

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

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

Responsibilities

All students are responsible for knowing and complying with the Code as well as all local, state and federal laws, and other University standards, policies and procedures. All students have the responsibility to recognize the ways in which their actions reflect upon and affect the University and every member of the University community. All students have the responsibility to respect and protect the rights of every other member of the University community. All students are personally responsible for their actions, choices, and decisions.

Interim Policy and Procedures on Sexual Misconduct

A. DISCRIMINATION AND PROHIBITED CONDUCT

Southern Illinois University Carbondale (“SIUC” or “the University”) does not discriminate on the basis of sex and is committed to a policy of providing equal employment and educational benefits, programs, activities, and opportunities. In particular, Southern Illinois University is committed to maintaining a community in which students, faculty, and staff can work and learn together in an atmosphere free of all forms of discrimination, including but not limited to sexual harassment and retaliation. Further, SIUC is committed to fostering an environment in which all members of our campus community are safe, secure, and free from gender-based violence of any form, including but not limited to sexual assault, dating violence, domestic violence, and stalking. SIUC expects that all interpersonal relationships and interactions—especially those of an intimate nature—be grounded upon mutual respect, open communication, and clear consent.

Sexual harassment, sexual misconduct, sexual assault, dating violence, domestic violence, stalking, and retaliation (hereinafter collectively referred to as “Prohibited Conduct”) violates the dignity of the individual and the integrity of the University as an institution of higher learning, and thus, sexual harassment, sexual misconduct, sexual

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

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

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

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

B. **GLOSSARY**

Actual Notice means notice of an allegation of Prohibited Conduct to the SIUC Title IX Coordinator or to an Official with Authority. Actual notice refers to the notice requirements for sexual harassment in education.

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

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

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

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

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

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

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

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

Consent cannot be given by an individual who is mentally or physically incapacitated through the effect of drugs, alcohol or other intoxicants or for any other reason. Consent cannot be given when it is coerced, forced, or obtained by use of duress, fear, threats, or violence. Consent is not implied by the existence of a prior or current relationship or participation in prior sexual activity. A person's manner of dress does not constitute consent. Consent to engage in sexual activity may be withdrawn at any time and is automatically withdrawn by a person who is no longer capable of giving consent.

Dating Violence means violence, on the basis of sex, committed by a person, who is in or has been in a social relationship of a romantic or intimate nature with the Complainant. The existence of such a 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.

Day means a business day when the University is in normal operation.

Domestic Violence means any act of violence, on the basis of sex, committed by a current or former spouse or intimate partner of the Complainant, by a person with whom the Complainant shares a child in common, or by a person who is cohabitating with, or has cohabitated with, the Complainant as a spouse or intimate partner, or by a person similarly situated to a spouse of the Complainant under the domestic or family violence laws of Illinois or by 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 Illinois. To categorize an incident as Domestic Violence, the relationship between the Respondent and the Complainant must be more than just two people living together as roommates.

Education program or activity means locations, events, or circumstances where SIUC exercises substantial control over both the Respondent and the context in which the Prohibited Conduct occurs and also includes any building owned or controlled by a student organization that is officially recognized by SIUC.

Final Determination means a conclusion by the preponderance of the evidence that the alleged conduct did or did not violate policy.

Finding means a conclusion by the preponderance of the evidence that the conduct did or did not occur as alleged (as in a "finding of fact").

Force means the use of physical violence and/or physical imposition to gain sexual access. Force also includes threats, intimidation (implied threats), and coercion that is intended to overcome resistance or produce consent. Sexual activity that is forced is, by definition, non-consensual, but non-consensual sexual activity is not necessarily forced. Silence or the absence of resistance alone is not consent. Consent is not demonstrated by the absence of resistance. While resistance is not required or necessary, it is a clear demonstration of non-consent.

Formal Grievance Process means a method of formal resolution to address conduct that falls within the policies included herein, and which complies with the requirements of the Title IX regulations (34 CFR §106.45). The Formal Grievance Process is used to address allegations which fall within the definitions under Title IX and those that are otherwise considered “Prohibited Conduct.” Prohibited Conduct allegations which, if proven, would violate SIUC policies but do not fall within the definitions under Title IX.

Grievance Process Pool includes any investigators, hearing officers, appeal officers, and Advisors who may perform any or all of these roles (though not at the same time or with respect to the same case).

Hearing Decision-maker or Panel refers to those who have decision-making and sanctioning authority within SIUC’s Formal Grievance process.

Incapacitation means a person cannot consent if they are unable to understand what is happening or is disoriented, helpless, asleep, or unconscious, for any reason, including by alcohol or other drugs. A Respondent violates this policy if they engage in sexual activity with someone who is incapable of giving consent.

Investigator means the person or persons charged by the University with gathering facts about an alleged violation of this Policy, assessing relevance and credibility, synthesizing the evidence, and compiling this information into an investigation report and file of directly related evidence.

Mandated Reporter means all employees of the University who are obligated by policy to share knowledge, notice, and/or reports of Prohibited Conduct. Mandated reporters may file reports with the Title IX Coordinator on-line by completing the report at safe.siu.edu.

Notice means an employee, student, or third-party informs the Title IX Coordinator or other Official with Authority of the alleged occurrence of Prohibited Conduct.

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

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

Preponderance of the Evidence means that the allegation is more likely true than not true.

Privacy means that information related to a complaint will be shared with a limited number of University employees who “need to know” in order to assist in the assessment, investigation, and resolution of the report. All employees who are involved in the University’s response to notice under this policy receive specific training and guidance about sharing and safeguarding private information in accordance with state and federal law. The privacy of student education records will be protected in accordance with the Family Educational Rights and Privacy Act (“FERPA”), as outlined in SIUC’s Family Educational Rights and Privacy Act policy. The privacy of employee records will be protected in accordance with state law and Human Resources policies.

Process A - Title IX Process means the Formal Grievance Process for violations under Title IX.

Process B - Prohibited Conduct under SIU policies means any process designated by SIUC to apply only when Process A does not, as determined by the Title IX Coordinator.

Reasonable Person means the perspective of a reasonable person's reaction to a similar environment under similar or like circumstances.

Recipient means a postsecondary education program that is a recipient of federal funding.

Remedies are post-finding actions directed to the Complainant and/or the community as mechanisms to address safety, prevent recurrence, and restore access to the University’s educational program.

Respondent means an individual who has been reported to be the perpetrator of conduct that could constitute Prohibited Conduct.

Resolution means the result of the Informal or Formal Grievance Process.

Retaliation means any act of reprisal, including negative or otherwise unwarranted treatment, related to the reporting of or participation or decision not to participate in a

complaint of a violation of this policy or any related policy or procedure. Retaliation may include, but is not limited to:

1. Taking negative tangible employment or educational actions against a person;
 2. Taking actions that substantially interfere with or have a chilling effect on the employee's or student's ability to participate fully in and benefit from the work or educational environment;
 3. Failing to provide assistance or instruction that would otherwise be provided;
 4. Failing to fairly and/or objectively evaluate an employee's or student's performance;
 5. Failing to record an appropriately earned grade for a student; or
 6. Otherwise sabotaging an employee's or student's performance or evaluation.
- Acts of alleged retaliation should be reported immediately to the Title IX Coordinator and will be promptly investigated. SIUC will take all appropriate and available steps to protect individuals who fear that they may be subjected to retaliation.

SIUC and any member of SIUC's community are prohibited from taking 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 policy, or because the individual has made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under this policy and procedure.

Attempts to circumvent the Title IX process or any rights or privileges granted under this policy by filing a complaint under a different policy may constitute Retaliation. Therefore, SIUC shall review all complaints carefully to ensure that the complaint is filed and processed under the appropriate process.

The exercise of rights protected under the First Amendment does not constitute retaliation.

Sanction means a consequence imposed by the University on a Respondent who is found to have violated this policy.

Sexual Assault means sex offenses, including attempts, that are:

1) **Forced**

These acts include:

a. **Forcible Rape:**

- o 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 Complainant.

- b. Forcible Sodomy:
 - o Oral or anal sexual intercourse with another person, forcibly, and/or against that person's will (nonconsensually), or not forcibly or against the person's will in instances in which the Complainant is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity.
 - c. Sexual Assault with an Object:
 - o 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 (nonconsensually), or not forcibly or against the person's will in instances in which the Complainant is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity.
 - d. Forcible Fondling:
 - o 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 Complainant is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity.
- 2) **Lack of Consent:** Any sexual act directed against another person, without the consent of the Complainant, including instances in which the Complainant is incapable of giving consent. See definition of consent.
- 3) **Non-forcible**
- o Incest: Non-forcible sexual intercourse, between persons who are related to each other, within the degrees wherein marriage is prohibited by Illinois law.
 - o Statutory Rape: Non-forcible sexual intercourse, with a person who is under the statutory age of consent of seventeen.

Sexual Harassment (Educational) means conduct, on the basis of sex, that satisfies one or more of the following:

- a. Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal educational access to an SIUC program or activity. Whether conduct is unwelcome is subjective and determined by the Complainant except where the Complainant is under the age of consent.

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

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

- a. Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment (quid pro quo – meaning "this for that"); and/or
- b. Submission to or rejection of such conduct by the individual is used as the basis for employment decisions or assessments affecting such individual; and/or
- c. Such conduct has the purpose or effect of substantially interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment (hostile environment).

Hostile environment harassment occurs when an employee is subjected to unwelcome sexually offensive conduct that is sufficiently severe or pervasive to alter their employment and creates an abusive or hostile work environment. To determine whether an environment is hostile or abusive, the university will look at the frequency of the conduct, the severity of the conduct, whether the conduct is physically threatening or humiliating, or a mere utterance, and whether it unreasonably interferes with an employee's work performance.

Sexual Misconduct means any other act of a sexual nature which disrupts or negatively impacts the educational mission of the University, including but not limited to public displays of pornography; possession, creation, or distribution of child pornography; the exchange of money, goods or services in exchange for any sexual activity; causing another person to witness or observe any sexual act without clear, voluntary consent; videotaping, photographing or otherwise recording sex acts without the clear, voluntary consent of all individuals involved or sharing that video, photo, or recording with others without the knowing, voluntary, written, consent of the other party.

Stalking means engaging in a course of conduct involving two or more independent actions, which threatens or endangers the health, safety, emotional welfare, or access to academic resources or employment of another person or which would cause a reasonable person to be fearful for his/her safety, health, or emotional well-being and which does cause another person to be fearful for his/her safety, health, or emotional

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

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

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

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

Title IX Coordinator

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

C. INDEPENDENCE AND CONFLICT-OF-INTEREST

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

Concerns of bias or a potential conflict of interest by any Title IX Team member and reports of any misconduct committed by any Title IX Team member should be reported as soon as possible to the Title IX Coordinator.

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

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

D. OFFICIALS WITH AUTHORITY/MANDATED REPORTERS

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

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

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

E. REPORTING/CONFIDENTIAL RESOURCES

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

obligation to inform an outside agency or campus official unless a Complainant has requested the information be shared.

If a Complainant expects formal action in response to their allegations, reporting to any Mandated Reporter can connect them with resources to report crimes and/or policy violations, and these employees will immediately pass reports to the Title IX Coordinator at safe.siu.edu (and/or police, if desired by the Complainant), who will take action when an incident is reported to them.

The following sections describe the reporting options at SIUC for a Complainant or thirdparty (including parents/guardians when appropriate):

1. **Confidential Resources.** If a Complainant would like the details of an incident to be kept confidential, the Complainant may speak with:

- a. Counseling and Psychological Services
- b. On-campus health service providers and staff through the Student Health Services
- c. On-campus Confidential Advisor (although the advisors do share information with the Title IX Coordinator following federal regulations)
- d. Certain off-campus resources such as licensed professional counselors and other medical providers, local rape crisis counselors, domestic violence resources, local or state assistance agencies, clergy/chaplains, or attorneys

All of the above-listed individuals may be able to maintain confidentiality when acting under the scope of their licensure, professional ethics, and/or professional credentials, except in extreme cases of immediacy of threat or danger or abuse of a minor/elder/individual with a disability, or when required to disclose by law or court order.

Counselors through Counseling and Psychological Services (CAPS) are available and may be consulted on an emergency basis. CAPS services are free for fee-paying students. Information regarding CAPS can be found here: <https://shc.siu.edu/counseling/crisisservices/>. SIUC also has an employee assistance program. You may contact Human Resources for information regarding that program or review the following information: <https://shc.siu.edu/counseling/crisis-services/>.

Employees who are confidential and who receive reports within the scope of their confidential roles will timely submit anonymous statistical information for Clery Act purposes unless they believe it would be harmful to their client/patient.

2. Mandated Reporters and Formal Notice/Complaints

All employees of the University (including student employees), with the exception of those who are designated as Confidential Resources, are Mandated Reporters and must promptly share with the Title IX Coordinator all known details of a report made to them in the course of their employment. Employees must also promptly share all details of behaviors under this Policy that they observe or have knowledge of, even if not reported to them by a Complainant or third-party.

Complainants may want to carefully consider whether they share personally identifiable details with non-confidential Mandated Reporters, as those details must be shared with the Title IX Coordinator.

Generally, disclosures in climate surveys, classroom writing assignments or discussions, human subjects research, or at events such as “Take Back the Night” marches or speakouts do not provide notice that must be reported to the Coordinator by employees, unless the Complainant clearly indicates that they desire a report to be made or a seek a specific response from SIUC.

Supportive measures may be offered as the result of such disclosures without formal SIUC action.

Failure of a Mandated Reporter, as described above in this section, to report an incident of Prohibited Conduct of which they become aware is a violation of SIUC policy and can be subject to disciplinary action.

Though this may seem obvious, when a Mandated Reporter is engaged in harassment or other violations of this policy, they still have a duty to report their own misconduct, though the University is technically not on notice when a harasser is also a Mandated Reporter unless the harasser does in fact report themselves.

Finally, it is important to clarify that a Mandated Reporter who is themselves a target of harassment or other misconduct under this policy is not required to report their own experience, though they are, of course, encouraged to do so.

F. CONTACT INFORMATION

1. Administrative Contact Information

Complaints or notice of alleged policy violations, inquiries about or concerns regarding this Policy, or reports of Prohibited Conduct may be made internally to:

TITLE IX COORDINATOR

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

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

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

For assistance off-campus:

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

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

NATIONAL SEXUAL ASSAULT HOTLINE:

800/656-4673 (HOPE)

CARBONDALE MEMORIAL HOSPITAL

405 W Jackson St
Carbondale, IL 62901
(618) 549-0721

A list of current Title IX Team members and their roles are available on the Office of Equity and Compliance website (<https://equity.siu.edu/>)

2. External Agency Complaint Information

In addition to the retaliation protections in this Procedure and the Sexual Harassment Policy, individuals who believe that they have been subjected to retaliation for reporting sexual harassment allegations may seek whistleblower protections under the Illinois State Officials and Employees Ethics Act (5 ILCS 430/et seq.), the Illinois Human Rights Act, (775 ILCS 5/et seq.), or the Whistleblower Act (740 ILCS 174/et seq.).

While the University encourages use of its internal policy and procedures, the University's policy does not preclude a person who feels she/he has been the victim of discrimination, including sexual harassment, from seeking redress through these external agencies. Filing with the external agencies can be done in lieu of or simultaneously with the University's complaint process. Filing a complaint with the University does not result in the waiver or extension of any time limits required by an external agency.

Additional information related to external agencies, including contact information, may be found in Appendix A.

G. NOTICE/COMPLAINTS OF PROHIBITED CONDUCT

Anyone may give notice of a possible violation of this policy. Notice or complaints of Prohibited Conduct may be made using any of the following options:

1. File a complaint with, or give verbal notice to, the Title IX Coordinator, Confidential Advisor, and/or Officials with Authority. Such a report may be made at any time (including during non-business hours) by using the telephone number or email address, or by mail to the office address, listed above for the Title IX Coordinator or any other official listed. A report filed with the Confidential Advisor does not constitute a formal complaint unless indicated as such per these policy guidelines.

2. Report online, using the reporting form posted at safe.siu.edu.
Anonymous reports are accepted but can give rise to a need to investigate. The University tries to provide supportive measures to all Complainants, which is impossible with an anonymous report. Because reporting carries no obligation to initiate a formal response, and as SIUC respects Complainant requests to dismiss complaints unless there is a 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 that allows SIUC to discuss and/or provide supportive measures. A report made to safe.siu.edu will not be considered a formal complaint. However, once a report is made at safe.siu.edu, the Title IX Coordinator will contact the Complainant to determine how they would like to proceed.

A formal complaint may be filed with the Title IX Coordinator in person, by mail, or by electronic mail, by using the contact information in the section immediately above, or as described in this section. The Title IX Team may need more information from the Complainant to further an investigation, thus, members of the Title IX Team may need to interview the Complainant in order to thoroughly investigate the claim.

As used in this paragraph, the phrase “document filed by a Complainant” means a document or electronic submission (such as by electronic mail or through an online portal provided for this purpose by the University) that contains the Complainant’s physical or digital signature, or otherwise indicates that the Complainant is the person filing the complaint, and requests that the University investigate the allegations. If notice is submitted in a form that does not meet this standard, the Title IX Coordinator will contact the Complainant to ensure that it is filed correctly.

The Title IX Coordinator may also file a formal complaint against a Respondent. However, the Title IX Coordinator will not be considered a complainant or a party to the allegations.

All Respondents are presumed not responsible for the alleged misconduct until a determination regarding responsibility is made at the conclusion of the grievance process.

H. SUPPORTIVE MEASURES

SIUC will offer and implement appropriate and reasonable supportive measures to the parties upon notice of alleged Prohibited Conduct.

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 Prohibited Conduct.

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

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

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

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

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

I. **EMERGENCY REMOVAL/INTERIM SEPARATION**

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

Based on an Initial Report or Formal Complaint of Title IX Prohibited Conduct, the Title IX Coordinator, in consultation with the Threat Assessment Team or others as appropriate, may undertake an individualized safety and risk analysis to determine whether the allegations indicate the Respondent poses an immediate threat to the physical health or safety of any student or other individual arising from the allegations of Title IX Prohibited Conduct. SIUC will implement the least restrictive emergency 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 from a residence hall, restricting a student's or employee's access to or use of facilities or equipment, allowing a student to withdraw or take grades of incomplete without financial penalty, authorizing an administrative leave, suspending a student's

participation in extracurricular activities, student employment, student organizational leadership, or intercollegiate/intramural athletics.

If the Title IX Coordinator determines removal from its educational program or activities on an emergency basis, either in full or in part, is appropriate, the Respondent will be provided with notice and an opportunity to show cause within three (3) days following the removal as to why the action/removal should not be implemented or should be modified. At the discretion of the Title IX Coordinator and in consultation with the Dean of Students and appropriate faculty, alternative coursework options may be pursued to ensure as minimal an academic impact as possible on the parties.

The Title IX Coordinator has sole discretion under this policy to implement or stay an emergency removal and to determine the conditions and duration. Violation of an emergency removal under this policy will be grounds for discipline, which may include expulsion. 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. A Respondent may be accompanied by an Advisor of their choice when meeting with the Title IX Coordinator for the 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. A Complainant and their Advisor may be permitted to participate in this meeting if the Title IX Coordinator determines it is equitable to do so.

If, after the meeting with the Title IX Coordinator, the Respondent is not satisfied with the final decision, the Respondent may appeal that decision to the Chancellor (or designee). The Respondent must submit a written appeal to the Title IX Coordinator and Chancellor within three days after the Title IX Coordinator's final decision. If the Respondent does not submit a written appeal within the time frame, any objection to the emergency removal are deemed waived.

This section does not limit the ability of a coach or athletic administrator to place restrictions on a student-athlete arising from allegations related to Title IX. The decision of a coach or athletic administrator to place such restrictions is not appealable.

2. Administrative Leave of a Non-Student Respondent.

In accordance with University policy or applicable collective bargaining agreements, the University may place a non-student Respondent on administrative leave after notice of a report of Prohibited Conduct and during the pendency of resolution of the matter.

J. PROMPTNESS

All allegations are acted upon promptly by the University once it has received notice or a formal complaint. Complaints can take up to 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 attempt to avoid all undue delays within its control.

Any time the general timeframes for resolution outlined in SIUC'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.

K. **PRIVACY**

Every effort is made by the University to preserve the privacy of reports. SIUC will not share the identity of any individual who has made a report or complaint of Prohibited Conduct; any Complainant, any individual who has been reported to be the alleged perpetrator of Prohibited Conduct, any Respondent, or any witness, except as permitted by the Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. 1232g; FERPA regulations, 34 CFR part 99; or as required by law; or to carry out the purposes of 34 CFR Part 106, including the conducting of any investigation, hearing, or grievance proceeding arising under these policies and procedures.

The University reserves the right to determine which University officials have a legitimate educational interest in being informed about incidents that fall within this policy, pursuant to the Family Educational Rights and Privacy Act (FERPA). Only individuals who need to know will typically be told about the complaint, including but not limited to the Office of Equity and Compliance, Title IX Team members, Confidential Advisor, Student Rights and Responsibilities, Department of Public Safety, Clergy Officer, anyone who needs to assist in providing support measures, and/or the Threat Assessment Team.

Information will be shared as necessary with Investigators, Hearing Panel members/Decision-makers, witnesses, and the parties. The circle of people with this knowledge will be kept as small as possible to preserve the parties' rights and privacy.

L. **JURISDICTION OF SIUC**

To fall within the jurisdiction of Title IX, the alleged Title IX Prohibited Conduct must have taken place in a University Program or Activity, and against a person in the United States at the time the conduct occurred. A University Program or Activity includes locations, events, or circumstances over which the University exercises substantial control over both the Respondent and the context in which the Title IX Prohibited Conduct occurs, and also includes any building owned or controlled by a student

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

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

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

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

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

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

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

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 Prohibited Conduct in an externship, study abroad program, or other environment external to the University where sexual harassment or other Prohibited Conduct policies and procedures of the facilitating or host organization may give recourse to the Complainant.

M. TIME LIMITS ON REPORTING

There is no time limitation on providing notice/complaints to the Title IX Coordinator. However, if the Respondent is no longer subject to SIUC's jurisdiction and/or significant time has passed, the ability to investigate, respond, and provide remedies may be more limited or impossible.

Acting on notice/complaints significantly impacted by the passage of time (including, but not limited to, the rescission or revision of policy) is at the discretion of the Title IX Coordinator, who may document allegations for future reference, offer supportive measures and/or remedies, and/or engage in informal or formal action, as appropriate.

When notice/complaint is affected by significant time delay, the University will typically apply the policy in place at the time of the alleged misconduct and the procedures in place at the time of notice/complaint.

N. ONLINE PROHIBITED CONDUCT

The policies of the SIUC are written and interpreted broadly to include online manifestations of any of the behaviors prohibited herein, when those behaviors occur in or have an effect on the University's education program and activities or use University's networks, technology, or equipment.

Although SIUC may not control websites, social media, and other venues in which harassing communications are made, when such communications are reported to University, it will engage in a variety of means to address and mitigate the effects.

Members of the community are encouraged to be good digital citizens and to refrain from online misconduct, such as feeding anonymous gossip sites, sharing inappropriate content via social media, unwelcome sexual or sex-based messaging, distributing or threatening to distribute revenge pornography, breaches of privacy, or otherwise using the ease of transmission and/or anonymity of the Internet or other technology to harm another member of the SIUC community. Some of this behavior may be considered

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

O. FALSE ALLEGATIONS AND EVIDENCE

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

Additionally, witnesses and parties knowingly providing false evidence, tampering with or destroying evidence, or deliberately misleading an official conducting an investigation can be subject to discipline under SIUC policies.

Charging under the Student Code of Conduct or other policy for making a materially false statement in bad faith in the course of a grievance proceeding under this policy and procedure does not constitute retaliation, provided that a determination regarding responsibility, alone, is not sufficient to conclude that any party has made a materially false statement in bad faith.

P. COMPLAINANTS REQUESTS NOT TO INVESTIGATE

If a Complainant does not wish for their name to be shared, does not wish for an investigation to take place, or does not want a formal complaint to be pursued, they may make such a request to the Title IX Coordinator, who will evaluate that request in light of the duty to ensure the safety of the campus and to comply with state or 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 violence risk assessment. The Title IX Coordinator's decision should be based on results of the violence risk assessment that show a compelling risk to health and/or safety that requires SIUC to pursue formal action to protect the community. A compelling risk to health and/or safety may result from evidence of patterns of misconduct, predatory conduct, threats, abuse of minors, use of weapons, and/or violence. SIUC may be compelled to act on alleged employee misconduct irrespective of a Complainant's wishes.

The Title IX Coordinator must 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 written complaint, they do 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.

Note that SIUC's ability to remedy and respond to notice may be limited if the Complainant does not want SIUC to proceed with an investigation and/or grievance process. The goal is to provide the Complainant with as much control over the process as possible, while balancing SIUC's obligation to protect its community.

In cases in which the Complainant requests confidentiality/no formal action and the circumstances allow the University to honor that request, the University will offer informal resolution options (see below), 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, they can change that decision if they decide to pursue a formal complaint at a later date. Upon making a formal complaint, a Complainant has the right, and can expect, to have allegations taken seriously by University, and to have the incidents investigated and properly resolved through these procedures. Please consider that delays may cause limitations on access to evidence, or present issues with respect to the status of the parties.

Q. AMNESTY FOR COMPLAINANTS AND WITNESSES

The University community encourages the reporting of Prohibited Conduct by Complainants and witnesses. Sometimes, Complainants or witnesses are hesitant to report to University officials or participate in grievance processes because they fear that they themselves may be in violation of certain policies, such as underage drinking or use of illicit drugs at the time of the incident. Respondents may hesitate to be forthcoming during the process for the same reasons.

It is in the best interests of the University community that Complainants choose to report misconduct to University officials, that witnesses come forward to share what they know, and that all parties be forthcoming during the process.

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

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

R. **CLERY OBLIGATIONS**

Parties reporting certain Prohibited Conduct should be aware that under the Clery Act, SIUC must issue timely warnings for incidents reported to them that pose a serious or continuing threat of bodily harm or danger to members of the campus community. Any such timely warnings shall be in accordance with the University Clery Compliance Policy and any applicable federal or state laws. The policy can be reviewed here: <https://policies.siu.edu/policies/clery-act-compliance.php>

Certain campus officials – those deemed Campus Security Authorities – have a duty to report the following for federal statistical reporting purposes (Clery Act):

- a) All “primary crimes,” which include homicide, sexual assault, robbery, aggravated assault, burglary, motor vehicle theft, and arson;
- b) Hate crimes, which include any bias-motivated primary crime as well as any bias motivated larceny or theft, simple assault, intimidation, or destruction/damage/vandalism of property;
- c) VAWA-based crimes, which include sexual assault, domestic violence, dating violence, and stalking; and
- d) Arrests and referrals for disciplinary action for weapons-related law violations, liquor-related law violations, and drug abuse-related law violations.

All personally identifiable information is kept private, but statistical information must be shared with the campus Clery officer regarding the type of incident and its general location (on or off-campus or in the surrounding area, but no addresses are given) for publication in the Annual Security Report and daily campus crime log.

Campus Security Authorities are those individuals identified in the Clery Compliance Policy.

II. PROCEDURES

A. OVERVIEW

The University will act on any formal or informal notice/complaint of violation of the Policy that is received by the Title IX Coordinator or any other Official with Authority by applying these procedures.

These procedures apply to all allegations of Prohibited Conduct involving students, staff, administrators, or faculty members, regardless of whether or not Title IX standards apply. A set of technical dismissal requirements within the Title IX regulations may apply as described below, but when a technical dismissal under the Title IX allegations is required, those allegations may still proceed using these same grievance procedures but shall be known as Process B: Process for Other Prohibited Conduct allegations under SIU Policies, as opposed to Process A – Title IX Process. In addition, students and employees are subject to all other SIU policies and procedures. Although the effect of the Title IX regulations can be confusing, these grievance procedures apply to all Prohibited Conduct.

These procedures may be used to address collateral misconduct arising from the investigation of, or occurring in conjunction with, reported Prohibited Conduct (e.g., vandalism, physical abuse of another). All other allegations of misconduct unrelated to incidents covered by the Policy will be addressed through procedures described in the appropriate University policy or procedure, collective bargaining agreement, or Student Code of Conduct.

Unionized/other categorized employees are subject to the terms and conditions of their collective bargaining agreements to the extent those agreements do not conflict with federal or state law or compliance obligations.

B. NOTICE/COMPLAINT

Upon receipt of a complaint or notice of alleged Title IX allegations or other Prohibited Conduct, the Title IX Coordinator will initiate a prompt initial assessment to determine the next steps the University needs to take.

The Title IX Coordinator will initiate at least one of three responses:

1. Offering supportive measures because the Complainant does not want to file a formal complaint; and/or
2. An informal resolution (upon submission of a formal complaint); and/or

3. A Formal Grievance Process under this policy including an investigation and a hearing (upon submission of a formal complaint).

The University uses the Formal Grievance Process to determine whether or not the Policy has been violated. If so, the University will promptly implement effective remedies designed to address the effects of the Prohibited Conduct and prevent its potential recurrence.

C. INITIAL ASSESSMENT

Following receipt of notice or a complaint of an alleged violation of this Policy, the Title IX Coordinator engages in an initial assessment of the report, typically within five business days. The steps in an initial assessment can include:

1. The Title IX Coordinator (or designee) in coordination with a University Confidential Advisor, reaches out to the Complainant to offer supportive measures.
2. An effort by the Title IX Coordinator (or designee) to determine if the person impacted wishes to make a formal complaint, and will assist them to do so, if desired. If they do not wish to file a formal complaint, the Title IX Coordinator determines whether to initiate a complaint based her/his assessment and any violence risk assessment. The SIUC Threat Assessment Team may be involved in this process if so desired by the Title IX Coordinator. The Title IX Coordinator's decision is subject to a balancing test that requires the Coordinator to consider a range of factors, including but not limited to:
 - i. Whether the Respondent has authority over students and/or staff.
 - ii. Whether SIUC has received other reports of Prohibited Conduct relating to the Respondent;
 - iii. The seriousness of the alleged Prohibited Conduct; iv. Whether there is a likelihood that the Respondent would be a danger to the Complainant or the SIUC community;
 - v. Whether the report of Prohibited Conduct can be effectively addressed through another type of intervention; and
 - vi. The ability of the University to obtain relevant evidence.
3. If a formal complaint or document indicating that a Complainant wishes to file a formal complaint is received, the Title IX Coordinator (or designee) assesses the formal complaint's sufficiency and, if necessary works with

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

4. The Title IX Coordinator (or designee) advises the Complainant that they have the right to have an Advisor.
5. The Title IX Coordinator (or designee) works with the Complainant to determine whether the Complainant prefers a supportive and remedial response, an informal resolution option, and/or a formal investigation and grievance process.
 - a. If a supportive and remedial response is preferred, the Title IX Coordinator, through the Confidential Advisor, works with the Complainant to identify their wishes, assesses the request, and implements accordingly. The Complainant may elect to initiate a formal complaint later, if they decide that they do not want to file a formal complaint at this time.
 - b. After a formal complaint is filed, if a Complainant indicates that the informal resolution option is preferred, the Title IX Coordinator assesses whether the complaint is suitable for informal resolution, which informal mechanism may serve the situation best or is available, and the if the Title IX Coordinator determines that informal resolution is an option, seek to determine if the Respondent is also willing to engage in informal resolution.
 - c. If a Formal Grievance Process is preferred, the Title IX Coordinator determines if the misconduct alleged falls within the scope of Title IX:
 - i. If the Title IX Coordinator determines that the alleged conduct does fall within Title IX, the Title IX Coordinator will initiate the formal investigation and grievance process under Process A- Title IX Process of these procedures, directing the investigation to address an incident, a pattern of alleged misconduct, and/or a culture/climate concern, based on the nature of the complaint.
 - ii. If the Title IX Coordinator determines that Title IX does not apply to the alleged conduct, the Title IX Coordinator will assesses which policies may apply or refer the matter to the appropriate process and/or order a formal investigation and grievance process under Process B-

Prohibited Conduct Process of these procedures.
Dismissing a complaint under Title IX is solely a procedural requirement under Title IX and does not limit the SIUC's authority to address a complaint with an appropriate process and remedies.

D. Violence Risk Assessment

In many cases, the Title IX Coordinator may determine that a Violence Risk Assessment (VRA) should be conducted as well as referring the conduct to the University's Threat Assessment Team as part of the initial assessment. A VRA can aid in critical and/or required determinations, including but not limited to:

- a. Whether an emergency removal of a Respondent on the basis of immediate threat to physical health/safety;
- b. Whether the Title IX Coordinator should pursue/sign a formal complaint absent a willing/able Complainant;
- c. Whether to put the investigation on the footing of incident and/or pattern and/or climate;
- d. To help identify potential predatory conduct; To help assess/identify grooming behaviors;
- e. Whether it is reasonable to try to resolve a complaint through informal resolution, and what modality may be most successful;
- f. Whether to permit a voluntary withdrawal by the Respondent;
- g. Whether to impose transcript notation or communicate with a transfer Recipient about a Respondent; and/or
- h. Assessment of appropriate sanctions/remedies (to be applied post-hearing).

A VRA authorized by the Title IX Coordinator may occur in collaboration with the University's Threat Assessment Team. Where a VRA is required by the Title IX Coordinator, a Respondent refusing to cooperate may result in a charge of failure to comply within the appropriate student or employee conduct process.

A VRA is not an evaluation for an involuntary behavioral health hospitalization nor is it a psychological or mental health assessment. A VRA assesses the risk of actionable violence, often with a focus on targeted/predatory escalations, and is supported by research from the fields of law enforcement, criminology, human resources, and psychology.

E. DISMISSAL (MANDATORY AND DISCRETIONARY per 2020 TITLE IX REGULATIONS, 34 CFR §106.45)

The University must dismiss under 34 CFR §106.45 (Title IX) a formal complaint or any allegations therein if, at any time during the investigation or hearing, it is determined that:

1. The conduct alleged in the formal complaint would not constitute sexual harassment, sexual assault, sexual misconduct, dating violence, domestic violence, stalking, or retaliation as defined above, even if proved;
2. The conduct did not occur in an educational program or activity controlled by the University (including buildings or property controlled by recognized student organizations), and/or the University does not have control of the Respondent;
3. The conduct did not occur against a person in the United States; and/or
4. At the time of filing a formal complaint, a complainant is not participating in or attempting to participate in the education program or activity of SIUC.

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

1. A Complainant notifies the Title IX Coordinator in writing that the Complainant would like to withdraw the formal complaint or any allegations therein. A Complainant who decides to withdraw a complaint may later request to reinstate it or refile it;
2. The Respondent is no longer enrolled in or employed by SIUC; or
3. Specific circumstances prevent SIUC from gathering evidence sufficient to reach a determination as to the formal complaint or allegations therein, such as when a Complainant refuses to participate in the full grievance process.

Upon any Title IX dismissal under this Section, the University will promptly send written notice of the dismissal and the rationale for doing so simultaneously to the parties. Claims are dismissed under this Section based on the requirements of 34 CFR §106.45 only.

SIUC continues to hold jurisdiction over claims dismissed under this Section, as these complaints are only dismissed under 34 CFR §106.45 ("Process A – Title IX Process), and may be pursued under Process B – Prohibited Conduct Process under this Policy or pursued under other applicable SIUC policies. Despite the dismissal under Process A – Title IX Process, SIUC may still offer supportive measures, investigate, hold a hearing, find a Respondent in violation, and/or provide sanctions and remedies under this Policy, other University policies and/or the Student Conduct Code, although these complaints were dismissed under the Title IX process.

This dismissal decision under Process A – Title IX Process is appealable by any party under the procedures for appeal below. The decision not to dismiss under Process A – Title IX Process is also appealable by any party claiming that a dismissal is required or appropriate.

F. COUNTERCLAIMS

The University permits the filing of counterclaims but uses an initial assessment, described above, to assess whether the allegations in the counterclaim are made in good faith. Counterclaims by a Respondent may be made in good faith. Counterclaims made for purposes of retaliation rather than pursuing legitimate claims may violate this policy. Counterclaims made with retaliatory intent will not be permitted.

Counterclaims determined to have been reported in good faith will be processed using the grievance procedures below. Investigation of such claims may take place after resolution of the underlying initial allegation, in which case a delay may occur, or may be resolved through the same investigation as the underlying allegation, at the discretion of the Title IX Coordinator.

F. ADVISORS

1. Right to an Advisor.

The parties may each have an Advisor of their choice present with them for all meetings, interviews, and hearings within the resolution process, if they so choose. The parties may select whoever they wish to serve as their Advisor as long as the Advisor is eligible and available.

The party cannot insist on an Advisor who does not consent to be an advisor, or who does not have sufficient time or availability to advise the party. An Advisor cannot have an institutionally conflicting roles, such as being a Title IX administrator who has an active role in the matter, or a supervisor who must monitor and implement sanctions.

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).

2. Who Can Serve as an Advisor.

The Title IX Coordinator will offer to assign a trained Advisor for any party if the party so chooses. If the parties choose 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. Parties may also choose an advisor on their own from inside or

outside of the university community. For individuals represented by a union, they may select their union representative as their advisor. They may also have both an advisor and their union representative. Complainants will also be permitted to have an additional advisor.

The University does not offer training to Advisors from outside the pool of those identified by the University. Therefore, parties should be aware that an Advisor selected from outside the University's pool of advisors may not have been trained by the University and may not be familiar with University policies and procedures. If a party selects an outside advisor, the party will be responsible for all costs associated with that advisor.

Parties also have the right to choose not to have an Advisor in the initial stages of the resolution process, prior to a hearing.

3. Advisor's Role in Meetings and Interviews

The parties 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 generally help their advisees to prepare for each meeting and are expected to advise ethically, with integrity, and in good faith. Except as otherwise required by law, advisors may not speak for their advisees in interviews or meetings.

The University cannot guarantee equal advisory rights or skills, 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 an attorney.

4. Advisors in Hearings/ University-Appointed Advisor

Under U.S. Department of Education regulations under Title IX, a form of indirect questioning is required during the hearing and 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, the University will appoint a trained Advisor for the limited purpose of conducting any questioning of the other party and witnesses. The Advisor's role in the hearing is to conduct such questioning and advise their advisee. Advisors have no other roles in the hearing.

A party may reject this appointment and choose their own Advisor, but they may not proceed without an Advisor. If the party's Advisor will not conduct questioning, the University will appoint an Advisor who will do so thoroughly, regardless of the participation or non-participation of the advised party in the hearing itself. Extensive

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

5. Pre-Interview Meetings w/ Advisors

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

6. Advisor Violations of SIUC Policy

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

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 receive a warning. 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 noncompliance and future role.

7. Sharing Information with the Advisor

The University expects that the parties may wish to have the University share documentation and evidence related to the allegations with their Advisors. 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.

SIUC also provides a consent form that authorizes the University to share such information directly with their Advisor. The parties 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 SIUC is able to share records with an Advisor.

If a party requests that all communication be made through their attorney Advisor, SIUC will comply with that request at the discretion of the Title IX Coordinator.

8. 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 University. SIUC 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.

9. Expectations of an Advisor

The University generally expects an Advisor to adjust their schedule to allow them 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.

10. Expectations of the Parties with Respect to Advisors

A party may elect to change Advisors during the process and is not obligated to use the same Advisor throughout. The parties are expected to inform the Investigator(s) of the identity of their Advisor at least two (2) business days before the date of their first meeting with Investigators (or as soon as possible if a more expeditious meeting is necessary or desired).

The parties are expected to provide timely notice to the Title IX Coordinator if they change Advisors at any time. It is assumed that if a party changes Advisors, consent to share information with the previous Advisor is terminated, and a release for the new Advisor must be secured. Parties are expected to inform the Title IX Coordinator of the identity of their hearing Advisor at least two (2) business days before the hearing.

11. Assistance in Securing an Advisor Not Affiliated with SIUC

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

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

Complainants may wish to contact organizations such as:

- The Victim Rights Law Center (<http://www.victimrights.org>),
- The National Center for Victims of Crime (<http://www.victimsofcrime.org>), which maintains the Crime Victim's Bar Association.]
- The Time's Up Legal Defense Fund: <https://nwlc.org/times-up-legaldefense-fund>

G. **GRIEVANCE PROCESS POOL**

The Formal Grievance Process relies on a pool of administrators ("the Pool") to carry out the process. Members of the Pool are identified on the Office of Diversity and Equity website. The list of Pool members and a description of the Pool can be found at <https://equity.siu.edu/>. Members of the Grievance Process Pool may be involved whether an Informal or Formal Resolution method is used.

1. Pool Member Roles

Members of the Pool are trained annually, and can serve as advisors, panel members, or investigators, at the direction and discretion of the Title IX Coordinator.

2. Pool Member Appointment

The Title IX Coordinator, in consultation with the Chancellor (or designee), appoints the Pool, which acts with independence and impartiality. Although members of the Pool are typically trained in a variety of skill sets and can rotate amongst the different roles listed above in different cases, the University can also designate permanent roles for individuals in the Pool, using others as substitutes or to provide greater depth of experience when necessary.

3. Pool Member Training

The Pool members and other individuals who are responsible for implementing this policy receive annual training. The trainings include all matters relevant to the role(s) the Pool member or other will hold at the University. All trainings will include the following:

1. The scope of this policy and any other relevant University policies and procedures related to sexual harassment, sexual misconduct, sexual assault, dating violence, domestic violence, stalking, and retaliation;

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

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

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

H. RESOLUTION PROCESSES PRIVACY

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

I. INFORMAL RESOLUTION.

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

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

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

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

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

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

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

1. Supportive Measures.

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

2. Alternate Resolution Mechanism.

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

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

- a. The parties' amenability to Alternate Resolution;
- b. Likelihood of potential resolution, taking into account any power dynamics between the parties;
- c. The parties' motivation to participate;
- d. Civility of the parties;
- e. Results of a violence risk assessment/ongoing risk analysis;
- f. Disciplinary history;
- g. Whether an emergency removal is needed;
- h. Skill of the Alternate Resolution facilitator with this type of allegation;
- i. Complaint complexity;
- j. Emotional investment/capability of the parties;
- k. Rationality of the parties;
- l. Goals of the parties; and/or
- m. Adequate resources to invest in Alternate Resolution (time, staff, etc.)

The Title IX Coordinator makes the decision as to whether Alternate Resolution may be used in any particular case. The Title IX Coordinator maintains 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 Informal Resolution or Alternate Resolution are not appealable.

3. **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 process will be paused, and the Title IX Coordinator will determine whether Informal Resolution can be used according to the criteria above.

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 implements the accepted finding that the Respondent is in violation of University policy and implements agreed-upon sanctions and/or remedies, in coordination with other appropriate administrator(s), as necessary.

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

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

4. Negotiated Resolution

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

J. FORMAL GRIEVANCE PROCESS

1. Impartiality

All investigations are thorough, reliable, impartial, prompt, and fair. Any individual materially involved in the administration of the resolution process may neither have nor demonstrate a conflict of interest or bias for a party generally, or for a specific Complainant or Respondent.

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.

SIUC 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.

2. Timelines

Investigation. Investigations are completed expeditiously, normally within thirty (30) business days, from the date of the Notice Of Investigation and Allegation ("NOIA"). Although the University makes every effort to conclude investigations within this timeframe, some investigations may take weeks or even months, depending on the

nature, extent, and complexity of the allegations, availability of witnesses, police involvement, etc.

The University will make a good faith effort to complete investigations as promptly as circumstances permit and will communicate regularly with the parties to update them on the progress and timing of the investigation.

Resolution. SIUC will make a good faith effort to complete the resolution process (which includes the investigation) within ninety (90) business day from the date of the NOIA, including appeal. This time-frame may be extended as necessary for appropriate cause by the Title IX Coordinator. If the process is extended, the Title IX Coordinator will provide 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.

3. Notice of Investigation and Allegations

After receiving a formal complaint and conducting an initial assessment, the Title IX Coordinator will provide written notice of the investigation and allegations (the “NOIA”) to the Respondent upon commencement of the Formal Grievance Process. This facilitates the Respondent’s ability to prepare for the interview and to identify and choose an Advisor to accompany them. The NOIA is also copied to the Complainant, who is to be given advance notice of when the NOIA will be delivered to the Respondent.

The NOIA will include:

- a. A meaningful summary of all of allegations;
- b. The identity of the involved parties (if known);
- c. The precise misconduct being alleged;
- d. The date and location of the alleged incident(s) (if known);
- e. The specific policies implicated;
- f. A description of the applicable procedures;
- g. A statement of the potential sanctions/responsive actions that could result;
- h. A statement that the University presumes the Respondent is not responsible for the reported misconduct unless and until the evidence supports a different determination;
- i. 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;

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

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

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

K. INVESTIGATIONS

1. Steps in the Investigation Process

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

All parties 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) typically take(s) the following steps, if not already completed (not necessarily in this order):

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

- m. The Investigator(s) gather, assess, and synthesize evidence, but make no conclusions, engage in no policy analysis, and render no recommendations as part of their report;
- n. 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 reported 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 may be watermarked on each page with the role of the person receiving it (e.g., Complainant, Respondent, Complainant's Advisor, Respondent's Advisor);
- o. 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;
- p. 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) should document all rationales for any changes made after the review and comment period;
- q. The Investigator(s) shares the report with the Title IX Coordinator for review and feedback;
- r. The Investigator will incorporate any relevant feedback, and the final report is then shared 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 are also provided with a file of any directly related evidence that was not included in the report

2. **Role and Participation of Witnesses in the Investigation**

Witnesses (as distinguished from the parties) who are employees of the University are expected to cooperate with and participate in the University's investigation and resolution process. Failure of such witnesses to cooperate with and/or participate in the investigation or resolution process constitutes a violation of policy and may warrant discipline.

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

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

3. **Recording of Interviews**

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

4. **Evidentiary Considerations in the Investigation**

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

5. **Referral for Hearing**

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

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

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

L. **HEARING PROCESS**

1. Hearing Decision-Maker Composition

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

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

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.

2. Evidentiary Considerations in the Hearing

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

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

The parties may each submit a written impact statement prior to the hearing for the consideration of the Decision-maker(s) at the sanction stage of the process when a determination of responsibility is reached.

After post-hearing deliberation, the Decision-maker renders a determination based on the preponderance of the evidence; whether it is more likely than not that the Respondent violated the Policy as alleged. This determination will also include sanctions to be imposed.

3. Notice of Hearing

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

The notice will contain:

- a. 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.
- b. The time, date, and location of the hearing and a reminder that attendance is mandatory, superseding all other campus activities.

- c. Any technology that will be used to facilitate the hearing.
- d. 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.
- e. 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. This must be raised with the Title IX Coordinator at least two (2) business days prior to the hearing.
- f. Information on how the hearing will be recorded and on access to the recording for the parties after the hearing.
- g. 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). For compelling reasons, the Chair may reschedule the hearing.
- h. Notification that the parties may have the assistance of an Advisor of their choosing at the hearing and will be required to have one present for any questions they may desire to ask. The party must notify the Title IX Coordinator if they do not have an Advisor, and SIUC will appoint one. Each party must have an Advisor present. There are no exceptions.
- i. A copy of all the materials provided to the Decision-makers about the matter, unless they have been provided already.
- j. 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.
- k. 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.
- l. Whether parties can/cannot bring mobile phones/devices into the hearing.

Hearings for possible violations that occur 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 term will typically be held immediately after the end of the term or during the summer, as needed, to meet the resolution timeline followed by the University.

4. Alternative Hearing Participation Options

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

The Title IX Coordinator 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.

5. Pre-Hearing Preparation

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 at least ten (10) business days prior to the hearing.

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. The same holds for any evidence that is first offered at the hearing. If the parties and Chair do not 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.

The parties will be given a list of the names of the Decision-maker(s) at least five (5) business days in advance of the hearing. 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 one day 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 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 cannot make an objective determination must recuse themselves from the proceedings when notified of the identity of the parties, witnesses, and Advisors 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 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 prehearing meeting or at the hearing and will be exchanged between each party by the Chair.

6. Pre-Hearing Meetings

The Chair may convene a pre-hearing meeting(s) with the parties and/or their Advisors to invite them to submit the questions or topics they (the parties and/or their Advisors) wish to ask or discuss at the hearing, so that the Chair can rule on their relevance ahead of time to avoid any improper evidentiary introduction in the hearing or 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 must document and share with each party their rationale for any exclusion or inclusion at a pre-hearing meeting.

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

At each pre-hearing meeting with a party and their Advisor, the Chair will consider arguments that evidence identified in the final investigation report as relevant is, in fact, not relevant. Similarly, evidence identified as directly related but not relevant by the Investigator(s) may be argued to be relevant.

The Chair may rule on these arguments pre-hearing and will exchange those rulings between the parties 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 be recorded.

7. Hearing Procedures

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

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

8. Joint Hearings

In hearings involving more than one Respondent or in which two (2) or more Complainants have accused the same individual 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 pertinent to each Respondent 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.

9. The Order of the Hearing – Introductions and Explanation of Procedure

The Chair explains the procedures and introduces the participants. This may include 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 will review and decide the challenge.

The Chair AND/OR hearing facilitator then conducts the hearing according to the 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 are 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.

10. 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.

11. 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. Parties will not be allowed to cross-examine. If a party does not have an advisor, one will be provided by SIUC.

The Chair may invite explanations or persuasive statements regarding relevance with the Advisors, if the Chair so chooses. The Chair will then state their 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 consult with legal counsel on any questions of admissibility. The Chair may ask Advisors to frame 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 Decisionmaker at the hearing, the Chair may elect to address those issues, consult with legal counsel, and/or refer them to the Title IX Coordinator, and/or preserve them for appeal. If bias is not in issue at the hearing, the Chair should not permit irrelevant questions that probe for bias.

12. Refusal to Submit to Cross-Examination and Inferences

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

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

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

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

If charges of policy violations other than Prohibited Conduct are considered at the same hearing, the Decision-maker(s) may consider all evidence it deems 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.

If a party's Advisor of choice refuses to comply with the University's established rules of decorum for the hearing, SIUC 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.

13. Recording Hearings

Hearings (but not deliberations) are 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.

14. Deliberation, Decision-making, and Standard of Proof

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 is used for all complaints. 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 Decisionmaker(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(ies). The Decision-maker(s) may – at their discretion – consider the statements, but they are not binding.

The Decision-maker(s) will review the statements and any pertinent conduct history provided by appropriate administrator and will determine the appropriate sanction(s)[in consultation with other appropriate administrators.

The Chair will then prepare a written deliberation statement and deliver it to the Title IX Coordinator, detailing the determination, rationale, the evidence used in support of its determination, the evidence not relied upon in its determination, credibility assessments, and any sanctions.

This report must be submitted to the Title IX Coordinator within seven (7) 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.

15. Notice of Outcome

Using the deliberation statement, the Title IX Coordinator will work with the Chair to prepare a Notice of Outcome. The Title IX Coordinator will then share the letter, including the final determination, rationale, and any applicable sanction(s) with the parties and their Advisors within seven (7) business days of receiving the Decisionmaker(s)' deliberation statement.

The Notice of Outcome will then be shared with the parties simultaneously. Notification will be made in writing and may be delivered by one or more of the following methods: in person, mailed to the local or permanent address of the parties as indicated in official University records, or emailed to the parties' SIUC-issued email or otherwise approved account. Once mailed, emailed, and/or received in-person, notice 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 misconduct report 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; any sanctions issued which the University is permitted to share according to state or federal law; and any remedies provided to the Complainant designed to ensure access to the University's educational or employment program or activity, to the extent the University is permitted to share such information under state or federal law (this detail is not typically shared with the Respondent 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. The Notice of Outcome will become final either on the date that the University provided the parties with the determination of the appeal, if an appeal is filed, or if an appeal is not filed, on the date on which an appeal would no longer be accepted.

16. Sanctions

Factors considered 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 Harassment, Sexual Misconduct, Sexual Assault, Dating Violence, Domestic Violence, Stalking, and/or retaliation
- The need for sanctions/responsive actions to prevent the future recurrence of sexual harassment, Sexual Misconduct, Sexual Assault, Dating Violence, Domestic Violence, Stalking, and/or retaliation
- The need to remedy the effects of the sexual harassment, Sexual Misconduct, Sexual Assault, Dating Violence, Domestic Violence, Stalking, and/or retaliation on the Complainant and the community
- The impact on the parties
- Any other information deemed relevant by the Decision-maker(s)

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

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

a. Student Sanctions

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

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

University for a stated period of time. While suspended, a student is barred from all University premises and is prohibited from participating in University-sponsored activities. A notation of the imposition of this sanction is made on the student's transcript at the time the suspension is enacted. Suspension is imposed for a period of time appropriate for the type of violation and the student's history of violations of this Code. Prior to the lifting of a suspension, all other imposed sanctions must be completed, unless otherwise noted in the written notification of sanctions or at the discretion of the Office of Student Rights and Responsibilities.

- iii. Expulsion – Permanent, involuntary separation from the University. When expelled, a student is barred from all University premises and is prohibited from participating in University-sponsored activities. A notation of the imposition of this sanction is made on the student's transcript at the time that the expulsion is enacted.
- iv. Alteration of Housing Status – An administrative restriction which prohibits a student from entering or residing in a specified building, area or from all property owned, operated, leased or controlled by University Housing. Students are responsible for any administrative costs associated with this sanction, including any specified penalties associated with breaking a contract with University Housing. This sanction may only be imposed with approval from the Director of University Housing.
- v. Class, Activity or Workshop – Required attendance in a class, activity or workshop designed to educate students as to the risks and consequences of exhibited behaviors. Any assigned classes shall be non-credit and will not be reflected on a student's transcript. The student is responsible for any costs associated with participation in a class, activity or workshop.
- vi. Community Service – Completion of a specified number of community service hours. Specific requirements, such as location or type of service or specific verification requirements, may be imposed by the Administrator. These hours may not be used to meet any other organizational service hours or philanthropic requirement.
- vii. Mandated Assessment – A mandatory assessment by one or more units of the University or by a licensed health care provider in the community. Based upon such an assessment and upon the recommendation of the provider, a student may be required to attend follow-up meetings, sessions or assessments. The student is required to authorize the provider to share relevant information

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

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

b. Organizational Sanctions: Any sanction permitted for violations of the Student Conduct Code. Deactivation, loss of recognition, loss of some or all privileges (including University registration) for a specified period of time.

c. Employee Sanctions/Responsive Actions: Responsive actions for an employee who has engaged in Prohibited Conduct shall be in accordance with any applicable collective bargaining agreement. If disciplinary action is to be taken, discipline shall be pursuant to the applicable collective bargaining agreement.

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

17. Withdrawal or Resignation While Charges Pending

Students: Should a student decide to not participate in the resolution process, the process proceeds absent their participation to a reasonable resolution. Should a student Respondent permanently withdraw from the University the resolution process ends, as SIUC no longer has disciplinary jurisdiction over the withdrawn student.

However, SIUC will continue to address and remedy any systemic issues, variables that may have contributed to the alleged violation(s), and any ongoing effects of the alleged Prohibited Conduct. The student who withdraws or leaves while the process is pending and decides to not engage in the process to conclusion may not return to SIUC. A hold will be placed on their ability to be readmitted. They may also be barred from University property and/or events.

If the student Respondent only withdraws or takes a leave for a specified period of time (e.g., one semester or term), the resolution process may continue remotely and that student is not permitted to return to SIUC unless and until all sanctions have been satisfied.

If an employee Respondent resigns with unresolved allegations pending, the resolution process ends, because the University no longer has disciplinary jurisdiction over the resigned employee. However, the University will continue to address and remedy any systemic issues, variables that contributed to the alleged Prohibited Conduct, and any ongoing effects of the alleged harassment or retaliation.

M. **APPEALS**

1. Grounds for Appeal.

Appeals are limited to the following grounds:

- a. Procedural irregularity that affected the outcome of the matter;
- b. New evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made, that could affect the outcome of the matter;
- c. 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 that affected the outcome of the matter; and
- d. The sanctions are disproportionate to the violation.

2. Filing and Appeal.

Any party may file an appeal by submitting the appeal in writing to the Title IX Coordinator within seven (7) business days of the delivery of the Notice of Outcome. A single Appeal Decision-maker will Chair the appeal. No Decision-maker will have been involved in the process previously, including any dismissal appeal that may have been heard earlier in the process.

3. Review by Appeal Chair.

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

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

If any of the grounds in the Request for Appeal meet the grounds in this Policy, then the Appeal Chair 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).

4. Notice of Appeal.

The other party(ies) and their Advisors, the Title IX Coordinator, and, when appropriate, the Investigators and/or the original Decision-maker(s) will be mailed, emailed, and/or provided a hard copy of the request with the approved grounds. The non-appealing parties will be given seven (7) business days to submit a response to the Title IX Coordinator of that the portion of the appeal that was approved and involves them. All responses will be forwarded by the Chair to all parties for review and comment. At that time, the non-appealing party (if any) may also choose to raise a new ground for appeal. If a non-appealing party(ies) raises new grounds, the new appeal will be reviewed to determine if it meets the grounds in this Policy by the Appeal Chair and either denied or approved. If approved, it will be forwarded to the party who initially requested an appeal, the Investigator(s) and/or original Decision-maker(s), as necessary, who will submit their responses in seven (7) business days, which will be circulated for review and comment by all parties. Neither party may submit any new requests for appeal after this time period.

The Appeal Chair will collect any additional information needed and all documentation regarding the approved grounds and the subsequent responses. The Chair will render a decision in no more than seven (7) business days, unless the Chair requests an extension to respond from the Title IX Coordinator. The Title IX Coordinator will notify the parties of any extensions and the reason(s) therefore. The Appeal Chair will apply the preponderance of the evidence standard.

5. Appeal Considerations

Decisions on appeal 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.

- a. 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.
- b. An appeal is not an opportunity for the Appeal Chair to substitute their judgment for that of the original Decision-maker(s) merely because they disagree with the finding and/or sanction(s).
- c. The Appeal Chair 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.
- d. 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, decided on appeal.
- e. Once an appeal is decided, the outcome is final: further appeals are not permitted.
- f. In rare cases where a procedural or substantive error cannot be cured by the original Decision-maker(s) (as in cases of bias), the appeal may order a new hearing with a new Decision-maker(s).
- g. The results of a new hearing can be appealed, once, on any of the three available appeal grounds.
- h. In cases in which the appeal results in reinstatement to the University or resumption of privileges, all reasonable attempts will be made to restore the University to their prior status, recognizing that some opportunities lost may be irreparable in the short term.

6. Appeal Decision

The decision of the Chair on the Appeal(s) will be sent to all parties simultaneously, including the decision on each approved ground and rationale for each decision. The Appeal decision will specify the finding on each ground for appeal, 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 SIUC is permitted to share under state or federal law.

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

7. Sanctions Status During the Appeal

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

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

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

8. Long-Term Remedies/Other Actions

Following the conclusion of the resolution process, 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 the Prohibited Conduct, remedy the effects, and prevent reoccurrence. At the discretion of the Title IX Coordinator, certain long-term support 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.

SIU will maintain the privacy of any long-term remedies/actions/measures, provided privacy does not impair SIUC's ability to provide these services.

N. FAILURE TO COMPLY WITH SANCTIONS and/or INTERIM AND LONGTERM REMEDIES/ RESPONSIVE ACTIONS

All Respondents are expected to comply with the assigned sanctions, responsive actions, and/or corrective actions within the timeframe specified by the final Decision-maker(s) (including the Appeal Chair).

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

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

O. RECORDKEEPING

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

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

P. DISABILITY ACCOMMODATIONS IN THE RESOLUTION PROCESS

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

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

III. **REVISION OF THIS POLICY AND PROCEDURES**

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

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

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

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

Attribution

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

ATIXA 2020 INTERIM MODEL SEXUAL HARASSMENT POLICIES AND PROCEDURES
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STANDARDS OF CONDUCT

The University considers the behavior described in the following subsections as inappropriate for the University community higher standards. These expectations and rules apply to all students, as defined by the University. The University encourages community members to report to University officials all incidents that involve the following actions. Any student found to have committed or to have attempted to commit the following misconduct is subject to the sanctions outlined in this Code.