

Policy Title:	Equal Opportunity, Harassment, and Sexual Misconduct Policy
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Policy Number:	GEN.009	Date Approved:	February 28, 2024
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A. Description

Southern Oregon University is committed to fostering an environment that is safe, secure and free from discrimination and harassment. When brought to the attention of the University, any such discrimination will be appropriately addressed by the University according to the procedures below and any applicable collective bargaining agreement. This Policy, including the procedures, is consistent with Campus Choice, which is SOU's system of addressing sexual assault, domestic violence, stalking, and intimate partner violence. To learn more about Campus Choice, visit the website: <https://sou.edu/equity-grievance/reporting/campus-choice/>.

B. Reason for the Policy

Applicable federal, state, and local laws prohibit discrimination and harassment based on protected categories in the workplace and in education programs and activities, and may require the University to respond in particular ways to disclosures of such discrimination or harassment, including various options for resolution and remediation.

C. Applicability and Jurisdiction

This policy applies to the entire University community, including, but not limited to, students, student organizations, faculty, administrators, and staff, whether on or off campus, and third parties such as guests, visitors, volunteers, invitees, and alumni when they are on campus or participating in University-sponsored activities. This policy may also pertain to instances in which the conduct occurred outside of the campus or University-sponsored activity if the University determines that the off-campus conduct affects a substantial University interest, including access to the educational program or activity, safety and security, compliance with applicable law, and meeting its educational mission.

The status of a party may impact which resources and remedies are available to them, as described in this Policy.

Obligations in this policy assigned to a particular title, such as the Title IX Coordinator, may be designated as appropriate by the University, including to external professionals.

D. Prohibited Conduct Under this Policy

This section includes the conduct prohibited by this Policy that can be resolved through the available processes described in this Policy.

a. Discriminatory Harassment

Discriminatory Harassment is unwelcome non-verbal or physical, verbal, or online conduct where such conduct is based on actual or perceived membership in a protected category, and 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. Protected categories include 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.

b. Discrimination

Discrimination is defined as treating members of a protected category less favorably because of their actual or perceived membership in that category or as having a policy or practice that adversely impacts the members of one protected category more than others. Here are a few non-exhaustive examples of discrimination:

- a faculty member giving a student a lower grade because of the student's race;
- a staff person receiving a negative performance review based on gender identity.

c. Title IX Sexual Harassment

Title IX Sexual Harassment is conduct on the basis of sex that satisfies one or more of the following:

- i. Quid Pro Quo: An SOU employee conditions the provision of an aid, benefit, or service of SOU on an individual's participating in unwelcome sexual conduct; or
- ii. Title IX Hostile Environment: Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the SOU's education program or activity; and
- iii. Sexual Assault, Dating Violence, Domestic Violence, Stalking

Conduct meeting these definitions must occur within SOU's Education Program or Activity and inside of the United States to constitute Title IX Sexual Harassment. Sexual Assault, Dating Violence, Domestic Violence, Stalking, and Retaliation are types of Prohibited Conduct individually, even if not meeting the definition of Title IX Sexual Harassment because they occur outside of the education program or activity or outside the United States, or the parties are not participating or seeking to participate in the education program or activity.

d. Sexual Assault

Sexual Assault is having or attempting to have sexual contact with another individual without consent or where the individual cannot consent because of age or temporary or permanent mental incapacity (see below for definition of consent and incapacitation). Sexual contact includes:

sexual intercourse (anal, oral, or vaginal), including penetration with a body part (e.g., penis, finger, hand, or tongue) or an object, or requiring another to penetrate themselves with a body part or an object, however slight; sexual touching of the private body parts, including, but not limited to, contact with the breasts, buttocks, groin, genitals, or other intimate part of an individual's body for the purpose of sexual gratification.

Sexual touching may be over or under clothing and may include the Respondent touching the Complainant, the Respondent making the Complainant touch the Respondent or another person, or the Respondent making the Complainant touch the Complainant's own body.

e. Dating Violence

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.

f. Domestic Violence

Domestic Violence is a type of Intimate Partner Violence and is defined as felony or misdemeanor crimes of violence, on the basis of sex, committed by a current or former spouse or intimate partner of the Complainant; by a person with whom the Complainant shares a child in common; 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.

g. Stalking

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:

- "Course of conduct" means two or more acts, including but not limited to, acts in which the Respondent directly, indirectly, or through third parties, by any action, method, device, or means, follows monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with a person's property.
- "Reasonable person" means a reasonable person under similar circumstances and with similar identities to the Complainant.
- "Substantial emotional distress" means significant mental suffering or anguish that may but does not necessarily require medical or other professional treatment or counseling.

h. Retaliation

Retaliation is any adverse action taken against an individual because they were involved in the disclosure, reporting, investigation, or resolution of a report of Prohibited Conduct. Retaliation includes threats, intimidation, harassment, coercion, violence, or any other conduct that would discourage a reasonable person from engaging in activity protected under this Policy, such as making a report or participating in an investigation.

The prohibition against retaliation applies to any individual who has made a report or complaint of sex discrimination, including any individual who has made a report or filed a formal complaint of sexual harassment, any complainant, any individual who has been reported to be the perpetrator of sex discrimination, any Respondent, any witness, or any other individuals who participate (or refuse to participate) in any manner in an investigation, proceeding, or hearing.

Retaliation may occur even where there is a finding of "not responsible" under this Policy. Good faith actions lawfully pursued in response to a report of Prohibited Conduct are not Retaliation. Retaliation should be promptly reported to the Title IX Coordinator and will be investigated and resolved by Human Resources or Student Conduct, as applicable, unless consolidated in accordance with this Policy.

i. Non-Title IX Sexual Misconduct

Non-Title IX Sexual Misconduct includes Non-Title IX Sexual Harassment, Intimate Partner Violence, and Sexual Exploitation. Dating Violence, Domestic Violence, Sexual Assault, and Stalking that do not meet the

definition of Title IX Sexual Misconduct are also included in this definition.

j. Non-Title IX Sexual Harassment

Non-Title IX Sexual Harassment is unwelcome conduct based on sex or gender that is so severe or pervasive that it has the purpose or effect of unreasonably interfering with a person's employment, academic performance or participation in the SOU's programs or activities, or creates a working, learning, program or activity environment that a reasonable person would find intimidating, hostile or offensive.

k. Intimate Partner Violence

Intimate Partner Violence is a broad term that includes violence or threat of violence from one intimate partner toward another, including but not limited to coercion, threats, intimidation, or physical violence.

l. Economic Abuse

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.

m. Technological Abuse

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.

n. Sexual Exploitation

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. 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 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.

E. Definitions and Key Terms

a. Consent, Incapacitation, Force, and Coercion

Consent is knowing, voluntary and mutual decision among all participants to engage in sexual activity, expressed in words or actions. 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 with that particular person or people.

Individuals may experience the same interaction in different ways. Therefore, it is the responsibility of each party to determine that the other has consented before engaging in the activity. If consent is not clearly provided prior to engaging in the activity, consent may be ratified by word or action at some point during the interaction or thereafter, but clear communication from the outset is strongly encouraged.

Consent to some sexual contact (such as kissing or fondling) cannot be presumed to be consent for other sexual activity (such as intercourse). Past consent does not imply future consent. A current or previous dating relationship is not sufficient to constitute consent.

The existence of consent is based on the totality of the circumstances, evaluated from the perspective of a reasonable person in the same or similar circumstances, including the context in which the alleged incident occurred. Silence or the absence of resistance alone is not consent. 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.

Consent can be withdrawn at any time during sexual activity through reasonable and clear communications through words or actions. When consent is withdrawn, sexual activity must stop.

Consent cannot be given if any of the following are present: Incapacitation, Force, or Coercion.

Incapacitation occurs when someone cannot make rational, reasonable decisions because they lack the capacity to give knowing and informed consent (e.g., to understand the "who, what, when, where, why, and how" of their sexual interaction). Incapacitation is determined through consideration of all relevant indicators of a person's state and is not synonymous with intoxication, impairment, or being under the influence of drugs or alcohol. This policy also covers a person whose incapacity results from temporary or permanent physical or mental health condition, involuntary physical restraint, and/or the consumption of incapacitating drugs.

Under this Policy, the University will consider whether a Respondent knew or should have known the Complainant to be incapacitated, based on an objective, reasonable person standard that assumes the reasonable person is both sober and exercising sound judgment.

Coercion/Force: Consent cannot be procured by the use of physical force, compulsion, threats, intimidating behavior, or coercion. Sexual activity accompanied by coercion or force is not consensual.

- Coercion refers to unreasonable pressure for sexual activity. When someone makes it clear that they do not want to engage in sexual activity or do not want to go beyond a certain point of sexual interaction, continued pressure beyond that point can be considered coercive. The use of coercion can involve the use of pressure, manipulation, substances, or force. Ignoring objections of another person is a form of coercion.
- Force refers to the use of physical violence or imposing on someone physically to engage in sexual contact or intercourse. Force can also include threats, intimidation (implied threats), or coercion used to overcome resistance.

b. Complainant

Any individual who has reported being or is alleged to be the victim of Prohibited Conduct under this policy.

c. Days

Are business days where SOU is open.

d. Decision-Maker

Trained professional designated by the University to decide responsibility, sanction, or appeals. A Decision-Maker may be one person or a panel of multiple people as determined by the University. Consistent with applicable law, the investigator may be appointed as the Decision-Maker.

e. Education Program or Activity

SOU's "education program or activity" includes:

- Any on-campus facility, property, or building owned or controlled by the SOU;
- Any off-campus program or activity that SOU has substantial control over;
- Any off-campus premises that SOU has substantial control over. This includes buildings or property owned or controlled by a recognized student organization; and
- Activity occurring within computer and internet networks, digital platforms, and computer hardware or software owned or operated by, or used in the operations of SOU's programs and activities over which SOU has substantial control.

f. Formal Complaint

A written document (hard copy or electronic) that alleges that a Respondent committed Prohibited Conduct and requests initiation of the procedures consistent with the Policy to investigate the allegation of the conduct. A "Formal Complaint" is a document filed by a Complainant with a signature or other indication that the Complainant is the person filing the formal complaint or a document that is signed by the Title IX Coordinator.

g. Party/Parties

Referring to Complainant(s), Respondent(s), or both Complainant(s) and Respondent(s).

h. Respondent

Any individual who has been reported to have engaged in Prohibited Conduct under this policy.

i. Student

Any person who has (or will have) attained student status by way of:

- Application for admission, housing or other service that requires student status.
- Registration for one or more credit hours.
- Enrollment in any non-credit, certificate or other program offered by the university.

j. Title IX Prohibited Conduct

Title IX Sexual Harassment, as well as Sexual Assault, Dating Violence, Domestic Violence, and Stalking that occurs in SOU's Education Programs or Activities.

F. Policy

a. Director of Equity Grievance/Title IX Coordinator

The Director of Equity Grievance/Title IX Coordinator (Dir. EG/TIX) is charged with monitoring compliance with Title IX; providing education and training; overseeing complaints; and coordinating the University's investigation, response, and resolution of all reports of Prohibited Conduct under this policy. The Dir. EG/TIX acts with independence and authority and oversees all resolutions under this policy free from bias and conflicts of interest. The Dir. EG/TIX is available to meet with any Student, Employee, or Third Party to discuss this policy or the accompanying procedures and can be contacted at:

Dir. EG/TIX
Stevenson Union 321
[Jennifer Larimore](mailto:Jennifer.Larimore@sou.edu)
Equitygrievance@sou.edu

b. Statement of Rights for All Parties

- Access to confidential support.
- 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 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 and if such options are reasonably available.
- To receive supportive measures and interim remedies, including but not limited to no contact orders, without making a formal complaint.
- To experience a safe living, educational and work environment.
- To participate in alternative resolutions if all parties consent to such a process, and with the approval of the Dir. EG/TIX.
- To receive amnesty for minor student misconduct (such as alcohol or drug violations) that is ancillary to the incident.
- To have grievances heard in substantial accordance with these procedures.
- To participate fully in the process, including where a Formal Complaint was signed by the Dir. EG/TIX.
- To be informed in writing of the outcome/resolution of the grievance, sanctions where permissible and the rationale for the outcome where permissible.
- To be informed in writing of the option to, or not to notify and seek assistance from law enforcement and campus authorities.
- Where applicable, the right to be advised on the University's responsibilities and their rights regarding any applicable University no-contact directives, or restraining and protective orders issued through law enforcement.
- 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 free from retaliation.
- To have an advisor of choice, including union representative during this process
- To be provided access to investigative materials during the investigation and prior to a hearing.

c. Amnesty

The health and safety of every student at SOU is of the utmost importance. SOU recognizes that students who have

been drinking or using drugs (whether such use is voluntary or involuntary) at a time that they experienced or observed violence (including but not limited to domestic violence, dating violence, stalking, or sexual assault) may be hesitant to report such incidents or fully participate in a process under this policy due to fear of potential consequences for their own conduct. SOU strongly encourages students to report domestic violence, dating violence, stalking, or sexual assault to SOU officials. SOU also expects parties and witnesses to provide honest accounts of their experience and knowledge when they choose to participate in a process under this Policy.

A Complainant, witness, Respondent, or other participant in an investigation of sexual misconduct (sexual assault, domestic violence, dating violence, or stalking) may not be subjected to a disciplinary proceeding or sanction for violating the student conduct policy related to drug or alcohol use, trespassing or unauthorized entry of school facilities or other violations of a policy or code of conduct that is discovered in connection with the alleged sexual misconduct, unless the institution determines that their report or statement was not made in good faith or that the violation of the policy was an egregious violation. An “egregious violation” includes but is not limited to taking an action that places the health and safety of another individual at risk or a violation that results in the pursuit of criminal or administrative proceedings by a governmental entity.

d. Requesting Accommodations

Parties may request reasonable accommodations for disclosed disabilities to the Dir. EG/TIX at any point before or during the grievance process. Accommodations will be granted if they are appropriate and do not fundamentally alter the process. The Dir. EG/TIX will not affirmatively provide disability accommodations that have not been specifically requested by the Parties, even where the Parties may be receiving accommodations in other SOU programs and activities. With the consent of the impacted student or employee, the Dir. EG/TIX will work collaboratively with the Dean of Students (for students) or Human Resources (for employees) to ensure registered reasonable accommodations (disability-related) are honored throughout any related resolution process.

e. Employee Reporting Obligations

Other than those serving in the capacity of Confidential Resources, described in this policy, all SOU employees must immediately report possible violations of this policy to the Dir. EG/TIX.

The report must include the employee’s name and contact information, and all known details about an incident, including dates, times, locations, names of involved individuals and the nature of the incident.

Aside from this reporting obligation, employees will, to the fullest extent possible, maintain the privacy of an individual’s information, consistent with applicable privacy laws, including FERPA.

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>.

f. Consensual Relationship and Conflicts of Interest

The University policy on Consensual Relationships and Conflicts of Interest ([GEN.012](#)) prohibits relationships between SOU employees and undergraduate students and places limitations on relationships between SOU employees and graduate students. Any alleged violation of GEN.012 will be addressed in accordance with that policy.

g. Additional/Alternative Rights for Union Employees

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.

h. Privacy and Confidentiality

The University values the privacy of its students, employees, and other community members. Community members should be able to seek the assistance they need without fear that the information they provide will be shared more broadly.

Confidentiality refers to confidential resources who are not required to re-disclose Prohibited Conduct to law enforcement or University officials without the disclosing party's permission, except for extreme circumstances, such as a health or safety emergency or child abuse. References made to privacy mean University offices and employees who cannot guarantee confidentiality, but will maintain privacy to the greatest extent possible, such that information disclosed will be relayed only as necessary to investigate or seek a resolution and to notify the Dir. EG/TIX, who is responsible for tracking patterns and spotting systemic issues. The University will limit the disclosure as much as practicable.

The University's offices and employees who cannot guarantee confidentiality will maintain the individual's privacy to the greatest extent possible. Information provided to a non-confidential resource will only be relayed as necessary for the Title IX coordinator to investigate or seek a resolution.

Access to materials under the procedures in this policy will be provided only by a secure method and parties and advisors are not permitted to make copies of any documents shared or make use of the documents outside of the processes described in this policy. Parties may request to review a hard copy of materials, and the University will make that available in a supervised setting, if possible. Inappropriately sharing materials provided during this process may constitute retaliation and result in disciplinary action.

i. Effect of Criminal Proceedings

Some Prohibited Conduct may constitute a violation of both law and SOU policy. SOU encourages students to report alleged misconduct promptly to local law enforcement agencies. Criminal investigations may be useful in the gathering of relevant evidence, particularly forensic evidence. The standards for finding a violation of criminal law are different from the standards for finding a violation of this policy. Therefore, criminal investigations or reports are not determinative of whether Prohibited Conduct, for purposes of the policy, has occurred. In other words, conduct may constitute Prohibited Conduct under this policy even if law enforcement agencies lack sufficient evidence of a crime and decline to prosecute.

The filing of a complaint of Prohibited Conduct under this policy is independent of any criminal investigation or proceeding. SOU will not wait for the conclusion of any criminal investigation or proceedings to commence its own investigation or take any necessary interim measures to protect the Complainant and SOU community. However, SOU may temporarily delay its investigation to enable law enforcement to gather evidence and to engage in a preliminary investigation of sexual misconduct matters that may also violate local, state or federal law. Such delays should not be unreasonable and based upon the nature of the case.

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.

j. Crime Disclosure Obligations

The Clery Act is a federal crime and incident disclosure law. It requires, among other things, that the University report the number of incidents of certain crimes, including some of the Prohibited Conduct in this policy, that occur in particular campus-related locations. The Clery Act also requires the University to issue a warning to the community in certain circumstances.

In the statistical disclosures and warnings to the community, the University will ensure that a Complainant's name and other identifying information is not disclosed.

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

E. Procedures

This section contains the procedures to disclose Prohibited Conduct confidentially to receive support, and also how to report Prohibited Conduct to the Title IX office. Once reports are received by the Title IX office, the Dir. EG/TIX will review the information received to determine whether the conduct alleged constitutes Prohibited Conduct under this policy. If so, the Dir. EG/TIX will provide information about how to make a Formal Complaint, as well as options for resolution, including investigations and determinations.

a. Disclosing and/or Reporting Prohibited Conduct

The following describes the reporting options at SOU:

i. Confidential Support/Disclosures

Confidentiality is offered by professional, licensed medical providers and counselors and pastoral counselors (ordained clergy) acting in the scope of their employment whose official responsibilities include providing medical care and mental health counseling to SOU students, including those who act in that role under the supervision of a licensed medical provider or counselor. Confidential resources are not required to redisclose information about Prohibited Conduct to law enforcement or University officials without the disclosing party's permission, except for extreme circumstances, such as a health and safety emergency or child abuse. This means that disclosing Prohibited Conduct to these resources will not lead to an investigation.

State law requires professional counselors to report: (i) when a patient is likely to engage in conduct that would result in serious harm to the patient or others; (ii) if there is reasonable cause to suspect that a minor has been sexually abused.

Confidential Resources for Students

Student Health & Wellness Center
<https://health.sou.edu/>
560 Indiana St.
Ashland, OR 97520
541.552.6136

Telus

<https://www.myssp.app/us/home>

866.743.7732

Confidential Resources for Employees

Employee Assistance Program

<https://inside.sou.edu/hrs/employee-assistance-program.html>

Confidential Resources within the Community, not affiliated with SOU:

- Suicide & Crisis Line- 988 (call, chat or text 24/7);
- Jackson County Mental Health- (541) 774-8201 (24/7 crisis hotline);
- Jackson County Sexual Assault Response Team (JCSART)- JCSART provides free immediate care after sexual assaults as any Jackson County Hospital. They also provide support groups for women and for queer and trans people. Visit their website at jacksoncountysart.org, call (541) 840-0904 or email jcsart@charter.net; and
- Community Works A local, 24-hour hotline that is available in multiple languages, including American Sign Language. Community Works supports and empowers anyone impacted by domestic and sexual violence. They provide crisis support, safe housing, and help whenever needed. All genders are welcome. All services are free and confidential. Visit their site at community-works.org or call (541) 779-4357.

ii. **Non-Confidential Reporting Options**

Reporting to the Equity Grievance/Title IX Office

Employees must report known or suspected violations of this Policy to the Dir. EG/TIX by using the reporting form: https://sou.co1.qualtrics.com/jfe/form/SV_7R7CCBciGNL473L.

Students, guests, or visitors who believe that this Policy has been violated should contact the Dir. EG/TIX or another member of the Equity Grievance Team listed in this policy.

Initial 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. The University website also includes an online reporting form: https://sou.co1.qualtrics.com/jfe/form/SV_7R7CCBciGNL473L.

All information about known or suspected violations of this policy will be provided to and reviewed by the Dir. EG/TIX. The Dir. EG/TIX will typically contact the impacted individual(s).

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 complaint with respect to how the complaint 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 Complaint process.

a. Intake by the Dir. EG/TIX

When the Dir. EG/TIX receives a report alleging a potential violation of the Policy, the Dir. EG/TIX will promptly contact the Complainant to discuss the availability of Supportive Measures, inform the Complainant of the availability of Supportive Measures with or without the filing of a Formal Complaint, explain to the Complainant the process for filing a Formal Complaint, and consider the Complainant's wishes with respect to Supportive Measures.

The Initial Intake & Assessment seeks to gather information only to determine whether the Policy applies to the report and, if so, whether an informal or formal resolution process or the provision of Supportive Measures only is the appropriate response under the Policy. The Initial Assessment is not a finding of fact or responsibility. The Dir. EG/TIX will refer information to the Clery Officer when appropriate for a determination about Clery-related actions, such as disclosing crime statistics or sending campus

notifications.

The Initial Assessment is conducted by the Dir. EG/TIX. The Initial Assessment typically includes an initial intake meeting with the Complainant or Reporting Party to understand the nature and circumstances of the report and to provide the Complainant or Reporting Party with information about resources, procedural options, Supportive Measures and an opportunity to discuss SOU's policies. SOU will offer Supportive Measures to a Complainant, inform the Complainant of the availability of Supportive Measures with or without the filing of a Formal Complaint, and explain to the Complainant the process for filing a Formal Complaint, and consider the Complainant's wishes with respect to Supportive Measures.

The Dir. EG/TIX will provide written notice of the determination as to scope and jurisdiction to the Complainant or Reporting Party, refer that individual to the appropriate resources, including local law enforcement resources as applicable, and provide reasonably available Supportive Measures.

b. Available Supportive and Interim Measures

i. Supportive measures

People who disclose Prohibited Conduct under this policy have the right to request reasonable and available supportive measures from SOU regardless of whether they desire to file a Formal Complaint. Supportive measures may include Counseling Services, Health Services, academic adjustments or modifications, and reasonable assistance from Public Safety as appropriate. Supportive measures are non-disciplinary and non-punitive. Supportive measures are also available to Respondents.

ii. Interim Measures

During the fact-finding and investigatory phase of these procedures, SOU will offer and implement as applicable appropriate interim remediation measures including, but not limited to interim suspension, administrative leave, housing or academic accommodations, safety escorts or No Contact orders to ensure the safety of the community. Interim suspension for Title IX Prohibited Conduct is known as Emergency Removal and discussed below.

A No Contact Order is a document issued by an SOU administrator that is designed to limit or prohibit contact or communications between the parties.

The Dir. EG/TIX has the discretion to implement or modify interim measures. Violation of the parameters of interim measures, including suspensions or leaves may violate existing codes or handbooks.

iii. Emergency Removal

For Title IX Prohibited Conduct, SOU retains the authority to remove a Respondent from SOU's program or activity on an emergency basis, where SOU (1) undertakes an individualized safety and risk analysis and (2) determines that an immediate threat to the physical health or safety of any student or other individual arising from the allegations of covered sexual harassment justifies a removal.

If SOU determines such removal is necessary, the Respondent will be provided notice and an opportunity to challenge the decision immediately following the removal, by notifying the Dir. EG/TIX in writing. SOU will designate an individual, not otherwise involved in the case, to consider the challenge to the removal and determine if the emergency removal was reasonable.

For all other Prohibited Conduct, SOU may defer to its interim suspension policies for students and

administrative leave for employees.

iv. Administrative Leave

If necessary, SOU retains the authority to place a non-student employee Respondent on administrative leave, suspension, or other discipline during a pending complaint process under this policy, with or without pay as appropriate, consistent with SOU policy and the respective CBA.

c. Advisor of choice

Each party has the right to choose and consult with an Advisor of their choice at their own expense. The Advisor may be any person, including an attorney. Parties in this process may be accompanied by an Advisor of choice to any hearing or related meeting to which they are required or are eligible to attend.

Except where explicitly stated by this Policy, Advisors shall not participate directly in the process. SOU will provide the parties equal access to advisors; any restrictions on advisor participation will be applied equally.

A union-represented employee may also be entitled to having a union representative present in addition to their advisor of choice. The advisor and union representative may consult with the party that they are assisting at appropriate times, but may not interfere with the investigation or complaint resolution process.

d. Process for Resolving Formal Complaints

The procedures described below will apply to Formal Complaints regarding Prohibited Conduct under this Policy by 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.

The Dir. EG/TIX 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, complainant, Decision-Maker and other participants.

Any Respondent who is not a SOU student, faculty member, or staff member is generally considered a Third Party. SOU's ability to take appropriate corrective action against a Third Party may be limited and will depend on the nature of the Third Party's relationship, if any, to the University. The Dir. EG/TIX will refer such allegations against Third-Party Respondents to the appropriate office.

Challenges can be made for bias or conflict of interest for anyone involved in the formal complaint process. These challenges should be submitted to the Dir. EG/TIX.

i. Filing a Formal Complaint

To file a Formal Complaint, a Complainant must provide the Dir. EG/TIX a written, signed complaint describing the facts alleged.

If a Complainant does not wish to make a Formal Complaint, the Dir. EG/TIX may determine a Formal Complaint is necessary, and the Dir. EG/TIX may sign the Complaint. The University will inform the Complainant of this decision in writing, and the Complainant need not participate in the process further but will receive all notices issued under this policy.

1. Initial Review, Assessment, and Dismissal

The Dir. EG/TIX will review the Formal Complaint to determine whether there is jurisdiction under this Policy, and to determine which resolution options are available for the type of Prohibited Conduct alleged and the status of the parties.

A Formal Complaint alleging Title IX Prohibited Conduct may only move forward if the Complainant, who is participating in or seeking to participate in SOU's programs and activities alleges Title IX Prohibited Conduct in a program or activity by a Respondent who is subject to this Policy. Formal Complaints alleging Title IX Prohibited Conduct must be dismissed if they do not meet those jurisdictional requirements.

In addition, the Dir. EG/TIX may dismiss a Complaint brought under this policy where the Complainant notifies the Dir. EG/TIX that they would like to withdraw the complaint or a part of it, if the Respondent is no longer a student, faculty, or staff at SOU, or when specific circumstances prevent SOU from gathering evidence sufficient to reach a determination regarding the Complaint or its allegations. This is referred to as "discretionary dismissal."

If the Formal Complaint is dismissed before the Respondent is notified about the Formal Complaint, the Respondent will not be notified about the Formal Complaint. SOU will promptly send written notice of the dismissal of the Formal Complaint or any specific allegation within the Formal Complaint, and the reason for the dismissal, to the Complainant. The Complainant may appeal the dismissal using the appeal process in this policy.

If the Formal Complaint is dismissed after the Respondent is notified about the Formal Complaint, either party may appeal the dismissal using the process in this policy. SOU will promptly send written notice of the dismissal of the Formal Complaint or any specific allegation within the Formal Complaint, and the reason for the dismissal, simultaneously to the parties. Upon any dismissal, SOU will promptly send written notice of the dismissal and the rationale for doing so simultaneously to the parties.

A Complainant who decides to withdraw a complaint may later request to reinstate it or refile it. There is no time limit for making a report. However, the University's ability to respond to and investigate reports, including collecting evidence, may be limited by a lengthy delay in reporting.

If the complaint or particular allegation within a complaint is dismissed, it may be addressed under a different SOU policy or a different section of this policy. The Dir. EG/TIX will refer such allegations to the appropriate office.

If new information requires the Dir. EG/TIX to amend the determination about available resolution processes, the Dir. EG/TIX will advise the parties in writing.

2. Consolidation

SOU may consolidate Formal Complaints as appropriate, for example, if there are multiple Formal Complaints where the allegations of Prohibited Conduct arise out of the same facts or circumstances, or there are multiple complaints with overlapping parties.

SOU reserves the right to use this Policy to adjudicate other allegations and conduct charges as defined by policies outside of the scope of this Policy in instances when the conduct is associated with an alleged issue of Prohibited Conduct. The Dir. EG/TIX will address these consolidated complaints in collaboration and coordination with other appropriate offices, such as Dean of Students and Human Resources.

ii. Resolution Process

This section describes the two types of resolution processes – alternative and formal. Formal resolution processes include several options for determination or decision-making based on the type of Prohibited Conduct alleged.

1. Alternative Resolution

Alternative resolution is a voluntary, remedies-based, structured interaction between or among affected parties that balances support and accountability. Alternative resolution is designed to eliminate the Prohibited Conduct, prevent its recurrence, and remedy its effects in a manner that meets the needs of the Complainant while maintaining the safety of the campus community. Alternative Resolution does not involve an investigation and will not result in a determination of whether a policy was violated. A University Decision-Maker will not issue sanctions in the alternative resolution process.

a. Availability of Alternative Resolution Process

The Parties may elect to enter SOU's alternative resolution process at any time after the filing of the Formal Complaint by making a written request to the Dir. EG/TIX.

Use of the alternative resolution process is voluntary, and both the Complainant, Respondent, and Dir. EG/TIX must agree to use of the Alternative Resolution process. No Party may be required to participate in alternative resolution, and SOU will not condition enrollment, employment, or enjoyment of any other right or privilege upon agreeing to alternative resolution.

Alternative Resolution is not available to resolve a student Complainant's allegation that an employee has engaged in Title IX Prohibited Conduct.

At any time after the commencement of the alternative resolution process, the Dir. EG/TIX may determine that the alternative resolution process is not an appropriate method for resolving the matter, and may require that the matter be resolved through the formal process.

Factors that the Dir. EG/TIX may weigh in considering the appropriateness of the alternative resolution process include, but are not limited to, the gravity of the allegations, whether there is an ongoing threat of harm or safety to the campus, whether the Respondent is a repeat offender, and whether the Parties are participating in good faith. The Dir. EG/TIX's determination on whether Alternative Resolution is appropriate is not subject to appeal.

b. Exiting the Alternative Resolution Process

Either Party, or the Dir. EG/TIX, may end the Alternative Resolution Process, at which time the investigation or determination will return to the formal process. Information disclosed or obtained for purposes of the alternative resolution process may be incorporated into the formal investigation and live hearing, if applicable, provided that this information is disclosed and reviewed by the Parties under the formal procedures.

c. Required Written Notice

If a party requests the initiation of an alternative resolution process and the Dir. EG/TIX agrees that the matter is appropriate for alternative resolution, each party will receive a written notice that discloses:

The allegations;

- The requirements of the alternative resolution process, including the circumstances under which it precludes the parties from resuming a formal complaint arising from the same allegations;
- The parties' right to withdraw from alternative resolution and resume or initiate disciplinary resolution with respect to the formal complaint; and
- Information about maintenance of records or how records could be shared.

d. Available Restorative Approaches

With approval from the Dir. EG/TIX, the complainant and the Respondent may voluntarily agree on the process(es) that best meets the interests and needs of the parties, including:

- **Facilitated Dialogue:** A structured and facilitated conversation between two or more individuals, most often the complainant, the Respondent, or other community members. The focus is often on providing a space for voices to be heard and perspectives to be shared. Depending on stated interests, the participants may sometimes work towards the development of a shared agreement, although working towards an agreement is not always the intended outcome.
- **Restorative Circle or Conference Process:** A facilitated interaction where the individuals who have experienced harm can come together with an individual(s) who assumes responsibility for repairing the harm (to the extent possible). A circle or conference may include multiple members of the community to explore individual and community impact, harm, obligations, and opportunity for repairing them. Parties must agree on all those who will be present.
- **Shuttle Negotiation:** An indirect, facilitated conversation (either verbally, or through written communications) individually with the complainant, the Respondent, or other participants to discuss experience and perspective and explore interests while working towards meeting expressed needs. This negotiated process does not require direct interaction between the parties or the parties and other participants, but rather, independently, with a coordinator.

e. Role of the Facilitator

Alternative resolution processes are managed by facilitators who do not have a conflict of interest or bias in favor of or against complainants or Respondents generally or regarding the specific Parties in the matter. The Dir. EG/TIX may serve as the facilitator, subject to these restrictions.

All facilitators must have training in this Policy, including the types of Prohibited Conduct and jurisdiction of the Policy, how to conduct alternative resolution processes, and how to serve impartially, including by avoiding prejudgment of the facts at issue, conflicts of interest, or bias.

f. Written Alternative Resolution Terms

The terms of the Alternative Resolution will be in writing. Once the Parties, and the Dir. EG/TIX, have agreed, in writing, to the terms of the Alternative Resolution, the agreement is considered final, and is not subject to withdrawal or appeal. Both Parties are equally bound to follow the terms of the Alternative Resolution agreement. Failure to follow the terms could lead to the termination of the Alternative Resolution Process.

g. Outcomes of Alternative Resolutions

Measures that may be agreed to as a result of the alternative resolution process may include but are not limited to the following:

- Alcohol education classes for the Respondent;
- Regular meetings for a Respondent with an appropriate SOU individual, unit, or resource;
- Permanent extension of a (one-way, or mutual) no contact directive;
- Restriction from participation in specific clubs or organizations;
- Respondent restriction from participation in particular events or campus locations;
- Respondent completion of an educational plan with regular meetings with the applicable resolution coordinator or other appropriate SOU staff or faculty member.

h. Confidentiality

In entering the alternative resolution process, the Parties agree that any testimony and evidence (including admissions of responsibility) they share or receive during the alternative resolution process concerning the allegations of the Formal Complaint is confidential while the parties are participating in the alternative resolution process. No evidence concerning the allegations obtained within the alternative resolution process may be disseminated to any person, provided that any Party to the alternative resolution process may generally discuss the allegations under investigation with a parent, advisor, or other source of emotional support, or with an advocacy organization.

2. Formal Resolution

The formal resolution process includes notice, Investigation, Evidence Review, and Determination. The determination process available will depend on the type of Prohibited Conduct alleged. A hearing will be used for determination in Formal Resolutions of Title IX Prohibited Conduct and also for allegations of Non-Title IX Sexual Misconduct involving a student Respondent. For other Prohibited Conduct under this policy, the Formal Resolution procedures for determination without a hearing will be used.

a. Notice of Investigation

Respondents will be informed of the Formal Complaint as soon as the Dir. EG/TIX deems practicable based upon the nature of the allegations. Written notice will be sent simultaneously to all Parties. The parties will have sufficient time to read and review the notice of allegations and prepare a response prior to any interviews. The Dir. EG/TIX may also hold an initial meeting with a Respondent.

The notice will include, at minimum, the following elements:

- Notice of the allegations potentially constituting Prohibited Conduct, and sufficient details known at the time the notice is issued, such as the identities of the parties involved in the incident, if known, including the Complainant; the conduct allegedly constituting Prohibited Conduct; and the date and location of the alleged incident(s), if known.
- Information about the Alternative Resolution and Formal Resolution Processes, with a link to the full procedures.
- Reference to the specific determination process being used to address the allegations. For determinations without a hearing, the Decision Maker will be identified. If the University assigns a different Decision Maker, an updated notice will be provided to the Parties.
- A statement that the Respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility is made at the conclusion of the process.
- A statement that the parties may have an advisor of their choice, who may be, but is not required to be, an attorney.
- A statement that before the conclusion of the investigation, the parties may inspect and review evidence obtained as part of the investigation that is directly related to the allegations raised in the Formal Complaint, including the evidence upon which the institution does not intend to rely in reaching a determination regarding responsibility, and evidence that both tends to prove or disprove the allegations, whether obtained from a party or other source.
- A statement that knowingly making false statements or knowingly submitting false information is prohibited.
- How to challenge participation by the Investigator for bias or conflict of interest – which the Dir. EG/TIX will resolve in their sole discretion.

If in the course of the investigation, the University determines that it will investigate additional allegations of

prohibited conduct in covered programs and activities that were not included in the initial notice, additional notice will be sent to the parties, and additional sufficient time for review and response will be provided prior to an interview on those allegations.

b. Acceptance of Responsibility

If a Respondent accepts responsibility for all or part of the Prohibited Conduct alleged, the Dir. EG/TIX will issue an appropriate sanction or responsive action as to those violation(s) and continue processing any remaining allegations of Prohibited Conduct. The Dir. EG/TIX will not serve as a Decision-Maker in cases of Title IX Prohibited Conduct.

c. Investigation

The University will assign a trained investigator to review the matter, interview witnesses, review evidence, and develop an investigation report. The investigator will conduct an adequate, reliable, and impartial investigation in a reasonably prompt timeframe. As part of this investigation, they will interview witnesses whom they deem necessary and appropriate to determine the facts relevant to the complaint and gather relevant evidence. Members of the University community are expected to provide truthful information in any report, meeting, or proceeding under this Policy.

When a party meets with an investigator, the investigator will ask questions related to the allegations in the Formal Complaint and a party is given the opportunity speak to the allegations and related events. Parties will be provided an opportunity to identify witnesses and to provide evidence that is related to the allegations. The investigator may ask to interview an individual more than once so that they may respond to information gathered, or to provide additional clarity to information that has been provided.

SOU has the burden of proof and the burden of gathering evidence. This burden does not rest with either party, and either party may decide to limit their participation in part or all of the process, or to decline to participate. This does not shift the burden of proof away from SOU and does not indicate responsibility.

The University aims to complete all investigations within 120 days. This timeframe may be extended as necessary by the Dir. EG/TIX with notice to the parties for reasons including but not limited to accommodation of criminal investigations, ensuring the health or safety of witnesses and other participants, ensuring availability of witnesses and other participants, and ensuring participants have adequate access to hearing materials.

i. Relevance in Evidence and Questions

The Investigator will work to gather all relevant evidence. This will include inculpatory evidence (that tends to show it is more likely that someone committed a violation) and exculpatory evidence (that tends to show it less likely that someone committed a violation). All parties must submit any evidence they would like the investigator to consider prior to when the parties' time to inspect and review evidence begins.

“Relevant” evidence and questions refer to any questions and evidence that tends to make an allegation of Prohibited Conduct more or less likely to be true.

The following are not relevant:

- Evidence and questions about the complainant's sexual predisposition or prior sexual behavior unless:
 - They are offered to prove that someone other than the Respondent committed the conduct alleged by the complainant, or

- They concern specific incidents of the complainant's prior sexual behavior with respect to the Respondent and are offered to prove consent.
- Evidence and questions that constitute, or seek disclosure of, information protected under a legally recognized privilege.
- Any party's medical, psychological, and similar records unless the party has given voluntary, written consent.

ii. Review of Evidence and Preliminary Report

At the conclusion of all interviews and fact-gathering, and when the evidence has been gathered, the Investigator will provide each party and their advisor the opportunity to review all of the evidence gathered that is directly related to the allegation(s) and the preliminary investigation report. This will include both inculpatory and exculpatory evidence and may include evidence that is not relied upon in making a determination, for example evidence that is directly related but not relevant. The purpose of the inspection and review process is to allow each party the equal opportunity to meaningfully respond to the evidence prior to conclusion of the investigation.

Given the sensitive nature of the information provided, SOU will facilitate this review in a secure manner. Neither the parties nor their advisors may copy, remove, photograph, print, image, videotape, record, or in any manner otherwise duplicate or remove the information provided. Any student or employee who fails to abide by this may be subject to discipline. Any Advisor who fails to abide by this may be subject to discipline or may be excluded from further participation in the process.

The parties will have ten days to inspect and review the evidence and preliminary report and submit a written response by email or hard copy to the Investigator. The Investigator will consider the parties' written responses before completing the Investigation Report. The responses may require additional investigation. This shall be the final opportunity to present evidence or suggest witnesses. SOU will provide access to copies of the parties' written responses to the investigator to all parties and their advisors, if any.

Following evidence and preliminary report review, any newly gathered evidence shall be made available to the parties and their advisors for review. The specific amount of time for this second and final review will be reasonably determined by the Dir. EG/TIX on a case-by-case basis based on the nature and complexity of the newly discovered evidence.

Any evidence subject to inspection and review will be available at any hearing, including for purposes of cross examination.

iii. Investigation Report

The Investigator will prepare a final report summarizing the relevant evidence. The Final Investigative Report will be sent to the parties, their Advisors, and the Decision-Maker. The Parties will be provided a date by which to submit a written response to the Final Report to the Decision-Maker. Such a response is optional. No new evidence will be accepted at this time unless, in the sole discretion of the Dir. EG/TIX, relevant evidence becomes available that was unavailable or not reasonably knowable at an earlier stage and which, if not included, could impact the outcome of the matter.

d. Determination Processes

This policy contains two different determination processes for Formal Complaints: determination without a hearing, and determination with a hearing. The Dir. EG/TIX shall determine which of these processes will be

utilized under this policy, based on the type of Prohibited Conduct alleged and the status of the parties (such as student, employee, or other status).

i. Determination without a hearing

Determination without a hearing is not available for Title IX Prohibited Conduct, or when the allegations involve a student Respondent and Non-Title IX Sexual Misconduct.

The Dir. EG/TIX will appoint a Decision Maker to review the investigation report and to make a determination based on the preponderance of the evidence. If the investigator is going to be the Decision Maker, the Dir. EG/TIX will note this at the outset of the investigation in the Notice of Allegations. The Dir. EG/TIX cannot be the Decision Maker.

1. Appointment of a Decision Maker

After the investigator issues the final investigation report, the Dir. EG/TIX will appoint a Decision-Maker if one has not already been selected. The Dir. EG/TIX will issue notice to both parties that includes the following:

A description of the alleged violation(s);

- A reference to the applicable policy and policy provisions, with access to the full policy and procedures (including by link).
- The name(s) of the Decision-Maker appointed by the Dir. EG/TIX.
- How to challenge participation by a Decision-Maker for bias or conflict of interest, to be resolved by the Dir. EG/TIX in their sole discretion.

2. Decision and Notice of Outcome

The Decision-Maker will review the final investigation report and the evidence collected to determine responsibility based on the preponderance of the evidence. The Decision Maker will aim to provide their notice of outcome regarding responsibility to the University within 15 days of receiving the final investigation report.

The notice of outcome will include:

- Identification of the allegations potentially constituting Prohibited Conduct;
- A description of the procedural steps taken from the receipt of the formal complaint through the determination, including any notifications to the parties, interviews with parties and witnesses, site visits, methods used to gather other evidence, and hearings held;
- Findings of fact supporting the determination;
- Conclusions regarding which section of this policy or other University policy, if any, the Respondent has or has not violated.
- For each allegation, a determination regarding responsibility for an identified policy violation (Prohibited Conduct), with the rationale;
- A statement of, and rationale for, any disciplinary sanctions the recipient imposed on the Respondent; and SOU's appeal procedures and applicable deadlines; and
- How to challenge participation by the Appeal Decision Maker for bias or conflict of interest – which the Dir. EG/TIX will resolve in their sole discretion.

ii. Determination with a Hearing

In cases involving Title IX Prohibited Conduct and in Non-Title IX Sexual Misconduct cases where the Respondent is a student, the determination includes a live hearing. All participants shall be subject to SOU's Rules of Decorum.

1. Notice of Hearing

At least 10 days prior to the hearing, the Dir. EG/TIX will notify the parties in writing. This notice will include:

- The time, date and location of the hearing and a reminder that the parties have a right to attend. 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.
- 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.
- The names of the Decision-Maker as appointed by the Dir. EG/TIX.
- How to challenge participation by a Decision-Maker for bias or conflict of interest – which the Dir. EG/TIX will resolve in their sole discretion.
- The parties may have an advisor of their choice at the hearing for purpose of conducting cross examination.
- Notice of the date, time, and location of the pre-hearing meeting, if any.

The Dir. EG/TIX has the discretion to reschedule the hearing. Any delay or extension, including the rationale (if appropriate) will be communicated to the parties in writing.

2. Pre-Hearing Meeting

The University will hold a pre-hearing meeting to ensure the parties and their advisors of choice, if any and if they choose to attend, understand the hearing procedures. Such a meeting will typically be held more than one week prior to the hearing. The parties may be asked to submit a list of proposed witnesses to be called to the hearing and a brief written explanation of the information each witness would provide.

The Decision-Maker will review the parties' requested witnesses and consider any other witnesses. The Decision Maker has discretion to determine which witnesses are relevant and may decline to hear from witnesses where they conclude that the information is not necessary for the review. Witnesses will only be permitted to attend the hearing during their own testimony. The parties may also be asked to submit proposed areas of questioning for cross examination.

3. Hearing Format

The hearing may be conducted with all parties together in a video conferencing platform. This technology will enable participants simultaneously to see and hear each other. At its discretion, the University may delay or adjourn a hearing based on technological errors not within a party's control. The University also has the discretion to hold hearings in person or in a hybrid format.

A hearing will begin with the Decision-Maker opening instructions. Once complete, the Parties can provide an opening statement, which should not exceed five minutes. An advisor is not permitted to provide an opening statement on behalf of their party.

Once opening statements have concluded, the Decision-Maker may pose questions to parties and witnesses regarding information deemed relevant by the Decision-Maker, and in an order left to the discretion of the Decision Maker. The Parties or their advisors will have the opportunity to conduct cross-examination of all parties and witnesses, should that party or witness wish to answer cross-examination questions. Once the

advisor has completed their cross-examination of a party or witness, the Decision-Maker shall ask any follow-up questions and may permit additional questions from the complainant advisors.

Once the questioning has concluded, the Parties can provide a closing statement, which should not exceed five minutes. An Advisor is not permitted to provide a closing statement on behalf of their Party.

4. Hearing Participants

All Parties have a right to be present at the hearing. Parties may be accompanied in the hearing by an advisor of their choice and must provide the name of their advisor to the Dir. EG/TIX at least three (3) days prior to the hearing. Student Organization Respondents may have up to three organizational representatives. The Dir. E.G./TIX may limit the participation based upon privacy concerns. Additional attendees may be permitted at the discretion of the Dir. EG/TIX in connection with approved accommodation.

The University may still proceed with the hearing in the absence of a party or witness(es) and may reach a determination of responsibility in their absence. If a party does not attend the hearing, they are waiving their participation in the hearing. The University will not provide an advisor to appear on behalf of the non-appearing Party. The Decision-Maker cannot draw an inference about the determination regarding responsibility based solely on a party's absence from the live hearing or refusal to answer cross examination or other questions.

The Decision-Maker does not hear from character witnesses to make a determination about responsibility. If there is a finding of responsibility, then during the sanctioning phase the Decision-Maker will accept up to two letters supporting the character of the individuals involved as well as impact statements from the Parties. Character letters and impact statements should be submitted to the Dir. EG/TIX via email no later than 24 hours after the conclusion of the hearing. Character and impact statements will not be shared with the other 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.

5. Expectations of Decorum

The following Expectations of Decorum are to be observed in the hearing, during cross-examination questioning, and as applicable to any meetings associated with resolution of a Formal Complaint; and applied equally to all parties and Advisors. The Decision-Maker will have the authority to remove from the meeting, process, or hearing an involved party or Advisors who do not comply with the Expectations of Decorum.

Questions must be conveyed in a neutral tone.

- Parties and Advisors will refer to other parties, witnesses, Advisors, and SOU staff using the name and gender used by the person and shall not intentionally mis-name or mis-gender that person in communication or questioning.
- No party may act abusively or disrespectfully during the hearing toward any other party or to witnesses, Advisors, or Decision Maker.
- While an Advisor may be an attorney, no duty of zealous advocacy should be inferred or enforced within this forum.
- The Advisor may not yell, badger, or physically "lean in" to a party or witness' personal space. Advisors may not approach the other party or witnesses without obtaining permission from the

Decision Maker.

- The Advisor may not use profanity or make irrelevant ad hominem attacks upon a party or witness. Questions are meant to be interrogative statements used to test knowledge or understand a fact, they may not include accusations within the text of the question.
- The parties may not ask repetitive questions. This includes questions that have already been asked by the Decision Maker, the Advisor in cross-examination, or the party or Advisor in direct testimony. When the Decision Maker determines a question has been “asked and answered” or is otherwise not relevant, the parties must move on.
- Parties and Advisors may take no action at the hearing that a reasonable person in the shoes of the affected party would see as intended to intimidate that person (whether party, witness, or official) into not participating in the process or meaningfully modifying their participation in the process.

6. Newly Discovered Evidence

As a general rule, no new evidence or witnesses may be submitted during the live hearing.

If a party identifies new evidence or witnesses that were not reasonably available during the investigation and could affect the outcome of the matter, the party may request that such evidence or witnesses be considered at the live hearing.

The Decision-Maker will consider this request and make a determination regarding:

- whether such evidence or witness testimony was unavailable by reasonable effort prior to the hearing, and
- whether such evidence or witness testimony could affect the outcome of the matter. The party offering the newly-discovered evidence or witness has the burden of establishing these questions by the preponderance of the evidence.

If the Decision-Maker answers in the affirmative to both questions, then the parties will be granted a reasonable pause in the hearing to review the evidence or prepare for questioning of the witness. Alternatively, should the newly discovered evidence require additional fact-gathering, the Decision-Maker may send the case back to the investigator for any further investigation as may be required. In this case, the investigator will issue an amended Investigation Report, to which the Parties shall have an opportunity to respond. Depending on the amount of new evidence, SOU may shorten the second review and response period, as determined by the Dir. EG/TIX. The amended Investigation Report, along with any response(s), shall then be provided to the Parties, their Advisor, and to the Decision-Maker.

7. Hearing Advisors

As per this policy, in the event that a party does not have an Advisor present at the hearing, SOU must provide an Advisor, without fee or charge to that party, who may be, but is not required to be, an attorney to conduct cross examination on behalf of that party. Such cross-examination at the hearing must be conducted directly, orally, and in real time by the party’s Advisor of choice and never by a party personally.

8. Cross-examination

Before any cross-examination question is answered, the Decision-Maker will determine if the question is relevant. Should a party or the party’s advisor choose not to cross-examine a party or witness, the party shall affirmatively waive cross-examination through a written or oral statement to the Decision-Maker.

9. Recordings and Transcripts

All proceedings will be audio recorded. A transcript or an audio recording will be made available to the parties for inspection and review, at the University's discretion. This will be the sole recording of the hearing; no Party, Advisor, or witness is permitted to record the hearing, or any portion of the hearing. Any unauthorized recording may result in disciplinary action.

10. Decisions/Notice of Outcome

The Decision-Maker will deliberate and make a determination about responsibility based on the preponderance of the evidence. The Decision-Maker will prepare a written determination, which they will provide to the Dir. EG/TIX. This determination will be included in a notice of outcome issued simultaneously to all parties. If there are no extenuating circumstances, the determination regarding responsibility will be issued by the University within fifteen (15) days of the completion of the hearing.

The notice of outcome will include:

- Identification of the allegations potentially constituting Prohibited Conduct;
- A description of the procedural steps taken from the receipt of the formal complaint through the determination, including any notifications to the parties, interviews with parties and witnesses, site visits, methods used to gather other evidence, and hearings held;
- Findings of fact supporting the determination;
- Conclusions regarding which section of this policy or other University policy, if any, the Respondent has or has not violated.
- For each allegation:
 - A statement of, and rationale for, a determination regarding responsibility;
 - A statement of, and rationale for, any disciplinary sanctions the recipient imposed on the Respondent; and
 - A statement of, and rationale for, whether remedies designed to restore or preserve equal access to SOU's education program or activity will be provided to the Complainant, except that the remedies provided shall not be shared with the Respondent; and
- SOU's procedures and the permitted reasons for the Complainant and Respondent to appeal, including identifying the appeals Decision-Maker.
- How to challenge participation by the Appeal Decision-Maker for bias or conflict of interest – which the Dir. EG/TIX will resolve in their sole discretion.

e. Sanctions

Sanctions or responsive actions will be determined by the Decision Maker for all non-employee Respondents. For employee Respondents, human resources will determine the appropriate sanctions.

Previous disciplinary action of any kind involving the Respondent may be considered in determining an appropriate sanction upon a determination of responsibility. This information is only considered at the sanction stage of the process and is not shared until then. The parties may each submit a written impact statement prior to the hearing for the consideration of the Decision-Maker at the sanction stage of the process (if the process progresses to sanctioning) after a determination of responsibility is reached.

- 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 or retaliation.

- The need for sanctions/responsive actions to prevent the future recurrence of discrimination, harassment or retaliation.
- The need to remedy the effects of the discrimination, harassment or retaliation on the victim and the campus community.

i. Student Sanctions

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

- **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.
- **Probation:** A written reprimand for violation of this policy 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, no contact orders or other measures deemed appropriate.
- **Suspension:** Termination of student status for a definite period of time 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.
- **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.
- **Withholding Diploma:** The University may withhold a student's diploma for a specified period of time 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.
- **Organizational Sanctions:** Deactivation, de-recognition and loss of all privileges (including University registration), for a specified period of time.
- **Other Actions:** In addition to or in place of the above sanctions, the University may assign any other sanctions as deemed appropriate, including but not limited to a reflection essay or completion of education modules.

ii. Employee Sanctions

When an employee is found responsible for violating this policy, the matter will be referred to Human Resources for next steps in accordance with university policy and procedures. 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 are Pending

If a student or employee Respondent permanently withdraw or resign from SOU with unresolved allegations pending, the University will consider whether and how to proceed with the resolution process. 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 or retaliation.

A student Respondent 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 or events. If a 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 matter is fully resolved.

An employee Respondent who resigns with unresolved allegations pending is not eligible for rehire with SOU and the records retained by the Dir. EG/TIX 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

Any party may appeal (1) the dismissal of a formal Complaint or any included allegations or (2) a determination about responsibility and sanctions. The appeal is not a live hearing; it is decided on written submissions only.

Requests for appeal must be submitted in writing to the Dir. EG/TIX within ten (10) days of the delivery of the written finding of the Decision-Maker.

The limited grounds for appeal available are as follows:

A procedural irregularity affected the outcome of the matter;

A party has evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made, that could affect the outcome of this matter;

The sanctions imposed are substantially disproportionate to the severity of the violation.

The Dir. EG/TIX, Investigator, or Decision-Maker had an actual conflict of interest or demonstrated bias for or against an individual party, or for or against Complainants or Respondents generally, that affected the outcome of the matter.

If a party appeals, the other party will be notified, in writing, and will then have five (5) days to respond to the appeal or submit their own appeal, if they wish.

The Dir. EG/TIX will designate a Decision-Maker to hear timely appeals.

The appellate Decision-Maker will review all appeals and will issue a written determination which will include the findings of each specified ground for appeal along with the rationale for each finding. The outcome of the appeal, including the rationale for the decision, will be provided simultaneously in writing to both parties fifteen (15) business days from the date submissions were due from the parties.

Once the Decision Maker issues its determination, 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 Dir. EG/TIX. 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, such as suspension, expulsion, termination, or a transcript notation. Failure to comply with sanctions or responsive actions may violate the student code of conduct and be referred to the Dean of Students.

Responding parties needing an extension to comply with their sanctions must submit a written request to the Dir. EG/TIX stating the reasons for needing additional time.

i. Records

In implementing this policy, records of all grievances, resolutions and hearings will be kept by the Dir. EG/TIX 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. 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, 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.

D. Relevant Authority

Consultation on original policy with Policy Council, Faculty Senate, Staff Assembly, and the Associated Students of Southern Oregon University.

E. Other Information

Policy Review & Revision

These policies and procedures will be reviewed and updated regularly by the Dir. EG/TIX. The Dir. EG/TIX 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.

Inquiries about this policy and procedure may be made internally to:

Dir. EG/TIX
Stevenson Union 321
[Jennifer Larimore](mailto:Jennifer.Larimore@sou.edu)
Equitygrievance@sou.edu

Deputy Title IX Coordinators
Carrie Vath, Dean of Students
Stevenson Union 321
(541) 552-6652
Vathc@sou.edu

Alana Lardizabal, Director of Human Resources
Churchill Hall 156
(541) 552-8553
lardizaba@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.