

Policy Title:	Equal Opportunity, Harassment, and Sexual Misconduct Policy ¹
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Approved By:	President	Next Review:	September 2023
Related Policy:	Consensual Relationships and Conflicts of Interest (GEN.012)		

Revision History

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	Initial version	May 2016
1	Revision	October 2017
2	Revision	December 2018
3	Revision	September 2019
4	Revision	September 2020
5	Revision	September 2021
6	Revision	September 2022

A. Purpose – Introduction and Scope of Policy

Southern Oregon University (SOU) affirms its commitment to promote the goals of fairness and equity in all aspects of the educational enterprise. All policies below are subject to resolution using the SOU Equity Grievance Process (EGP), as detailed below. The EGP is applicable regardless of the status of the parties

¹ In the event that another University policy or rule is deemed inconsistent with the policy, the requirements of this policy shall prevail.

involved, who may be members or non- members of the campus community, students, student organizations, faculty, administrators or staff. SOU reserves the right to act on incidents occurring on property owned, controlled or used by SOU as well as conduct occurring away from property owned, controlled or used by SOU when the conduct could have an impact on SOU by acting to limit or deny a student's ability to participate in or benefit from an educational program.

The Director of Equity Grievance/Title IX Coordinator oversees implementation of the University's policy on equal opportunity, harassment, sexual misconduct and nondiscrimination and manages the processes, participation, and implementation of the EGP. The Director of Equity Grievance/Title IX Coordinator acts with independence and authority and oversees all resolutions under this policy free from bias and conflicts of interest.

Reports of discrimination, harassment and retaliation should be made promptly to the Director of Equity Grievance/Title IX Coordinator, though reporting parties are welcome to contact any Deputy Title IX Coordinator or Investigator to begin the process. A list of persons serving as Equity Grievance Team members and Deputy Title IX Coordinators can be found at the end of this policy. Collectively, all these persons comprise the "Equity Grievance Team." While timely reporting is encouraged, there is no time limitation on the filing of grievances.² All reports are acted upon promptly with every effort made by the University to preserve the privacy of reports. Reporting is addressed more specifically in Section A7, below. Reports of discrimination by the Director of Equity Grievance/Title IX Coordinator should be reported to the University President.

This policy applies to behaviors that take place on property owned, controlled or used by SOU campuses (Ashland and Medford), at University-sponsored events, and may also apply to all other acts or omissions that (1) with regard to behaviors that impact students, limit or deny a student's ability to participate in or benefit from an educational program or (2) with regard to behaviors that impact non-student employees, constitute employment-related harassment or discrimination as defined by state and federal law (including but not limited to actions occurring away from University property or occurring online).

If the Respondent is unknown or is not a member of the SOU community, the Director of Equity Grievance/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 the SOU community, supportive measures, remedies, and resources may be accessible to the Complainant by contacting the Director of Equity Grievance/Title IX Coordinator or any member of the Equity Grievance Team.

In addition, SOU may take other actions as appropriate to protect the Complainant against third parties,

² However, it is important that complainants and potential complainants be aware that the University's ability to gather important information in response to a report, convene a hearing with necessary parties and witnesses, or pursue remedies against respondents may be hampered by the passage of time.

such as barring individuals from SOU property and/or events.

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

Similarly, the Director of Equity Grievance/Title IX Coordinator may be able to advocate for a student or employee Complainant who experiences discrimination in an externship, study abroad program, or other environment external to SOU where sexual harassment or nondiscrimination policies and procedures of the facilitating or host organization may give recourse to the Complainant.

While this policy addresses impermissible forms of discrimination and harassment, this policy is not intended to affect communications or expressions that are protected by the federal or state constitutions and shall not prohibit the lawful exercise of freedom of expression and academic freedom. A substantial University or educational interest that can be impacted by prohibited discrimination or harassment is defined to include but is not limited to:

1. Any action that constitutes criminal offense as defined by federal or state law. This includes, but is not limited to, single or repeat violations of any local, state or federal law committed in the municipality where the University is located;
2. Any situation where it appears that the accused individual may present a danger or threat to the health or safety of self or others;
3. Any situation that significantly impinges upon the rights, property or achievements of self or others or significantly breaches the peace or causes social disorder; and/or
4. Any situation that is detrimental to the educational interests of the University, including those of its students, faculty or staff, or violates University policy.
- 5.

Any online postings or other electronic communication by students, including cyber-bullying, cyber-stalking, cyber-harassment, etc., occurring completely outside of the University's control (e.g., not on University networks, websites or between SOU email accounts) will be subject to this policy when those online behaviors can be shown to be detrimental to a substantial University or educational interest of SOU.

Off-campus speech by employees may be regulated by the University when such speech is so severe, pervasive, or objectively offensive such that it can be said to constitute discrimination or harassment that (1) with regard to behaviors that impact students, limit or deny a student's ability to participate in or benefit from an educational program or (2) with regard to behaviors that impact non-student employees, constitute employment related harassment or discrimination as defined by state and federal law.

B. Policy Statement

A. SOU POLICIES ON HARASSMENT, SEXUAL MISCONDUCT AND OTHER FORMS OF DISCRIMINATION

1. Southern Oregon University Policy on Nondiscrimination

SOU adheres to all federal and state civil rights laws banning discrimination in institutions of higher education. SOU will not discriminate against any employee, applicant for employment, student or applicant for admission on the basis of race, religion, hearing status, color, sex, pregnancy, political affiliation, religion, creed, ethnicity, national origin (including ancestry), citizenship status, physical or mental disability, body size, age, marital status, family relationship, sexual orientation, gender, gender identity or expression, veteran or military status (including special disabled veteran, Vietnam-era veteran, or recently separated veteran), predisposing genetic characteristics, domestic violence victim status or any other protected category under applicable local, state or federal law, including protections for those opposing discrimination or participating in any grievance process on campus or within the Equal Employment Opportunity Commission or other human rights agencies.

This policy covers nondiscrimination in employment and in access to educational opportunities. Therefore, any member of the campus community, guest or visitor who acts to deny, deprive or limit the educational, employment, residential or social access, benefits or opportunities of any member of the campus community on the basis of their actual or perceived membership in the protected classes listed above is in violation of the University policy on nondiscrimination. When brought to the attention of the University, any such discrimination will be appropriately remedied by the University according to the procedures below and any applicable collective bargaining agreement.

2. Southern Oregon University Policy on Accommodation of Disabilities

SOU is committed to full compliance with the Americans With Disabilities Act of 1990 (ADA) and Section 504 of the Rehabilitation Act of 1973, which prohibit discrimination against qualified persons with disabilities, as well as other applicable federal and state laws pertaining to individuals with disabilities. Under the ADA and its amendments, a person has a disability if they have a physical or mental impairment that substantially limits a major life activity. The ADA also protects individuals who have a record of a substantially limiting impairment or who are regarded as disabled by the institution whether qualified or not. A substantial impairment is one that significantly limits or restricts a major life activity such as hearing, seeing, speaking, breathing, performing manual tasks, walking or caring for oneself.

The Director of Human Resources has been designated as the ADA/504 Coordinator responsible for coordinating efforts to comply with these disability laws, including investigation of any grievance of noncompliance. Grievances concerning the denial of a student accommodation request or the failure to provide an approved accommodation are addressed using the process set forth in the Student Accommodation Request and Grievance Policy and Procedure (SAD.017). Grievances alleging institutional discrimination against individuals with disabilities will be appropriately remedied by the procedures set forth in this policy (GEN.009).

a) Students with Disabilities

SOU is committed to providing qualified students with disabilities with reasonable accommodations and support needed to ensure equal access to the academic programs and activities of the University.

All accommodations are made on a case-by-case basis using the process set forth in the Student Accommodation Request and Grievance Policy and Procedure (SAD.017). A student requesting any accommodation should first contact the Office of Disability Resources to coordinate services for students with disabilities. This office will review documentation provided by the student and, in consultation with the student, determines which accommodations are appropriate to the student's particular needs and academic programs.

b) Employees with Disabilities

Pursuant to the ADA, SOU will provide reasonable accommodation(s) to all qualified employees with known disabilities, where their disability affects the performance of their essential job functions, except where doing so would be unduly disruptive or would result in undue hardship.

An employee with a disability is responsible for requesting an accommodation in writing from the Director of Human Resources and must provide appropriate documentation. The Director of Human Resources will appoint someone to work with the employee's supervisor to identify which essential functions of the position are affected by the employee's disability and what reasonable accommodations could enable the employee to perform those duties.

3. Southern Oregon University Policy on Discriminatory Harassment

Students, staff, administrators, and faculty are entitled to a working environment and educational environment free of discriminatory harassment.

SOU's policy against harassment is not meant to inhibit or prohibit educational content or discussions inside or outside of the classroom that include germane, but controversial or sensitive subject matters protected by academic freedom. The sections below describe the specific forms of legally prohibited harassment that are also prohibited under University policy, although the following definitions are not necessarily synonymous with the definitions under criminal laws.

a) Discriminatory and Bias-Related Harassment

Harassment constitutes a form of discrimination that is prohibited by federal and state law as well as SOU policy. SOU has a responsibility to investigate and, where harassment is identified, take action to address all forms of harassment, whether or not harassment rises to the level of creating a hostile environment. When harassment rises to the level of creating a hostile environment, the University may also impose sanctions on the harasser. The University's policy against harassment explicitly prohibits any form of harassment, defined as unwelcome conduct on the basis of actual or perceived membership in a protected class, by any member or group of the community.

A hostile environment may be created by oral, written, graphic, or physical conduct that is sufficiently severe, persistent/pervasive and objectively offensive that it interferes with, limits or

denies the ability of an individual to participate in or benefit from educational programs or activities or employment access, benefits or opportunities.³

b)

Offensive conduct or harassment that does not rise to the level of discrimination, or that is of a generic nature not on the basis of a protected status, may not result in the imposition of discipline under University policy, but may still be addressed through civil confrontation, progressive discipline, remedial actions, education, restorative justice or effective conflict resolution mechanisms as described in the policy and other applicable University procedures.

An informed and well-trained campus community is everyone's responsibility. The University reserves the right to require additional training of students and employees, individually or collectively, in furtherance of its legal and ethical duty to provide preventive education programming, regardless of whether any particular report, issue or concern has resulted in an investigation, hearing or finding of responsibility.

The University condemns and will not tolerate discriminatory harassment against any employee, student, visitor or guest on the basis of any status protected by University policy or law.

c) Sexual Harassment

The Department of Education's Office for Civil Rights (OCR), the Equal Employment Opportunity Commission (EEOC), and the State of Oregon regard Sexual Harassment, a specific form of discriminatory harassment, as an unlawful discriminatory practice. SOU has adopted the following definition of Sexual Harassment in order to address the unique environment of an academic community, which consists not only of employer and employees, but of students as well.

Anyone experiencing sexual harassment in any University program is encouraged to report it immediately to the University's Director of Equity Grievance/Title IX Coordinator or to one of the other many members of the Equity Grievance Team listed at the end of this policy.

Sexual harassment creates a hostile environment, and may be disciplined when it is sufficiently severe, persistent/pervasive and objectively offensive that it (a) has the effect of unreasonably interfering with, denying or limiting employment opportunities or the ability to participate in or benefit from the University's educational, social or residential program, and (b) is based on power differentials (quid pro quo), the creation of a hostile environment or retaliation through any verbal, written, online or physical conduct.

Acts of sexual harassment may be committed by any person upon any other person, regardless of the sex, sexual orientation, and/or gender identity of those involved.

Sexual Harassment is unwelcome conduct of a sexual nature. Sexual harassment can include unwelcome sexual advances, requests for sexual favors, or other verbal, nonverbal or physical

³ This definition of hostile environment is based on Federal Register / Vol. 59, No. 47 / Thursday, March 10, 1994: Department of Education Office for Civil Rights, Racial Incidents And Harassment Against Students At Educational Institutions; Investigative Guidance. The document is available at <http://www.ed.gov/about/offices/list/ocr/docs/race394.html>.

conduct of a sexual nature where such conduct is sufficiently severe or pervasive that it has the effect, intended or unintended, of unreasonably interfering with an individual's work or academic performance or it has created an intimidating, hostile or offensive environment and would have such an effect on a reasonable person.

Sexual Harassment is a form of sexual discrimination prohibited by a complex set of federal and state laws and regulations. Sexual Harassment can manifest in many types of conduct. The most well-known forms of Sexual Harassment include Hostile Environment, Quid Pro Quo, Sexual Assault and Rape. Below are thirteen specific offenses which may be alleged in the context of a Sexual Harassment complaint, investigation and hearing.

Each of these offenses constitutes a type of sexual discrimination and harassment. Either may be processed as a violation of University Policy that is governed by the requirements of Title IX or as a violation of University Policy to which Title IX does not apply. In either event, the following offenses constitute sexual discrimination and harassment offenses under this policy:

- 1) **Hostile Environment Sexual Harassment** is defined as (a) unwelcome conduct, as determined by a reasonable person⁴, that is (b) so severe, pervasive and objectively offensive that it (i) effectively denies a student equal access to SOU's education program or activity or (ii) has the purpose or effect of unreasonably interfering with an employee's work performance or creates an intimidating, hostile or offensive work environment.
- 2) **Quid Pro Quo Harassment** is defined as a circumstance where (a) a student or employee of SOU (b) conditions the provision of an aid, benefit or service of SOU (c) on another individual's participation in unwelcome sexual conduct.
- 3) **Sexual Assault** is defined as any sexual act directed against another person, without the consent of the Complainant, including instances in which the Complainant is incapable of giving consent.
- 4) **Non-Consensual Sexual Contact (Forcible Rape)** is defined as (a) penetration, no matter how slight, of the vagina or anus with any body part or object without consent of the Complainant or (b) oral penetration by the sex organ of another person without consent of the Complainant.
- 5) **Forcible Sodomy** is defined as (a) oral or anal intercourse with another person (b) that is undertaken either (i) forcibly and/or against that person's will (non-consensually) or (ii) not undertaken forcibly or against the person's will but occurs when the Complainant is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity.
- 6) **Sexual Assault with an Object** is defined as (a) the use of an object or instrument to penetrate, however slightly, (b) the genital or anal opening of the body of another person either (i) undertaken forcibly and/or against that person's will (non-consensually) or (ii) not undertaken forcibly or

⁴Unwelcomeness is subjective and determined by the Complainant (except when the Complainant is below the age of consent). Severity, pervasiveness and objective offensiveness are evaluated based on the totality of the circumstances from the perspective of a reasonable person in the same or similar circumstances ("in the shoes of the Complainant"), including the context in which the alleged incident occurred and any similar, previous patterns that may be evidenced.

against the person's will but occurs when the Complainant is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity.

- 7) **Sexual Assault Without Penetration (Forcible Fondling)** is defined as (a) the touching of the private body parts of another person (e.g., buttocks, groin, breasts) (b) for the purpose of sexual gratification, (c) either (i) forcibly and/or (ii) not forcibly or against the person's will in instances in which the Complainant is incapable of giving consent because of age or temporary or permanent physical incapacity.
- 8) **Sexual Assault Without Penetration (Non-forcible Intercourse)** is defined as incest or statutory rape. Incest is non-forcible sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law. Statutory Rape is non-forcible sexual intercourse with a person who is under the statutory age of consent of 18.
- 9) **Intimate Partner Violence** is defined as violence or threat of violence from one intimate partner toward another, including but not limited to (a) Coercion and Threats (making and/or carrying out threats to cause harm, such as physical, sexual and financial harm, threatening to commit suicide, making reports to authorities); (b) Intimidation (creating fear by using looks, gestures, and actions such as destroying possessions, displaying weapons, or physical posturing); or Physical Violence (intentionally causing harm to a person with whom the accused has been or is in a romantic or intimate relationship).
- 10) **Dating Violence** is a type of Intimate Partner Violence defined as 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 relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship. 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.
- 11) **Domestic Violence** is a type of Intimate Partner Violence and is defined as 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; by a person who is cohabitating with, or has cohabitated with, the Complainant as a spouse or intimate partner; by a person similarly situated to a spouse of the Complainant under the domestic or family violence laws of Oregon; or by another person against an adult or youth Complainant who is protected against that person's acts under the domestic or family violence laws of Oregon. 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. The people cohabitating must be current or former spouses or have/had an intimate relationship.
- 12) **Stalking** is defined as engaging in a course of conduct, on the basis of sex, directed at a specific person, that would cause a reasonable person to fear for the person's safety, or the safety of others, or suffer substantial emotional distress. For purposes of this definition:
 - a. "Course of conduct" means two or more acts, including but not limited to, acts in which the Respondent directly, indirectly, or through third parties, by any action, method, device, or means, follows monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with a person's property.
 - b. "Reasonable person" means a reasonable person under similar circumstances and with similar identities to the Complaint.
 - c. "Substantial emotional distress" means significant mental suffering or anguish that may but does not necessarily require medical or other professional treatment or counseling.

13) **Consensual Relationship/Power Imbalance** is any violation of the University Policy on Conflicts of Interest Specific to Consensual Relationships (FAD.006) and shall constitute a form of Sexual Harassment. The specific facts of each case shall determine whether it is determined to be a violation of Title IX, University Policy, or both.

As noted above, whether any specific acts constitute a violation of University Policy, violation of federal law or regulation under Title IX, or both shall be a fact-specific determination unique to each case.

c.) Consent

Consent is knowing, voluntary and clear permission, by word or action, to engage in mutually agreed upon sexual activity. Since individuals may experience the same interaction in different ways, it is the responsibility of each party to make certain that the other has consented before engaging in the activity. For consent to be valid, there must be a clear expression in words or actions that the other individual consented to that specific sexual conduct.

A person cannot consent if they are unable to understand what is happening or they are disoriented, helpless, asleep or unconscious for any reason, including due to alcohol or other drugs. An individual who engages in sexual activity when the individual knows, or should know, that the other person is physically or mentally incapacitated has violated this policy.

It is not an excuse that the individual responding party in a sexual misconduct case was intoxicated and, therefore, did not realize the incapacity of the other.

Incapacitation is defined as a state where someone cannot make rational, reasonable decisions because they lack the capacity to give knowing consent (e.g., to understand the "who, what, when, where, why or how" of their sexual interaction). This policy also covers a person whose incapacity results from mental disability, involuntary physical, mental or cognitive restraint or from the taking of incapacitating drugs.

Consent to some sexual contact (such as kissing or fondling) cannot be presumed to be consent for other sexual activity (such as intercourse). A current or previous dating relationship is not sufficient to constitute consent. Past consent does not imply future consent. Consent to engage in sexual activity with one person does not imply consent to engage in sexual activity with others. The existence of consent is based on the totality of the circumstances, including the context in which the alleged incident occurred and any similar previous patterns that may be evidenced. Silence or the absence of resistance alone is not consent. Coercion, force or the threat of either invalidates consent, regardless of timing. A person can withdraw consent at any time during sexual activity by expressing in words or actions that they no longer want the act to continue and, if that happens, the other person must stop immediately.

In Oregon, a minor (meaning a person under the age of 18 years) cannot consent to sexual activity except in limited circumstances dictated by law. This means that sexual contact by an adult with a person younger than 18 years old is generally a crime, as well as a violation of this policy, even if the minor engaged in the act willingly.

4. Southern Oregon University Policy on Other Civil Rights Offenses

In addition to the forms of sexual discrimination and harassment described above which may comprise conduct that falls within the jurisdiction of Title IX, SOU prohibits the following offenses as forms of discrimination outside of Title IX when the act is based upon the Complainant's actual or perceived membership in a protected class.

Certain acts are prohibited when they are based upon the status of an individual's protected class. The sections below describe specific types of these legally prohibited acts that are also prohibited under University policy.

Such prohibited acts include threatening or causing physical harm, extreme verbal abuse, or other conduct which threatens or endangers the health or safety of any person on the basis of their actual or perceived membership in a protected class. It is also important to note that all forms of Sexual Harassment listed above (pp. 6-8) that are not within the jurisdiction of the Title IX laws and regulations may be adjudicated as violations of this University Policy as Prohibited Harassment on the basis of sex.

- a) **Discrimination** is defined as actions that deprive other members of the community of educational or employment access, benefits or opportunities on the basis of their actual or perceived membership in a protected class;
- b) **Intimidation** is defined as implied threats or acts that cause a reasonable fear of harm in another on the basis of actual or perceived membership in a protected class;
- c) **Hazing** is defined as acts likely to cause physical or psychological harm to any person within the SOU community, when related to the admission, initiation, pledging, joining, or any other group-affiliation activity on the basis of actual or perceived membership in a protected class;
- d) **Bullying** is defined as repeated and/or severe aggressive behavior likely to intimidate or intentionally hurt, control or diminish another person, physically or mentally, on the basis of actual or perceived membership in a protected class;
- e) **Prohibited Harassment** is defined as severe or pervasive discriminatory conduct based on actual or perceived membership in a protected class, defined as non-verbal or physical, verbal, or online conduct where such conduct is sufficiently severe or pervasive that it has the effect, intended or unintended, of unreasonably interfering with an individual's work or academic performance or it has created an intimidating, hostile or offensive environment and would have such an effect on a reasonable person. For purposes of this policy, Prohibited Harassment prohibits discrimination on the basis of race, religion, hearing status, color, sex, pregnancy, political affiliation, religion, creed, ethnicity, national origin (including ancestry), citizenship status, physical or mental disability, body size, age, marital status, family relationship, sexual orientation, gender, gender identity or expression, veteran or military status (including special disabled veteran, Vietnam-era veteran, or recently separated veteran), predisposing genetic characteristics, domestic violence victim status or any other protected category under applicable local, state or federal law.
- f) **Sexual Exploitation** refers to a situation in which a person takes non-consensual or abusive sexual advantage of another, and situations in which the conduct does not fall within the definitions of Sexual Harassment (set forth on pp. 7-9 above). Examples of sexual exploitation include, but are

not limited to:

- Sexual voyeurism (such as watching a person undressing, using the bathroom or engaging in sexual acts without the consent of the person observed);
- Exceeding the boundaries of consent (e.g., taking pictures of or recording another in a sexual act, or in any other private activity without the consent of all involved in the activity, allowing another person to hide and observe sexual activity, or disseminating sexual pictures without the photographed person's consent);
- Prostitution of another person;
- Exposing one's genitals in non-consensual circumstances or inducing another to do so;
- Sexually-based stalking and/or bullying of another person;
- Engaging in sexual activity with another person while knowingly infected with human immunodeficiency virus (HIV) or other sexually transmitted disease (STD) and without informing the other person of the infection; and
- Engaging in sexual activity with another person where one has administered alcohol or drugs (such as "date rape" drugs) to another person without their knowledge or consent.

g) **Economic Abuse** in the context of domestic violence, dating violence, and abuse in later life, means behavior that is coercive, deceptive, or unreasonably controls or restrains a person's ability to acquire, use, or maintain economic resources to which they are entitled, including using coercion, fraud, or manipulation to:

- restrict a person's access to money, assets, credit, or financial information;
- unfairly use a person's personal economic resources, including money, assets, and credit, for one's own advantage;
- exert undue influence over a person's financial and economic behavior or decisions, including forcing default on joint or other financial obligations, exploiting powers of attorney, guardianship, or conservatorship, or failing or neglecting to act in the best interests of a person to whom one has a fiduciary duty.

h) **Technological Abuse** means an act or pattern of behavior that occurs within domestic violence, sexual assault, dating violence or stalking and is intended to harm, threaten, intimidate, control, stalk, harass, impersonate, exploit, extort, or monitor, except as otherwise permitted by law, another person, that occurs using any form of technology, including but not limited to: internet enabled devices, online spaces and platforms, computers, mobile devices, cameras and imaging programs, apps, location tracking devices, or communication technologies, or any other emerging technologies.

A violation of any other University rules, when a violation is motivated by sex or gender or by the actual or perceived membership of the victim in a protected class, may be pursued using this policy and process consistent with any applicable collective bargaining agreement.

Sanctions for the above-listed "Other Civil Rights Offenses" range from reprimand up through and including expulsion (students) or termination of employment (subject to relevant standards in applicable

collective bargaining agreements).

5. Southern Oregon University Policy on Retaliation

Retaliation is defined as any adverse action taken against a person participating in a protected activity because of their participation in that protected activity. Retaliation against an individual for alleging harassment, supporting a party bringing a grievance or for assisting in providing information relevant to a claim of harassment is a serious violation of SOU policy and will be treated as another possible instance of harassment or discrimination. Acts of alleged retaliation should be reported immediately to the Director of Equity Grievance/Title IX Coordinator, Angela Fleischer (or to one of the other members of the Equity Grievance Team listed at the end of this policy) so it may be promptly investigated.

SOU is prepared to take appropriate steps to protect individuals who fear that they may be subjected to retaliation.

6. Southern Oregon University Policy on Remedial Action

SOU will implement initial remedial and responsive and protective actions upon notice of alleged harassment, retaliation or discrimination. Such actions could include, but are not limited to: enacting no contact orders, providing counseling and medical services, providing academic support and/or accommodation, adjusting housing arrangements, providing campus escort, accommodating alterations to academic or work schedules and/or assignments, engaging in safety planning and referral to campus and community support resources.

SOU will take additional prompt remedial and/or disciplinary action with respect to any member of the campus community, guest or visitor who has been found to engage in harassing or discriminatory behavior or retaliation. Procedures for handling reported incidents are described below. Deliberately false and/or malicious accusations of harassment are just as serious an offense as harassment and will be subject to appropriate disciplinary action under the separate processes set forth by the Code of Student Conduct or applicable employee disciplinary policies or bargaining agreements.

7. Confidentiality and Reporting Options

SOU officials, depending on their roles at the University, have varying reporting responsibilities and abilities to maintain confidentiality. In order to make informed choices, one should be aware of limitations on confidentiality. Medical mental health professionals, who are employed as such at SOU, and other individuals specified by statute are afforded a confidential privilege by state and federal law and are excluded from required reporting of Title IX concerns. Additionally, SOU has designated professional positions as Confidential Advisors who are exempted by this policy from required Title IX reporting in order to provide confidential reporting options and advocacy. Confidential Advisors, the professionals in the Student Health and Wellness Center and Equity Coordinators (Certified Confidential Advocates) are not obligated to report crimes to the institution or law enforcement unless otherwise required to do so by state law.

Confidential Advisors provide confidential services to students and employees regarding Title IX matters and other forms of discrimination and harassment covered by this policy. Requests for arrangements made by Confidential Advisors do not constitute notice to a responsible employee for Title IX purposes, even when such advisors work only in the area of sexual assault.

a) The following describes the three reporting options at SOU:

1) Anonymous Reporting

Safe and anonymous reports may be made by victims and/or third parties using the online reporting form posted at https://sou.co1.qualtrics.com/jfe/form/SV_7R7CCBciGNL473L.

2) Confidential Reporting https://sou.co1.qualtrics.com/jfe/form/SV_7R7CCBciGNL473L

If a reporting party would like the details of an incident to be kept confidential, the reporting party may speak with on-campus Confidential Advisors, confidential resources on campus, off-campus local rape crisis counselors, domestic violence resources, or local or state assistance agencies, who will maintain confidentiality except in extreme cases of immediacy of threat or danger to a person or abuse of a minor. The Student Health and Wellness Center counselors and medical providers, and Equity Coordinators are available to help students and can be seen on an emergency basis during normal business hours. Campus Choice is SOU's program for addressing issues covered in this policy. Anyone affiliated with SOU can confidentially report through Confidential Advising in the Office of Equity Grievance. Advisors are able to maintain confidentiality and provide information on available options for students, staff, and faculty. Those serving as a confidential resource in the Equity Centers and the Student Health and Wellness Center will submit anonymous statistical information for Clery Act purposes unless they believe it would be harmful to the person they are advising.

After a formal grievance is submitted, both complainant and respondent will have access to a Process Advisor within the EGP. The Process Advisor is a member of the Equity Grievance Team, who will guide the parties in what to expect throughout the process. The Process Advisor does not provide confidential support or advocacy.

3) Formal Reporting Options

A formal report will be a signed complaint by the complainant or, in some circumstances, the Director of Equity Grievance/Title IX Coordinator. The party bringing a grievance is encouraged to speak to University officials, such as the Director of Equity Grievance/Title IX Coordinator, members of the Equity Grievance Team, and/or Confidential Advisors, to make formal reports of incidents of sexual misconduct, discrimination, harassment or retaliation. All reports are taken seriously by the University and will be investigated and properly resolved through these procedures. Formal reporting still affords privacy to the reporter, and only a small group of officials who need to know will be told. Information will be shared as necessary with investigators, witnesses, and the responding party. The circle of people with this knowledge will be kept as tight as possible to preserve the rights and privacy of the party bringing a grievance.

Reporting or sharing information with the University will trigger the formal reporting process, except as specified in section A.7.a 2 (Confidential Reporting).

b) **Campus Choice** (<https://sou.edu/equity-grievance/reporting/campus-choice/>)

Campus Choice is Southern Oregon University's system of addressing sexual assault, domestic violence, stalking, and intimate partner violence. Campus Choice serves students, staff and faculty.

Through Campus Choice, reporting parties receive coordination of care, help with whatever they need, options, information, care and education related to their specific situation. One does not need to make a report to receive help through Campus Choice.

Campus Choice Element #1

A person reporting a sexual assault is offered three options for reporting: Anonymous, Confidential and Formal.

- a. An Anonymous Report can be submitted by a reporting party through an online report that is directed to a Confidential Advisor. An Anonymous Report can also be submitted in person to a Confidential Advisor. Reporting parties can give as much information as they feel comfortable providing without submitting any identifying information.
- b. A Confidential Report can be submitted online or to a Confidential Advisor. This form of reporting can include a limited information report or a full report. At this time, the Confidential Advisor should offer to take a Formal Report from the reporting party.
- c. A Formal Report can be submitted to a Confidential Advisor at any time. A Formal Report is when the reporting party is choosing to participate in an administrative investigation and would like to participate in that process.
- d. At any time, a person submitting an Anonymous or Confidential Report can move their concern into a Formal Report.
- e. People who experienced a sexual assault are encouraged to report to a Confidential Advisor even if they do not intend to pursue an administrative process or a criminal justice process.
- f. Data collected from Anonymous and Confidential Reports will be reflected in Clery reporting, but the information reflected in the Clery report will not identify the reporting party or victim.

Campus Choice Element #2

A victim or other reporting party may remain anonymous and still have the information they provide documented by a Confidential Advisor.

- a. Sexual assault information received from any of the reporting options shall be documented in written form and retained in a way that best preserves a reporting party's options and supports retrieval at a later date.
- b. All information received on a reported sexual assault shall be documented regardless of the apparent credibility of the reporter or apparent veracity of the information being provided. Failure to document all available information inhibits the potential for increasing safety on

campus.

- c. The Confidential Advisor or other official will keep the person who experienced sexual assault informed regarding the status of the investigation resulting from a Formal Report.
- d. Reporting parties will be informed that all Formal Reports will require a complete investigative process. Reporting parties will be adequately informed about the limitations of the Anonymous and Confidential Reports.

Campus Choice Element #3

A victim or other reporting party may have questions answered regarding options for reporting, including an explanation of an administrative investigation and/or a criminal investigation, prior to providing any identifying or incident information.

- a. A Confidential Advisor will make inquiries to appropriate University personnel and outside agencies, including law enforcement, in order to answer questions of the reporting party regardless of whether they have provided identifying or incident information.

Campus Choice Element #4

When making a report there is no requirement to meet in person with a University official. For example, a victim or other reporting party may report using an online form.

Campus Choice Element #5

Reasonable efforts will be made to allow the reporting party control over the location, time and date where the initial report is made.

- a. If accommodations are unable to be made as requested by a victim or reporting party, then a clear explanation as to why will be given.
- b. The University will create space for law enforcement to conduct an interview on campus if the victim requests it.

Campus Choice Element #6

Reasonable efforts will be made to meet the needs of the reporting party and address any barriers the reporting party faces in providing a report.

- a. The Confidential Advisor will discuss any concerns the reporting party has about moving forward with an administrative or law enforcement investigation and work to address those barriers so the reporting party may feel comfortable with proceeding.
- b. Campus officials will conduct interviews in a trauma informed manner.
- c. In most cases, the Confidential Advisor will become the investigator for the complainant once they have submitted a Formal Report. The information shared with the Confidential Advisor will no longer be confidential at this point.

Campus Choice Element #7

Any University official interviewing the reporting and responding party shall be trained in Trauma Informed Interviewing, such as Forensic Experiential Trauma Interview training, and will employ this method of interviewing when working with the reporting and responding parties.

- a. Reasonable efforts shall be made to limit the number of times a complainant or respondent is interviewed regarding the assault.

- b. The participant's safety, cognitive impairment and mental health shall be taken into consideration prior to any interview.

Campus Choice Element # 8

All involved parties will be given information regarding the University's administrative process and the criminal justice process.

- a. When a report is made to a Confidential Advisor or investigator, the reporting party will receive detailed, accurate information about both the criminal justice system and the administrative process.
- b. The investigator will have specific and accurate knowledge of student conduct violations and criminal laws and statutes. The investigator cannot, however, provide legal advice to the reporter or others.
- c. The investigator must discuss any appropriate campus interim measures that may be taken by the University, the timeline for the process, and the various steps for the administrative process. This must include a safety check to assess the reporting party's immediate safety, the safety of others, and the ability of the victim to continue engaging in their role in the campus community.
- d. The investigator will provide clear and accurate information about the law enforcement reporting process. This will include a verbal explanation of the process and not be limited to a website or handout.
- e. If the reporting party would like accompaniment to law enforcement, the investigator may accompany or arrange for a community-based advocate to accompany the reporting party.

Campus Choice Element #9

Reasonable efforts will be made to meet the needs of the victim and address any barriers the victim faces when participating in sexual assault investigations with campus and law enforcement.

- a. Understanding that each victim's individual situation is unique, the investigator shall attempt to view the investigative process from the victim's perspective and not assume what barriers a victim faces when participating in an investigation.
- b. As barriers arise during an administrative or criminal justice investigation, reasonable efforts will be made by the University to address those barriers, such as housing, classes or employment accommodations.
- c. The investigator will, at the victim's request, collaborate with law enforcement to address any barriers to the criminal investigation.

Campus Choice Element # 10

After making a report, a victim or reporting party will not be pressured to participate or not participate in an administrative or criminal investigation.

- a. When a report is made to a Confidential Advisor, the reporting party will receive information and support regardless of whether they choose to pursue further action.

Campus Choice Element #11

After a formal report is given, no involved party shall be required to attend the administrative hearing, unless it is required by law in such cases that are categorized as violations under Title IX.

- a. The report taken by the investigator assigned to the complainant will serve as the representation

of the reporting party's account of what occurred; the report taken by the investigator assigned to the responding party will serve as representation for the accused if they choose not to attend, except in cases that fall into Title IX where hearing attendance is required.

- b. Once the report is written, the investigator for each party will verify the account has been reflected accurately.
- c. The University will not require any involved party to participate in a hearing. If any party would like to participate in the hearing, they may, but it will not be mandatory except in cases designated as Title IX where attendance is required by federal law.
- d. The investigator for either party will gather any supplemental information requested by the Director of Equity Grievance/Title IX Coordinator.

Campus Choice Element # 12

When reporting to a Confidential Advisor, a victim's right to confidentiality shall be respected.

- a. When legally permissible, no person shall be notified that the victim has reported without the victim's consent. This includes the interviewing of identified witnesses or respondents.

Campus Choice Element #13

University officials will collaborate with victims during the investigative process. As the law allows, investigations will be conducted at a pace set by the victim, not the University.

- a. The investigator will keep the victim of sexual assault informed regarding the status of the investigation.
- b. The investigator assigned to the responding party will keep the respondent informed regarding the status of the investigation.
- c. Reporting parties will be informed that no case can proceed without a complete investigative process. They will be adequately informed about the limitations of the information only report.

Campus Choice Element # 14

Campuses will have monthly collaborative meetings, including, but not limited to, Title IX Officials, Confidential Advisors, Campus Law Enforcement, Municipal Law Enforcement and Community Based Advocacy.

- a. The intention of these meetings is information sharing relating to sexual assault perpetration on campus while still respecting the requested level of confidentiality of victims.
- b. Information from these meetings can be used to formulate specific educational and prevention activities to increase the safety of the entire campus community.
- c. Information from these meetings can be used to take steps to eliminate a hostile environment and prevent further occurrences of sexual violence.
- d. These meetings will provide a venue for continuous evaluation to ensure that the University is providing adequate, reliable and impartial investigation for complaints.

8. Federal and State Timely Warning Obligations

Victims of sexual misconduct should be aware that SOU must issue timely warnings for reported incidents that pose a substantial threat of bodily harm or danger to members of the campus community. The University will make every effort to ensure that a victim's name and other identifying information are not disclosed, while still providing enough information for community members to make safety decisions in

light of the potential danger.

In addition, employees of SOU are considered by law to be mandatory reporters of child abuse, elder abuse or abuse of persons with disabilities. SOU employees are required by law to report incidents of abuse to the Oregon Department of Human Services or law enforcement whenever they have reasonable cause to believe that any person with such protected status with whom they come into contact has suffered abuse or that any person with whom they come into contact has abused such a person with protected status. A fuller description of the mandatory child abuse reporting obligation can be found at:

<https://inside.sou.edu/hrs/mandatorychildabusereporting.html>

B. PROCESS FOR RESOLVING GRIEVANCES OF HARASSMENT, SEXUAL MISCONDUCT AND OTHER FORMS OF DISCRIMINATION

Information on the website can be found at: <https://sou.edu/equity-grievance/>.

The University will act on any formal or informal grievance or notice of violation of the policy on Equal Opportunity, Harassment, and Sexual Misconduct received by the Equity Grievance Office, members of the administration, and/or any responsible employee that does not provide confidential or anonymous reporting options. Disclosures to confidential reporting options will, however, be kept confidential in the manner set forth in this policy.

The following individuals at the University are designated as responsible employees: Title IX Coordinator, Deputy Title IX Coordinators, Vice Presidents and members of the President's Cabinet, Division Directors, Program Chairs, Campus Security Authorities, Athletic Coaches, Office of the Dean of Students, Student Life (unless serving as a certified advocate), Housing Personnel, Faculty, and all employees serving in a supervisory capacity.

The procedures described below will apply to all grievances involving students, staff or faculty members. Unionized or other categorized employees will also be subject to the terms of their respective collective bargaining agreements/employees' rights to the extent those agreements do not conflict with federal or state compliance obligations. Usually, this means that a union member retains their right to grieve a disciplinary matter after it has been decided. Redress and requests for responsive actions for grievances brought involving non-members of the campus community are also covered by these procedures.

1. **Equity Grievance Panel (EGP)**

Members of the EGP are published online annually and the information is available to campus, prospective students, their parents and prospective employees. Members of the EGP are trained in all aspects of the grievance process and can serve in any of the following roles, at the direction of the Director of Equity Grievance/Title IX Coordinator or their designee:

- To serve on hearing panels for grievances.
- To serve on appeal panels for grievances.

EGP members also recommend proactive policies and serve in an educative role for the community. The Director of Equity Grievance/Title IX Coordinator appoints the panel, which reports to the Director of Equity Grievance/Title IX Coordinator or their designee. EGP members receive annual training organized by the Equity Grievance Team, including a review of University policies and procedures, so that they are able to provide accurate information to members of the community. All EGP members are required to attend this annual training. Information about panel members can be found here: <https://sou.edu/equity-grievance/panel-members/>.

The EGP includes:

- a. One Administrative Hearing Officer who is an ex officio member and oversees process and administration for EGP hearings for grievances involving student responding parties. Usually, the Director of Equity Grievance/Title IX Coordinator serves in this role.
- b. At least three members of the staff or faculty. The panels for any student, staff or faculty proceedings can be heard by any grouping of staff or faculty, who have been trained for this role.

2. Filing a Grievance

- a. Notification of Office of Equity Grievance

Any member of the campus community, guest or visitor who believes that the policy on Equal Opportunity, Harassment, and Sexual Misconduct has been violated should contact the Director of Equity Grievance/Title IX Coordinator or another member of the Equity Grievance Team listed at the end of this policy. Reports can be made via phone, email, mail or online. It is also possible for employees to notify a supervisor or for students to notify an administrative advisor or faculty member. Any member of the campus community may contact Campus Public Safety. These individuals will in turn notify the Director of Equity Grievance/Title IX Coordinator or designee. The University website also includes an online reporting form that may serve to initiate a grievance posted at: https://sou.col.qualtrics.com/jfe/form/SV_7R7CCBciGNL473L.

All responsible employees who become aware of an incident or receive reports of a potential violation of this University policy are expected to contact the Director of Equity Grievance/Title IX Coordinator or another member of the Equity Grievance Team (listed at the end of this policy) within **24 hours** of becoming aware of an incident or receiving a report. All initial contacts will be treated with the maximum possible privacy; specific information on any grievances received by any party will be reported to the Director of Equity Grievance/Title IX Coordinator, but, subject to the University's obligation to redress violations, every reasonable effort will be made to maintain the privacy of those initiating a grievance. In all cases, SOU will give consideration to the party bringing a grievance with respect to how the grievance is pursued, but reserves the right, when necessary to protect the community, to investigate and pursue a resolution when the party identifying a concern chooses not to initiate or participate in a formal grievance.

The procedures below apply to all allegations of harassment or discrimination on the basis of protected class status involving students, staff, administrators or faculty members.

b. Adjudicating Sexual Harassment as Violation of Policy Governed by Title IX Policy vs. Other University Policy

This policy is intended to address all forms of prohibited harassment and discrimination on SOU's campus and to provide a fair and thorough process for managing and reviewing complaints addressing such behaviors at the University. Many complaints that broadly fall in the category of sexual harassment are subject to that specific law and implementing regulations of the law known as Title IX. Title IX is, however, a complicated set of laws and legal expectations. So, as discussed below, most allegations of sexual harassment impacting the University are governed by Title IX and SOU adheres to the legal requirements when reviewing and managing those allegations and their related processes.

However, there are some incidents of sexual harassment that are not governed by Title IX. But that does not mean that such incidents of sexual harassment cannot violate University policies governing student or employee conduct. Incidents of sexual harassment that are not covered by Title IX may still violate University policy and will be adjudicated in the same manner as other forms of harassment and discrimination under this policy.

Conduct that falls within the jurisdiction of Title IX entitles the parties involved to certain additional procedural rights that are not required in cases governed by University policy. To fall within the jurisdiction of Title IX, such 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 includes any building (including off-campus buildings) owned or controlled by a student organization that is officially recognized by the University. An off-campus event (in the United States) such as an academic or professional conference may constitute a University Program or Activity if, for example, it is a University-sponsored event or the University otherwise maintains substantial control over the event and Title IX Prohibited Conduct occurs within the context of such an event. Study-abroad programs are not covered by Title IX regulations. Given the federal mandates of Title IX and its implementing regulations, the rights and obligations provided in this policy as it relates to Title IX necessarily supersede any conflicting rights or obligations provided in the bylaws or constitutions of the Faculty Senate or the Associated Students of Southern Oregon University (ASSOU) or any other SOU policy on disciplinary process, staff grievance procedures or other governing documents.

Conduct that falls outside the jurisdictional or definitional scope of Title IX, however, may still violate University Policy and may still be addressed through the complaint, investigation and hearing process described in this policy for all other (non-Title IX) forms of discrimination and harassment.

Where Title IX does not apply, the parties will not receive the exact same process as Title IX

parties. Rather, such matters will be treated as a violation of University Policy. Such parties will be provided the same rights and process as any other type of prohibited discrimination adjudicated under this policy.

If you have any questions about what these additional rights and processes are and whether they apply to a matter important to you, please contact SOU's Director of Equity Grievance/Title IX Coordinator.

Where Title IX applies, the parties will be afforded the additional processes required by that law. Those additional rights and processes are specified, where appropriate, throughout this policy.

c. Notification Regarding Title IX

Students will be notified as soon as reasonably possible when it is determined whether any alleged misconduct is governed by Title IX or not. Parties should take note that it is possible for a matter to begin as a Title IX matter only for the facts to reveal it is not a Title IX matter, or vice versa. SOU will promptly inform the parties of any changes to the applicability of Title IX throughout the process.

If it is determined that Title IX does not apply, the matter is only dismissed as a technical matter under Title IX and the matter is designated to proceed as a violation of University Policy. When a technical dismissal under the Title IX regulations is required, any remaining allegations will proceed using these same grievance procedures that apply to all non-Title IX discrimination and harassment covered by this policy.

Technical Dismissal Under Title IX: SOU must technically dismiss a formal complaint under Title IX 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 as defined in the Policy hereinabove, even if proved; and/or
- 2) The conduct did not occur in an educational program or activity controlled by SOU (including buildings or property controlled by recognized student organizations), and/or SOU does not have control of the Respondent; and/or
- 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 the University.

SOU may dismiss a formal complaint under Title IX 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; or
- 2) The Respondent is no longer enrolled in or employed by the University; or

- 3) Specific circumstances prevent the University from gathering evidence sufficient to reach a determination as to the formal complaint or allegations therein.

Upon any dismissal, SOU will promptly send written notice of the dismissal and the rationale for doing so simultaneously to the parties. However, alleged violations that are dismissed (as a technicality) as required by Title IX may still be adjudicated as violations of University Policy prohibiting sexual harassment and discrimination.

This dismissal decision is appealable by any party under the procedures for appeal below. The decision not to dismiss is also appealable by any party claiming that a dismissal is required or appropriate. A Complainant who decides to withdraw a complaint may later request to reinstate it or refile it.

3. Grievance Intake

A grievant, a responsible employee or Confidential Advisor (reporting a grievance in cooperation and with the approval of a grievant) can initiate the grievance process by submitting a complaint to the Director of Equity Grievance/Title IX Coordinator or another member of the Equity Grievance Team (see page 18). Following receipt of notice of an equity grievance, the Director of Equity Grievance/Title IX Coordinator⁵ will promptly initiate at least one of three responses:

- a. Offer supportive measures to the Complainant;
- b. An informal resolution; and/or
- c. A Formal Grievance Process including an investigation and likely hearing.

The Director of Equity Grievance/Title IX Coordinator will also assign an investigator to work with the person who brought the grievance. The investigator will also serve as the process advisor for the grieving party. The party bringing a grievance for any concern may choose an advisor of their own or elect to proceed without an advisor.

If the grievance does not appear to allege a policy violation or if conflict resolution is desired by the party bringing a grievance, and it appears appropriate given the nature of the alleged behavior, then the grievance does not proceed to investigation.

The University aims to complete all investigations within 120 business days⁶, which can be extended as necessary for appropriate cause by the Director of Equity Grievance/Title IX Coordinator with notice to the parties. Appropriate cause for extending such time objectives shall typically be limited to situations involving accommodation of criminal investigations, ensuring the health or safety of witnesses and other participants, ensuring availability of witnesses and other participants, ensuring participants have

⁵ If circumstances require, the University President or Title IX Coordinator may designate another person to oversee the process below, should a grievance be made against the Director of Equity Grievance/Title IX Coordinator or in the event that the Director is otherwise unavailable or unable to fulfill their duties.

⁶ Business days refer to days within the work-week, Monday through Friday, with the exception of federally recognized holidays. Participants who may be on break from the University or who are off contract may still be contacted in order to meet the timeliness standard for OCR investigations.

adequate access to hearing materials, and other reasons permissible under guidance issued by the Department of Education's Office for Civil Rights.

4. Investigation

If a party bringing a grievance wishes to pursue a formal grievance or if the University, based on the alleged policy violation, wishes to pursue a formal grievance, then the Director of Equity Grievance/Title IX Coordinator will determine whether the alleged misconduct falls within the scope of Title IX. If it does not fit within the scope of Title IX, it will be dismissed as a Title IX complaint in writing but may be pursued as an Other Civil Rights Offense in violation of University Policy. In either case, the Director of Equity Grievance/Title IX Coordinator will then designate which process advisors or other members of the Equity Grievance Team will conduct the investigation.

University action will not be precluded on the grounds that civil or criminal charges involving the same incident have been filed or that charges have been dismissed or reduced. All investigations will be thorough, reliable and impartial, and will seek the collection of witnesses and evidence directly or substantially relevant to whether the alleged policy violation occurred. Typically, this will entail interviews with relevant parties and witnesses, obtaining available evidence and identifying sources of expert information, if necessary.

Reporting and responding parties will have access to a Process Advisor, each of which is discussed above in Section A7 of the "SOU Policies on Harassment, Sexual Misconduct and Other Forms of Discrimination." Confidential Advisors may assume the role of Process Advisor for a reporting party *after* a formal or other report is made in a non-confidential setting. Employees represented by a union may have a union representative present during investigatory meetings or interviews.

5. Interim Remedies

If, in the judgment of the Director of Equity Grievance/Title IX Coordinator or designee, the safety or well-being of any member(s) of the campus community may be jeopardized by the presence on-campus of the accused individual or the ongoing activity of a student organization whose behavior is in question, the Director of Equity Grievance/Title IX or designee may provide interim remedies intended to address the short-term effects of harassment, discrimination and/or retaliation (i.e., to redress harm to the alleged victim and the campus community and to prevent further violations). These remedies may include, but are not limited to:

- referral to counseling and health services or to the Employee Assistance Program,
- education for the campus community or individuals,
- altering the housing situation of an accused student or resident employee (or the reporting party, if desired),
- altering work arrangements for employees,
- providing campus escorts,
- implementing contact limitations between the parties, and
- and offering adjustments to academic deadlines, course schedules, etc.

The University may suspend a student or student organization on an interim basis pending the completion of the investigation and procedures. In all cases in which an interim suspension is contemplated, the University will provide written notice to the student or student organization, conduct an individualized safety and risk analysis to determine whether an immediate threat exists to the physical health or safety of a student or other individual, and provide the opportunity to meet with the Director of Equity Grievance/Title IX and/or a designee to challenge the suspension being imposed.

The University may place an employee on administrative leave with pay, on an interim basis pending the completion of the investigation and procedures.

The Director of Equity Grievance/Title IX Coordinator has the discretion to implement or stay an interim suspension or administrative leave under this policy on Equal Opportunity, Harassment, and Sexual Misconduct, and to determine its conditions and duration. Violation of an interim suspension or administrative leave under this policy will be grounds for expulsion or termination.

Interim suspension or administrative leave will only be used when there is sufficient cause to believe there is an on-going safety risk to the Complainant and/or the SOU community.

During an interim suspension or administrative leave, a student or employee may be denied access to University Housing and/or the University campus/facilities/events. As determined by the Director of Equity Grievance/Title IX Coordinator or designee, this restriction includes classes and/or all other University activities or privileges for which the student or employee might otherwise be eligible. At the discretion of the Director of Equity Grievance/Title IX Coordinator or designee, alternative coursework options and/or other academic accommodations may be pursued to ensure as minimal an impact as possible on the accused student.

6. Grievance Resolution

If the Director of Equity Grievance/Title IX Coordinator decides that the evidence does not support reasonable cause (just or reasonable grounds to believe that a respondent has committed the alleged policy violation) to proceed to a hearing, then the process will end at the investigation stage. Under those circumstances, the party bringing a grievance can make a request that the Director of Equity Grievance/Title IX Coordinator make an extraordinary determination to re-open the investigation so that the complainant may identify additional information for consideration that would impact the decision to forward the matter for a hearing. This decision lies in the sole discretion of the Director of Equity Grievance/Title IX Coordinator, who will also base any decision to refer the matter for hearing on the reasonable cause standard.

If there is reasonable cause to proceed, then the Director of Equity Grievance/Title IX Coordinator may recommend conflict resolution, a resolution without a hearing, or a formal hearing, based on the criteria below. In cases falling within the scope of laws and regulations governed by Title IX, these alternate resolutions are not available to the parties once a formal complaint has been submitted.

a. Conflict Resolution

Conflict resolution is often used for less serious, yet inappropriate, behaviors and may be encouraged as an alternative to the formal complaint and hearing process to resolve conflicts when appropriate. The Director of Equity Grievance/Title IX Coordinator will determine if conflict resolution is appropriate, based on the willingness of the parties, the nature of the conduct at issue and the suitability of the conduct for conflict resolution. In a conflict resolution meeting, an EGP member or the Director of Equity Grievance/Title IX Coordinator will facilitate a dialogue with the parties to an effective resolution, if possible. The sanctions identified in Section B7e below may not be imposed as the result of a conflict resolution process, though the parties may agree to other appropriate remedies. The Director of Equity Grievance/Title IX Coordinator will keep records of any resolution that is reached and failure to abide by the accord can result in appropriate responsive actions.

Conflict resolution will not generally be used to address grievances of sexual misconduct or violent behavior of any kind identified in Section A3b of this policy or in other cases of serious violations of policy, though it may be made available after the formal process is completed should the parties and the Director of Equity Grievance/Title IX Coordinator believe that it could be beneficial. For non-Title IX matters, it is not necessary to pursue conflict resolution first in order to make a formal grievance and anyone participating in conflict resolution can stop that process at any time and request a formal hearing. As noted above, informal resolution is not available in Title IX matters after a formal complaint is submitted.

b. Resolution Without a Hearing

Resolution without a hearing can be pursued for any behavior that falls within the policy on Equal Opportunity, Harassment and Sexual Misconduct, at any time during the process, unless it falls within the scope of Title IX rules and regulations. The Director of Equity Grievance/Title IX Coordinator or designee will provide written notification of a grievance to any member of the University community who is accused of an offense of harassment, discrimination or retaliation. The Director of Equity Grievance/Title IX Coordinator or designee will meet with the responding individual and their Process Advisor to explain the outcome of the investigation and whether the matter has been referred for a hearing. Once informed, the responding party may choose to admit responsibility for all or part of the alleged policy violations at any point in the process. If so, the Director of Equity Grievance/Title IX Coordinator or designee will render a finding that the individual is in violation of University policy for the admitted conduct and will normally proceed to convene a formal hearing on any remaining disputed violations. For admitted violations, the Director of Equity Grievance/Title IX Coordinator will issue an appropriate sanction or responsive action.

c. Formal Hearing

Formal hearings will be initiated for any grievances not resolved through conflict resolution or resolution outside a hearing process (6a and 6b above) and in all instances of a formal Title IX complaint.

7. Formal EGP Procedure

In the absence of an informal resolution, the process will proceed to a formal EGP hearing.

Prior to the conclusion of the investigation, the Director of Equity Grievance/Title IX Coordinator will 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 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.

The Director of Equity Grievance/Title IX Coordinator and/or designee retains discretion to grant reasonable extensions upon notice to the complainant and respondent with regard to any deadline specified in this policy concerning the Investigation, Hearing, or Appeal process. Requests for extensions, to reschedule hearings, or any aspect of the process shall reasonably consider the interests and schedules of all parties involved, including the respondent, grievant, hearing panel and other participants.

a. Hearing Panels

The Director of Equity Grievance/Title IX Coordinator or designee will appoint three members of the EGP to the hearing panel, none of whom have been previously involved with the particular grievance. Investigators may be called upon to serve as witnesses in the hearing of the grievance and therefore may not serve as hearing panel members.

Hearing panels may include both faculty and non-faculty employees. The panel will meet at times determined by the Director of Equity Grievance/Title IX Coordinator. The Director of Equity Grievance/Title IX Coordinator retains discretion to allow parties to the hearing, witnesses, and members of a hearing panel to attend a hearing by electronic means.

b. Notification of Violations

At least 10 business days prior to the hearing, or as far in advance as is reasonably possible if an accelerated hearing is scheduled with the consent of the parties, the Director of Equity Grievance/Title IX Coordinator will send a letter to the parties with the following information. Once mailed, emailed and/or received in person, notice will be presumptively delivered. The letter will contain:

- 1) A description of the alleged violation(s) and a reference to the applicable policy wherein a party

can review the applicable procedures and potential sanctions/responsive actions that could result (i.e., Sections B.7.c and B.7.e of this policy).

- 2) The time, date and location of the hearing and a reminder that the parties have a right to attend is included in the notice. If any party does not appear at the scheduled hearing, the hearing will be held in their absence and sanctions may be imposed despite the party's absence. For compelling reasons, the Director of Equity Grievance/Title IX Coordinator may reschedule the hearing.
- 3) The parties may have the assistance of a support person, or other advisor, at the hearing. For employees represented by a union, the complainant or respondent may choose a union representative to serve as their advisor. The advisor may not make a presentation or represent the party bringing a grievance or responding party during the hearing. The parties to the hearing are expected to ask and respond to questions on their own behalf, without representation by their advisor. The advisor may consult with the advisee quietly or in writing, or outside the hearing during breaks, but may not speak on behalf of the advisee to the panel. In cases where the advisor is an attorney for a party to the grievance, the University may also elect to have counsel present at the hearing.
- 4) Hearings for possible violations that occur near or after the end of an academic term will be held immediately after the end of the term or during the summer, as needed, to meet the resolution timeline followed by the University and remain within the 120-day goal for resolution.

c. Hearing Procedures

EGP Hearings will be convened on a timely basis following completion of the investigation and will be conducted in private. The EGP has the authority to hear all collateral misconduct, meaning that it hears all allegations of discrimination, harassment and retaliation, but also may hear any additional alleged policy violations that have occurred in concert with the discrimination, harassment or retaliation, even though those collateral allegations may not specifically fall within EGP jurisdiction (e.g., Code of Student Conduct). Accordingly, investigations should be conducted with as wide a scope as necessary.

The Respondent is presumed to be not responsible for the alleged conduct until a determination is made by the panel. The University, not the parties, has the burden of collecting evidence and proving a violation of policy.

Hearing participants will include the Director of Equity Grievance/Title IX Coordinator, the three members of the panel, the investigator(s) who conducted the investigation on the grievance, the party bringing a grievance and responding party (ies) (or three organizational representatives in a case where an organization is charged), advisors to the parties, and any called witnesses. The Director of Equity Grievance/Title IX Coordinator will disclose to the parties the names of witnesses the University intends to call, all pertinent documentary evidence, written statements to be presented at the hearing, and any written summaries from the investigators at least ten (10) business days prior to the hearing. Information not disclosed prior to the hearing shall be excluded from the hearing; the parties have a responsibility to clearly identify directly relevant

witnesses and evidence to investigators reasonably in advance of the hearing so that participants can receive access to such information at least ten (10) business days prior to the hearing and witnesses can be contacted.⁷ In addition, the parties will be given a list of the names of each of the EGP panel members at least ten (10) business days in advance of the hearing. Should either (any) party object to any panelist, they must raise all objections, in writing, to the Director of Equity Grievance/Title IX Coordinator immediately. Panel members will only be unseated if the Director of Equity Grievance/Title IX Coordinator concludes that their bias precludes an impartial hearing of the grievance. Additionally, any panelist who feels they cannot make an objective determination must recuse them self from the proceedings when notified of the identity of the parties and all witnesses in advance of the hearing.

The Director of Equity Grievance/Title IX Coordinator, in consultation with the parties and investigators, may decide in advance of the hearing that certain witnesses do not need to be physically present if their testimony can be adequately summarized by the investigator(s) during the hearing. All parties will have ample opportunity to present facts and arguments in full and question all present witnesses during the hearing through the Director of Equity Grievance/Title IX Coordinator.

Once the procedures are explained and the participants are introduced, the Director of Equity Grievance/Title IX Coordinator will present the report of the investigation first and will respond to background questions about the investigation from the parties and the EGP. The summary of information gathered during the investigation is not binding on the panel. Undisputed material facts specified in the investigation report will not be revisited during other stages of the hearing, except as necessary to determine sanctions/responsive actions. The EGP will permit questioning of the parties and any present witness(es). Questions may be directed through the panel at the discretion of the Director of Equity Grievance/Title IX Coordinator. Formal rules of evidence will not apply. Any evidence that the panel reasonably believes is relevant and credible may be considered, including evidence of past discriminatory behavior or sexual misconduct. The Director of Equity Grievance/Title IX Coordinator will address any evidentiary concerns prior to and/or during the hearing, may exclude irrelevant or immaterial evidence and may ask the panel to disregard evidence lacking in credibility.

Evidence regarding the responding student's character intended for consideration as an aggravating or mitigating factor in the determination of sanctions may only be submitted in writing and will only be reviewed by the EGP after the EGP has reached a finding of responsibility. Such

⁷ Where possible, the Director of Equity Grievance/Title IX Coordinator will provide copies of the evidence to be presented at the hearing to the parties ten (10) business days prior to the hearing. However, some documents may constitute confidential or protected information under state or federal law, including but not limited to the Family Educational Rights and Privacy Act. If such documents are protected by state or federal law from disclosure outside of the proceedings, the University will allow the parties an opportunity to review such information at least three business days prior to the hearing and at the hearing, but will not provide copies of such documents for the parties to retain.

aggravating and mitigating evidence may include evidence of past misconduct by the respondent or letters of support evidencing the respondent's propensity for good character. Such evidence must be presented at the hearing and may not be submitted as new information during the appeal.

The Director of Equity Grievance/Title IX Coordinator will determine all questions of procedure and evidence. Any third parties appearing at the hearing to provide information will respond to questions on their own behalf.

Except as expressly allowed by this policy, no one will present information, evidence or raise questions concerning: (1) incidents not directly related to the possible violation, unless they are directly relevant to showing a pattern of behavior at issue in the hearing, or (2) the sexual history of or the character of the victim/party bringing a grievance.

There will be no observers in the hearing. The Director of Equity Grievance/Title IX Coordinator may allow witnesses who have relevant information to appear at a portion of the hearing in order to respond to specific questions from the panel or the parties involved. The panel does not hear from character witnesses, but will accept up to two letters supporting the character of the individuals involved for consideration if or when the panel is required to determine sanction(s).

In hearings involving more than one accused individual or in which two parties bringing grievances have accused the same individual of substantially similar conduct, the standard procedure will be to hear the grievances jointly; however, the Director of Equity Grievance/Title IX Coordinator may permit the hearing pertinent to each grievance to be conducted separately. In joint hearings, separate determinations of responsibility will be made for each responding party.

Proceedings are private. All persons present at any time during the hearing are expected to maintain the privacy of the proceedings and may be subject to further University discipline for failure to do so.

A record of the hearing will be maintained for the purposes of review in the event of an appeal. EGP members, the parties and/or the persons who initiated the grievance, and appropriate administrative officers of the University will be allowed to review the record in a location determined by the Director of Equity Grievance/Title IX Coordinator or designee. No person will be given or be allowed to make a copy of the record without permission of the Director of Equity Grievance/Title IX Coordinator. Persons given access to the record will be required to sign an agreement confirming that they will protect the privacy of the information contained in the record.

d. Decisions

The EGP will deliberate in closed session to determine whether the responding party is responsible or not responsible for the violation(s) in question. The panel will base its determination on a preponderance of the evidence (i.e., whether it is more likely than not that the accused individual committed each alleged violation). The respondent will be presumed not responsible until the evidence shows otherwise. If an individual responding party or organization is found responsible by

a majority of the panel, the panel will recommend appropriate sanction(s) to the Director of Equity Grievance/Title IX Coordinator.

The panel will prepare a written recommendation and deliver it to the Director of Equity Grievance/Title IX Coordinator, detailing the finding, the information cited by the panel in support of its recommendation, any information the hearing panel excluded from its consideration, and the material reasons for the decision. The report should conclude with any recommended sanction(s). This report will typically not exceed two (2) pages in length and must be submitted to the Director of Equity Grievance/Title IX Coordinator within five (5) business days of the end of deliberations.

The Director of Equity Grievance/Title IX Coordinator or designee will simultaneously notify the responding individual and the party bringing a grievance of the final determination of the EGP within ten (10) business days of the hearing. Notification will include information on the outcome, when it becomes final, and the right of each party to appeal. Similar notifications will be provided in the event there is any change to the results prior to the decision becoming final.

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' University-issued email account. Once mailed, emailed and/or received in-person, notice will be presumptively delivered.

e. Sanctions

Sanctions or responsive actions will be determined by the Director of Equity Grievance/Title IX Coordinator. Factors considered when determining a sanction/responsive action may include:

- The nature, severity of, and circumstances surrounding the violation.
- An individual's disciplinary history.
- Previous grievances or allegations involving similar conduct.
- The need for sanctions/responsive actions to bring an end to the discrimination, harassment and/or retaliation.
- The need for sanctions/responsive actions to prevent the future recurrence of discrimination, harassment and/or retaliation.
- The need to remedy the effects of the discrimination, harassment and/or retaliation on the victim and the campus community.

1) Student or Organization Sanctions

The following are the usual sanctions that may be imposed upon students or organizations singly or in combination:

- i. Warning: A formal statement that the behavior was unacceptable and a warning that further infractions of any University policy, procedure or directive will result in more severe sanctions/responsive actions.

- ii. Probation: A written reprimand for violation of this policy and/or the Code of Student Conduct, providing for more severe disciplinary sanctions in the event that the student or organization is found in violation of any University policy, procedure or directive within a specified period of time. Terms of the probation will be specified and may include denial of specified social privileges, exclusion from co-curricular activities, non-contact orders and/or other measures deemed appropriate.
- iii. Suspension: Termination of student status for a definite period of time and/or until specific criteria are met. Students who return from suspension are automatically placed on probation through the remainder of their tenure at the University.
- iv. Expulsion: Permanent termination of student status and revocation of rights to be on campus for any reason or attend University-sponsored events. This sanction may be noted on the student's official transcript with an appropriate reference to the policy violated.
- v. Withholding Diploma: The University may withhold a student's diploma for a specified period of time and/or deny a student participation in commencement activities if the student has a grievance pending, or as a sanction if the student is found responsible for an alleged violation.
- vi. Organizational Sanctions: Deactivation, de-recognition and loss of all privileges (including University registration), for a specified period of time.
- vii. Other Actions: In addition to or in place of the above sanctions, the University may assign any other sanctions as deemed appropriate.

Student sanctions imposed are implemented immediately unless the Director of Equity Grievance/Title IX Coordinator or designee stays their implementation in extraordinary circumstances, pending the outcome of an appeal.

2) Employee Sanctions

Recommended sanctions or responsive actions for an employee who has engaged in sexual harassment, sexual misconduct, discrimination and/or retaliation shall be referred to Human Resources for adoption, imposition and/or implementation and may include:

- i. Warning,
- ii. Written instruction or reprimand,
- iii. Required training or counseling,
- iv. Demotion,
- v. Suspension with pay,
- vi. Suspension without pay, and
- vii. Termination.

Following any appeal and issuance of discipline regarding employee-members of the SEIU classified staff and faculty bargaining units, such employees will have the opportunity to grieve tangible employment sanctions to the extent provided by their respective grievance processes.

f. Withdrawal or Resignation While Charges Pending

Students: Should a student Respondent permanently withdraw from SOU, the resolution process ends, as SOU no longer has disciplinary jurisdiction over the withdrawn student. However, SOU will continue to address and remedy any systemic issues or concerns that may have contributed to the alleged violation(s) and any ongoing effects of the alleged harassment, discrimination and/or retaliation. The student who withdraws or leaves while the process is pending may not return to SOU without first resolving any pending matters. Such exclusion applies to all SOU campuses. Admissions will be notified that they cannot be readmitted. They may also be barred from SOU property and/or events.

If the student Respondent 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 SOU unless and until all sanctions have been satisfied or the matter is otherwise completed.

Employees: Should an employee Respondent resign with unresolved allegations pending, the resolution process ends, as SOU no longer has disciplinary jurisdiction over the resigned employee. However, SOU will continue to address and remedy any systemic issues or concerns that contributed to the alleged violation(s), and any ongoing effects of the alleged harassment or discrimination.

The employee who resigns with unresolved allegations pending is not eligible for rehire with SOU and the records retained by the Director of Equity Grievance/Title IX Coordinator will reflect that status.

All SOU responses to future inquiries regarding employment references for that individual will include that the former employee resigned during a pending disciplinary matter.

g. Appeals

All requests for appeal considerations must be submitted in writing to the Director of Equity Grievance/Title IX Coordinator within ten (10) business days of the delivery of the written finding of the EGP. The appeal is not a live hearing, is decided on the basis of written submissions, and will not require any witnesses or parties to the complaint to appear. The Director of Equity Grievance/Title IX Coordinator will then convene an appeal panel and share the appeal with that panel, who will have fourteen (14) business days to reach their decision. The appeal panel will be comprised of three University employees selected by the Director of Equity Grievance/Title IX Coordinator from a pool of University employees trained to hear appeals under this policy. If necessary, and at the discretion of the Director of Equity Grievance/Title IX Coordinator, members of the appeal panel may conduct their business by electronic means. Both parties may appeal, but appeals are limited to the following:

- 1) A procedural irregularity that affected the outcome of the matter.

- 2) To consider new evidence, unknown or unavailable during the original hearing or investigation, that could substantially impact the original finding. A summary of this new evidence and its potential impact must be included. Such new information must be relevant to the determination of responsibility regarding whether or not the offense was committed. Evidence that could have been presented at the original EGP hearing, including but not limited to character evidence intended to enhance or mitigate the sanctions imposed, will not be accepted on appeal as new evidence on appeal.
- 3) The sanctions imposed are substantially disproportionate to the severity of the violation or the sanctions fall outside the range of sanctions the University has designated for the offense.
- 4) The Director of Equity Grievance/Title IX Coordinator, Investigator, Panel Member, or Panel Chair had a conflict of interest or bias for or against Complainants or Respondents generally or for or against the specific Complainant or Respondent and the bias or conflict affected the outcome of the matter.

The original finding and sanction/responsive actions will stand if the appeal is not timely or is not based on the grounds listed above, and such a decision is final. When any party requests an appeal, the other party (parties) will be notified and allowed to participate in the appeal. The party requesting appeal must show that the grounds for an appeal request have been met. The other party or parties may also show that the grounds for appeal have not been met.

Where the appeal panel finds that at least one of the grounds is met and proceeds, additional principles governing the hearing of appeals include the following:

- 1) Appeals decisions by the appeal panel are to be deferential to the original decision, making changes to the finding only where there is clear error and to the sanction/responsive action only if there is a compelling justification to do so.
- 2) Appeals are not intended to be full re-hearings of the grievance. In most cases, appeals are confined to a review of the written documentation or record of the original hearing, and pertinent documentation regarding the grounds for appeal. Appeals granted based on new evidence should normally be remanded to the original hearing panel for reconsideration. Other appeals may be remanded by the three-member appeal panel with instruction as to the matters to be considered on remand by the original hearing panel.
- 3) All parties will be informed whether the grounds for an appeal are accepted. The results of the appeal decision, as well as a justification of that decision, will be submitted to the parties in writing.
- 4) Once an appeal for both parties is decided, the outcome is final: further appeals are not permitted. Employees may only initiate any grievance process available to them pursuant to an applicable collective bargaining agreement after the appeal is final. Such grievances must allege a violation of the collective bargaining agreement and will not be permitted to allow a new hearing on the truth or falsity of any factual allegations or conclusions.

h. Failure to Complete Sanctions/Comply with Responsive Actions

All responding parties are expected to comply with conduct sanctions/responsive actions/ corrective actions within the timeframe specified by the Director of Equity Grievance/Title IX Coordinator. Failure to follow through on conduct sanctions/responsive actions/corrective actions by the date specified, whether by refusal, neglect or any other reason, may result in additional sanctions/responsive actions/corrective actions.

Responding parties needing an extension to comply with their sanctions must submit a written request to the Director of Equity Grievance/Title IX Coordinator or designee stating the reasons for needing additional time.

Such sanctions or responsive and corrective actions with regard to a student may include 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 Director of Equity Grievance/Title IX Coordinator or by application to the EGP. Such applications will be reviewed and decided on by three members of the EGP.

i. Records

In implementing this policy, records of all grievances, resolutions and hearings will be kept by the Director of Equity Grievance/Title IX Coordinator in accordance with the applicable records retention schedule. All records will be afforded the confidentiality protections required by law, including but not limited to the Family Educational Rights and Privacy Act governing confidentiality of student information. Records concerning victims of sexual misconduct, violence or abuse will be afforded confidentiality to the maximum extent allowed by law and will be redacted to exclude victims' personally identifiable information.

j. Statement of the Rights of a Party Bringing a Grievance

Access to the Campus Choice program, which provides Confidential Advisors who are able to explain all available options as well as guide and accompany the party through any process in which they choose to take part.

- To receive accommodations without making a formal report.
- To be treated with respect by University officials.
- To be informed in writing of and offered the opportunity to take advantage of campus support resources (such as the Student Health and Wellness Center's counseling and medical services, the Office of the Dean of Students, or Employee Assistance Program (EAP) services for employees).
- To be informed in writing about options for, and available assistance in, changing academic, living, transportation and working situations, if requested by the reporting party and if such options are reasonably available.
- To experience a safe living, educational and work environment.
- To have an advisor or union representative/accompanist during this process.
- To refuse to have an allegation resolved through conflict resolution procedures.

- To receive amnesty for minor student misconduct (such as alcohol or drug violations) that is ancillary to the incident.
- To be free from retaliation.
- To have grievances heard in substantial accordance with these procedures.
- The injured party will be allowed full participation in any EGP process, whether the injured party is serving as the party bringing a grievance or the University is serving as the party bringing a grievance.
- To be informed in writing of the outcome/resolution of the grievance, sanctions where permissible and the rationale for the outcome where permissible.
- The option to, or not to, notify and seek assistance from law enforcement and campus authorities.
- Continued access to housing and living accommodations.
- No contact orders issued by the University appropriate to the circumstances or the type of violation. The extent and scope of a no contact order may include accommodations necessary to ensure all parties can adequately prepare for a hearing, particularly in matters governed by Title IX.
- Where applicable, the right to be advised on the University's responsibilities and their rights regarding any applicable judicial no-contact, restraining and protective orders.

k. Statement of the Rights of the Responding Party

- To be presumed not responsible until an investigation proves otherwise by the standard of preponderance of the evidence.
- To receive a fair and impartial investigation and hearing process.
- To be treated with respect by University officials.
- To be free from retaliation.
- To take advantage of campus support resources (such as the Student Health and Wellness Center's counseling and medical services, the Office of the Dean of Students for students, or EAP services for employees).
- To have an advisor or union accompanist/representative during this process (a Responding Party may consult with this person, but not have the person speak on their behalf).
- To refuse to have an allegation resolved through conflict resolution procedures.
- To be provided access to investigative materials during the investigation and prior to a hearing.
- To have grievances heard in substantial accordance with these procedures.
- To be informed of the outcome/resolution of the grievance and the rationale for the outcome, in writing.

8. Workplace Fairness Requirements

State law makes it an unlawful employment practice for employers to discriminate on the basis of an individual's race, color, religion, sex, sexual orientation, national origin, marital status, age, and/or disability, and such claims are subject to a five-year statute of limitations. A victim of workplace

harassment may seek redress from the University by submitting a complaint to the Office of Equity Grievance where the matter will be assigned for investigation by the Office of Equity Grievance to the appropriate investigator(s) identified in this policy. The University promptly investigates all reports of workplace harassment pursuant to the processes set forth above. The University shall follow up with complainants who allege workplace harassment once every three months for the calendar year following the date on which the University receives the report of harassment, to determine whether the alleged harassment has stopped or if the complainant has experienced retaliation, unless the complainant objects to such action in writing. Individuals who experience workplace harassment may also seek relief through the Bureau of Labor and Industries' complaint resolution process under ORS 659A.820 to 659A.865, or in a court of law. Legal claims against the University or any other public body must comply with ORS 30.275, which requires a notice of tort claim within 180 days of the alleged loss or injury.

Pursuant to state law, the University may not require or coerce an employee who has experienced or alleged harassment to enter into a nondisclosure or non-disparagement agreement (i.e., a contract that prohibits one party from not disclosing information about or criticizing the other) unless the employee requests the agreement and is provided at least seven days to revoke the agreement. Employees are encouraged to document any incidents involving conduct that constitutes prohibited discrimination under state and federal law. See ORS 659A.001 et seq.

Employees and supervisors are encouraged to document any incidents involving covered discrimination or sexual assault.

These policies and procedures will be reviewed and updated annually by the Director of Equity Grievance/Title IX Coordinator. The Director of Equity Grievance/Title IX Coordinator will submit modifications to this policy in a manner consistent with the Board of Trustees' Statement on Policies (including notice of proposed changes on the policy pages of the SOU website) upon determining that changes to law, regulation or best practices require policy or procedural alterations not reflected in this policy and procedure. Procedures in effect at the time of its implementation will apply. Policy in effect at the time of the offense will apply even if the policy is changed subsequently, unless the parties consent to be bound by the current policy.

This policy may be revised at any time without notice. All revisions supersede prior policy and are effective immediately upon approval.

C. Policy Consultation

Consultation on original policy with Policy Council, Faculty Senate, Provost's Advisory Council, Business Affairs Council, University Planning Board, and ASSOU.

Consultation on revision to policy with Policy Council and ASSOU, and posted for community comment on September 11, 2020.

D. Other Information

Inquiries about this policy and procedure may be made internally to: Director of Equity Grievance/Title IX Coordinator

Stevenson Union 321

(541) 552-7079

fleischea@sou.edu

Director of Equity Grievance/Title IX Coordinator

Angela Fleischer, MSW, LCSW

Stevenson Union 321

(541) 552-7079

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Deputy Title IX Coordinators

Carrie Vath, Dean of Students

Stevenson Union 321

(541) 552-6652

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Alana Lardizabal, Director of Human Resources

Churchill Hall 156

(541) 552-8553

lardizaba@sou.edu

Anna D'Amato, Executive Director of Student Health and Wellness Center

Student Health and Wellness Center

(541) 552-8464

damatoa@sou.edu

Confidential Advisors/Investigators

Amanda Clark, Equity Grievance/Title IX Investigator

Stevenson Union 321

(541) 552-7163

clarka9@sou.edu

Inquiries may be made externally to:

Office for Civil Rights (OCR)

U.S. Department of Education

400 Maryland Avenue, SW

Washington, DC 20202-1100

Customer Service Hotline #: (800) 421-3481

Facsimile: (202) 453-6012

TDD#: (877) 521-2172

Email: OCR@ed.gov

The Policy Contact, defined above, will write and maintain the procedures related to this policy and these procedures will be made available within the Custodial Office.