of relationship. (3) The frequency of interaction between the persons involved in the relationship.

Domestic abuse, as defined by Louisiana law. Includes, but is not limited to, physical or sexual abuse and any offense against the person as defined in the Criminal Code of Louisiana, except negligent injury and defamation, committed by one family or household member against another. La. RS 46:2132(3)

Domestic Violence, as defined by the Clery Act. Violence, including but not limited to, sexual or physical abuse or the threat of such abuse committed by a current or former spouse or intimate partner or any other person from whom the alleged victim is protected under federal or Louisiana law. A felony or misdemeanor crime of violence committed: By a current or former spouse or intimate partner of the victim;

- By a person with whom the victim shares a child in common;
- By a person who is cohabitating with, or has cohabitated with, the victim as a spouse or intimate partner;
- By a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred; or
- By any other person against an adult or youth victim who is protected from that person’s acts under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred.

injury, sexual assault, kidnapping, or any other statutory criminal act to the victim or any member of the victim's family or any person with whom the victim is acquainted. 34 CFR 668.46(a) (ii)

Stalking, as defined by Louisiana State law. Stalking is the intentional and repeated following or harassing of another person that would cause a reasonable person to feel alarmed or to suffer emotional distress. Stalking shall include, but not be limited to, the intentional and repeated uninvited presence of the perpetrator at another person's home, workplace, school, or any place which would cause a reasonable person to be alarmed, or to suffer emotional distress as a result of verbal or behaviorally implied threats of death, bodily injury, sexual assault, kidnaping, or any other statutory criminal act to himself or any member of his family or any person with whom he is acquainted. La. RS § 14:40.2(A) "Harassing" means the repeated pattern of verbal communications or nonverbal behavior without invitation which includes, but is not limited to, making telephone calls, transmitting electronic mail, sending messages via a third party, or sending letters or pictures. "Pattern of conduct" means a series of acts over a period of time, however short, evidencing an intent to inflict a continuity of emotional distress upon the person. Constitutionally protected activity is not included within the meaning of pattern of conduct. La. RS § 14:40.2(C)

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

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

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

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

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

Campus Climate Survey. To adequately assess perceptions and behaviors of sexual misconduct on Recipient's campus, Recipient shall administer an anonymous sexual assault campus climate survey to its students once every three years. If the survey is included as a separate component of a broader survey regarding campus safety, the sexual assault component will be clearly identified as such.

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

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

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

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

The Confidential Advisor is authorized to advise the alleged victim of, and provide written information regarding, both the alleged victim's rights and the Recipient's responsibilities regarding orders of protection, no-contact orders, restraining orders, or similar lawful orders issued by a court of competent jurisdiction or by Recipient. The Confidential Advisor is not obligated to report crimes to Recipient or law enforcement in a way that identifies an alleged victim or an accused individual, unless otherwise required to do so by law.

Confidential Advisors shall complete online training developed by the Attorney General in collaboration with the Board of Regents. In the event updated and relevant training from the Attorney General and the Board of Regents are not available, Recipient will make available and document receipt of a comprehensive description of the role, responsibility, and duties of the confidential advisor.

Confidential Advisors for Recipient are:

Peter Emerson, slucc@southeastern.edu

Annette Baldwin-Newton, slucc@southeastern.edu

Paige Moody, slucc@southeastern.edu

Courtney Williams, slucc@southeastern.edu

Marcela Spicuzza, slucc@southeastern.edu

Wes Erington, slucc@southeastern.edu

Amanda Anderson, slucc@southeastern.edu

Their offices are located in The University Counseling Center, which is located at:

303 A Union Ave.

Student Union Annex

Hammond, LA 70402

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

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

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

Medical and Counseling Resources

- The National Sexual Assault Telephone Hotline

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