

**Document History**

Responsible Administrator: EEO/ADA and Title IX

Responsible Office EEO/ADA

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## Power-Based Violence & Sexual Misconduct Policy

Title IX Deputy Coordinator – Dr. Gabe Willis (gabe.willis@southeastern.edu)

This policy is not intended to infringe upon or restrict rights guaranteed by the United States Constitution, including the right to free speech under the First Amendment or the due process clauses of the Fifth and Fourteenth Amendments.

The comprehensive approach of this Policy includes procedures to address power-based violence (which includes sexual misconduct). Title IX conduct is addressed in the companion Title IX Formal Grievance Procedures.

## II. Notice of NonDiscrimination

Title IX is a federal law that prohibits discrimination on the basis of sex in any federally funded education program or activity. Title IX prohibits use of federal money to support sex discrimination in education programs and provides individuals protection against such practices.

In compliance with federal law and USDOE federal guidance, including the provisions of Title VII of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, Sections 503 and 504 of the Rehabilitation Act of 1973, the Americans with Disabilities Act (ADA) of 1990, the ADA Amendments Act of 2008, the Age Discrimination Act in Employment Act of 1967 (ADEA), Executive Order 11246, Executive Order 13988, the Vietnam Era Veterans Readjustment Assistance Act of 1974 as amended by the Jobs for Veterans Act, the Uniformed Service Employment and Reemployment Rights Act, as amended, and the Genetic Information Nondiscrimination Act of 2008, Recipient shall not discriminate against individuals on the basis of their race, sex, sexual orientation, gender identity, gender expression, religion, color, national or ethnic origin, age, disability, military service, covered veteran's status, or genetic information in its administration of education



Recipient will investigate all reports of power-based violence and sexual misconduct ("Reports") received by the Title IX Coordinator. Recipient is authorized under this Power-Based Violence & Sexual Misconduct Policy and its accompanying Title IX Formal Grievance Procedures, to take certain actions to address or remedy sexual misconduct or power-based violence after receiving a Report, during an investigation, and after an investigation, even if the matter does not proceed to an adjudication.

Anyone can report an incident of power-based violence or sexual misconduct to the Recipient under the procedure describe in Section V of this Policy.

### Power-based Violence Defined

Power-based violence is defined as any form of interpersonal violence intended to control or intimidate another person through the assertion of power over the person, including the following:

- Dating Violence as defined by the Clery Act: Violence including, but not limited to, sexual or physical abuse or the threat of such abuse, committed by a person who is or has been in a social relationship of a romantic or intimate nature with the Complainant. The existence of such a relationship will be determined based on a consideration of the length and type of relationship and the frequency of interaction.
- Dating Violence as defined by Louisiana law: "Dating violence" includes, but is not limited to, physical or sexual abuse and any offense against the person as defined in the Criminal Code of Louisiana, except negligent injury and defamation, committed by one dating partner against the other. La RS 46:2151(C) For purposes of this Section, "dating partner" means any person who is or has been in a social relationship of a romantic or intimate nature with the victim and where the existence of such a relationship shall be determined based on a consideration of the following factors:
  - a. The length of the relationship.
  - b. The type of relationship.
  - c. The frequency of interaction between the persons involved in the relationship.
- Domestic Violence as defined by the Clery Act: Violence, including but not limited to, sexual or physical abuse or the threat of such abuse committed by a current or former spouse or intimate partner or any other person from whom the Complainant is protected under federal or Louisiana law. Felony or misdemeanor crime of violence committed:
  - a. By a current or former spouse or intimate partner of the victim.
  - b. By a person with whom the victim shares a child in common.
  - c. By a person who is a cohabitant of the victim.

and defamation, committed by one family or household member against another. La. RS 46:2132(3). Domestic abuse shall also include any act or threat to act that is intended to coerce, control, punish, intimidate, or exact revenge on the other party, for the purpose of preventing the victim from reporting to law enforcement or requesting medical assistance or emergency victim services, or for the purpose of depriving the victim of the means or ability to resist the abuse or escape the relationship.

- Family violence as defined by Louisiana law: Means any assault, battery, or other physical abuse which occurs between family or household members who reside together or who formerly resided together. La RS 46:2121.1(2)
- Sexual Assault as defined by the Clery Act: An off

- Sexually Oriented Criminal Offense: Any sexual assault offense as defined in La RS 44:51 and any sexual abuse offense as defined in La RS 14:403.
- Sexual Exploitation: An act attempted or committed by a person for sexual gratification, financial gain, or other advancement through the abuse or exploitation of another person's sexuality including prostituting another person. (La RS 14:46.2 and 14:82 through 14:86)

Sexual exploitation includes:

Human trafficking (La RS 14:46.2)

Prostitution (La RS 14:82)

Prostitution of person under 18 (La RS 14:82.1)

Purchase of commercial sexual activity (La RS 14:82.2)

Solicitation for prostitutes (La RS 14:83)

Inciting prostitution (La RS 14:83.1)

Promoting prostitution (La RS 14:83.2)

Prostitution by massage (La RS 14:83.3)

Sexual massage (La RS 14:83.4)

Pandering (sexual) (La RS 14:84)

Letting premises for prostitution (La RS 14:85)

Enticing persons into prostitution (La RS 14:86)

- Stalking as defined by the Clery Act: Intentional and repeated following OR harassing that would cause a reasonable person to feel alarmed OR that would cause a reasonable person to suffer emotional distress OR intentional and repeated uninvited presence at another person's home, workplace, school, or any other place where Sexual Misconduct would cause a reasonable person to be alarmed OR would cause a reasonable person to suffer emotional distress as a result of verbal or behaviorally implied threats of death, bodily injury, sexual assault, kidnapping, or any other statutory criminal act to the victim OR any member of the victim's family OR any person with whom the victim is acquainted. 34 CFR 668.46(a) (ii).
- Stalking as defined by Louisiana State law: Stalking is the intentional and repeated following or harassing of another person that would cause a reasonable person to feel alarmed or to suffer emotional distress. Stalking shall include, but not be limited to, the intentional and repeated uninvited presence of the perpetrator at another person's home, workplace, school, or any place which would cause a reasonable person to be alarmed, or to suffer emotional distress as a result of verbal, written or behaviorally implied threats of death, bodily injury, sexual assault, kidnapping, or any other statutory criminal act to another person or any member of the person's family or any person with

- Unwelcome sexual or sex/gender based conduct that is objectively offensive and has a discriminatory intent.

### Title IX Sexual Harassment Defined

For the purposes of determining whether power-based violence will be treated as a potential violation of Title IX in accordance with the Title IX Grievance Procedure, Title IX sexual harassment means conduct on the basis of sex that satisfies one or more of the following:

- An employee of Recipient conditioning the provision of an aid, benefit, or service of the Recipient on an individual's participation in unwelcome sexual conduct;
- Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to Recipient's acpa6 c80(a)4(ti)4 on or46(a)14(m)4.1( or-
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prompt action to provide Supportive Measures for the safety and well-being of any affected person as well as the campus community.

## A. Reporting Procedure

To make a Report, a reporting individual may do one or more of the following:

- Report the incident to the Title IX Coordinator or Deputy Coordinator
- Disclose the incident to an **employee** (i.e., Responsible Employee) other than the Chief Title IX Coordinator or Deputy Title IX Coordinator. That employee must direct their report/information to the Title IX Coordinator or Deputy Coordinator. (See **Mandatory Reporting for Employees** below).

- **The Office of Advocacy & Accountability** A Complainant may request disciplinary action by the Office of Advocacy & Accountability with or without filing a police report. A complaint can be filed with the Office of Advocacy & Accountability by dialing (985) 549-2213, reporting it at

Employees must report the following:

- The identity of the alleged victim.
- The identity of the alleged perpetrator (if known).
- The type of power-based violence or retaliation alleged to have been committed.
- Any other information about witnesses, location, date, and time that the incident occurred.
- Any other relevant information.

In accordance with state law, unless waived in writing by the alleged victim, the identity of an alleged victim of an incident reported under La RS 17:3399.13 is confidential and not subject to disclosure except to:

- A person employed by or under contract with Recipient to which the report is made, if the disclosure is necessary to conduct the investigation of the report or any related hearings;
- A law enforcement officer as necessary to conduct a criminal investigation of the report;
- A person alleged to have perpetrated the incident, to the extent required by law; or
- A potential witness to the incident as necessary to conduct an investigation of the report.

Recipient must inform all personnel participating in an investigation, proceeding, or hearing that they are expected to maintain the privacy of the process and that they are prohibited from using or disclosing such confidential information outside of such forums without express consent or for any improper purpose. This does not prohibit either a Complainant or Respondent from obtaining the assistance of family members, counselors, therapists, clergy, doctors, attorneys, or other resources.

## E Confidential Advisors

A Complainant shall be advised of the right to seek a Confidential Advisor.

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

Upon being designated as a Confidential Advisor to a Complainant of sexual misconduct or power-based violence, the Confidential Advisor shall inform the Complainant of the following:

- The rights of the Complainant under federal and state law and Recipient's policies;
- The Complainant's reporting options, including the option to notify Recipient, the option to notify local law enforcement, and any other reporting options;
- If reasonably known, the potential consequences of those reporting options;
- Recipient's process of investigation and disciplinary proceeding;
- The process of investigation and adjudication of the criminal justice system;
- The limited jurisdiction, scope, and available sanctions of Recipient's student disciplinary proceeding, and that it should not be considered a substitute for the criminal justice process;
- Potential reasonable accommodations that Recipient may provide to a Complainant;
- The name and location of the nearest medical facility where a Complainant may have a rape kit administered by an individual trained in sexual assault, forensic medical examination and evidence;
- The Complainant's rights and the Recipient's responsibilities regarding orders of protection, no-contact orders, restraining orders, or similar lawful orders issued by a court of competent jurisdiction or by Recipient.

The responding party may also request access to a Confidential Advisor.

The Confidential Advisor shall be authorized to liaise with appropriate staff and Recipient to arrange supportive measures through Recipient to allow the alleged victim to change living arrangements or class

The Confidential Advisor shall be authorized to accompany the alleged victim, when requested to do so by the alleged victim

## H. Immunities

Anyone who knowingly makes a false accusation of unlawful discrimination, harassment, or retaliation of any form will be subject to an investigation for a potential violation of this policy and may be subject to disciplinary action, up to and potentially including termination for employees and expulsion for students.

## VI. Initial Steps & Determination of Appropriate Procedures

After Recipient's Title IX Office has received a report of alleged sexual misconduct or power-based violence, the Title IX Office is required to perform an initial assessment consistent with the information below prior to moving forward with an investigation (if one is required/requested) to determine whether the reported conduct meets the USDOE's jurisdictional and definitional requirements to be categorized as Title IX sexual harassment. If that initial assessment reveals that the alleged conduct does meet the definition of sexual harassment as contained within the USDOE's Title IX Regulations, the investigation will proceed pursuant to the Title IX Formal Grievance Procedures. If the alleged conduct does not meet the USDOE's definition of sexual harassment, the investigation will proceed pursuant to this Power-Based Violence & Sexual Misconduct Policy.

### A. Initial Contact with Complainant

As soon as is practicable (but no later than five working days following actual notice), the Title IX Coordinator or Deputy Title IX Coordinator shall contact the Complainant and schedule an initial meeting. The Complainant will be notified that they are entitled to have an Advisor accompany them to any meeting or interview related to the power-based violence or sexual misconduct process. At the initial meeting the Chief Title IX Coordinator or the Deputy Title IX Coordinator will:

- Provide a copy of the relevant policies which explain the process and rights of all parties;
- Explain the process for filing a formal complaint with the Title IX Office;
- Explain the procedural differences based on Title IX vs. non-Title IX conduct;
- Instruct the Complainant not to destroy any potentially relevant documentation in any format;



- Related to the Complainant's choice of formal or informal resolution, discuss confidentiality standards and concerns with the Complainant and advise that confidentiality may impact the University's ability to investigate fully;
- Refer the Complainant, as appropriate, to the Counseling Center or other resources which may include law enforcement, medical assistance, psychological counseling, victim advocacy resources, legal resources, University disciplinary action, immigration services, and criminal prosecution;
- Inform the Complainant that they have the right to utilize a Confidential Advisor and/or any other Advisor of their choosing throughout the process;
- Discuss with the Complainant, as appropriate, possible Supportive Measures as defined hereinabove and explain that these can be offered with or without the filing of a formal complaint;
- Communicate necessary details of the report to the University Police Department for entry into Recipient's daily crime log; and
- Request additional information regarding the reported incident.

## **B. Supportive Measures**

If the Title IX Coordinator or Deputy Coordinator receives notice of alleged sexual misconduct or power-based violence, whether through online reporting or other reporting methods, the Title IX Coordinator or designee must promptly contact the Complainant to discuss the availability of Supportive Measures, consider the Complainant's wishes with respect to Supportive Measures, and inform the

## Complainants Rights

- Complainant



If one chooses to proceed informally, the employee or student should contact the Title IX Coordinator or the Deputy Coordinator to report the sexual harassment or misconduct and specify that they wish to proceed informally. The Chief Title IX Coordinator or the Deputy Title IX Coordinator will make an initial decision about whether a case qualifies for an informal resolution. Resolution at the informal complaint process level can be mediated by the Title IX Coordinator or the Deputy Coordinator and/or may include an agreement in which one or more of the parties involved agrees to accept discipline in the form of a warning, censure, probation, or other such disciplinary action as may be warranted by the circumstances of each case. Note: Mediation is not considered appropriate for conduct that involves violent or criminal behavior.

To the extent the parties are able to achieve a satisfactory resolution of the complaint through the informal resolution process, the complaint will be considered resolved. The accused and the accuser will receive written notification of the outcome and disposition of the complaint. The fact that a complaint of sexual harassment or misconduct may be concluded at the request of the accusing party does not preclude the filing of a formal complaint by others, including appropriate University officials.

In those cases, in which a mutually satisfactory resolution of an informal complaint of sexual harassment or misconduct cannot be achieved, either the Complainant or the Respondent may request in writing to advance the complaint to the formal complaint process. This request should be submitted in writing to the Chief Title IX Coordinator or the Deputy Title IX Coordinator within seven (7) working days of the proposed informal resolution.

## B. Formal Complaint

If a potential Complainant wishes to pursue an incident of power-based violence or sexual misconduct beyond simply reporting it, they may file a formal complaint. The filing of a formal complaint means that the individual is asking the institution to take further steps, such as a full investigation and possibly an adjudication to resolve the alleged issue. Any Complainant (i.e., an alleged victim or survivor or someone who has otherwise been directly affected by power-based violence) may file a formal complaint, and the institution will treat it as such.

An individual who is alleged to have been subjected to an incident of power-based violence (i.e., a victim or a person who has been directly affected by power-based violence) and subsequently files a formal complaint will be referred to as a Complainant.

Any Third-Party reporter (i.e., someone who has knowledge of or witnessed power-based violence) may request the institution to treat their report as a formal complaint, but that request would not make the Third-Party reporter into a Complainant. Similarly, the fact that the Title IX Coordinator or the Deputy Coordinator converts a report to a formal complaint does not m9.030 Tc

Formal complaints should be a written statement detailing the allegations on the Title IX Reporting Form, which is submitted online and directed to the Title IX Coordinator or Deputy Coordinator.

a. How to File a Formal Complaint

Individuals seeking to file a formal complaint may do so with the Title IX Coordinator or Deputy Coordinator. Formal complaints must be in writing and include all information the individual believes to be relevant (e.g. time, location, and nature of incident, names of individuals involved, witnesses to the incident, names of other persons affected by the incident, etc.).

Individuals seeking to file a formal complaint must be allowed to submit on paper (hard copy), in electronic form, or in person, whereby the individual can file a Formal Complaint by meeting with the Title IX Coordinator (or Deputy Coordinator) to provide a verbal description of the power-based violence or sexual misconduct which the Title IX Office will use to draft a written document that the individual will review, verify, and sign to constitute a formal complaint.

Note: If the formal complaint filed satisfies the requirements of a Title IX formal complaint as defined by 34 CFR Sec. 106.30, the Title IX Office should proceed under the Title IX Formal Grievance Procedures.

b. Withdrawal of a Formal Complaint

A Complainant may withdraw their complaint. If a complaint is withdrawn, the Title IX Office will assess the information provided and proceed accordingly. Withdrawal of the complaint will ordinarily end the complaint and resolution process. However, the Title IX Officer reserves the right to proceed with the complaint, even after the Complai

After reviewing the complaint and meeting with the Title IX Office, the case will be referred to the Office of Student Advocacy and Accountability. At that time, the Respondent may choose to end the resolution process by accepting responsibility for the conduct alleged in the complaint. If the Respondent accepts responsibility for the conduct alleged in the complaint, the appropriate decision makers will determine the appropriate sanction for the Respondent. If the Respondent disputed the allegation in the complaint, the matter will proceed to an investigation.

## Notice to Respondent

The person alleged to have committed sexual misconduct is called the Respondent. The Respondent will be notified in writing that a Complaint alleging sexual misconduct has been filed against them. The Respondent will be advised that they may have an Adviser accompany them to any meeting or interview related to the investigation and resolution process.

## VIII. Investigative Process

The Title IX Office will designate Investigators specifically trained in sexual misconduct or power-based violence investigations to conduct prompt, thorough, and fair investigation. Assigned investigators should

A Complainant or Respondent must submit any comments about their own statement, or on any investigation summary that might be provided, to the Investigator(s) within five (5) calendar days after the statement or summary was provided. Following the receipt of any comments submitted, or after the five-





A student may appeal the decision of the Vice President for Student Affairs to the President of the University or his/her designee if the sanction is one of suspension from the University for a period of one academic year, or if the sanction is of greater severity. For appeals regarding less severe sanctions, the final appeal shall be at the Vice President for Student Affairs level.

A student may appeal the decision of the University President to the Board of Supervisors for the University of Louisiana System if the sanction is one of suspension from the University for a period of one academic year, or if the sanction is of greater severity. For appeals regarding less severe sanctions, the final appeal shall be at the University level. If the student chooses to appeal to the Board of Supervisors after all administrative procedures have been exhausted at the University level, the appeal must be submitted to the President of the University of Louisiana System which refers the appeal to the Board of Supervisors for the University of Louisiana System. The appeal must be made within 30 calendar days of the University's decision. The Board's review is limited to a determination of compliance with established and appropriate procedures at the University level. The student shall be notified of the Board's decision through electronic means or written correspondence.

All other parties shall be notified in writing in the event any party files an appeal. Parties shall be given a reasonable opportunity to submit a written statement in support of, or challenging, the outcome.

## **XI. Transcript Withholding, Notation & Communication**

For any student who is the subject of a power-based violence or sexual misconduct complaint and who attempts to transfer to another public postsecondary institution, Recipient shall either (1) withhold the transcript of the student or (2) place a notation on the student's transcript.

Recipient shall immediately notify the student that their transcript has been withheld or notated, and of the appeals process to have the hold or notation removed. Either the transcript is withheld or the notation remains on the transferring student's transcript until Recipient makes a determination that the transferring student is not responsible for power-based violence or sexual misconduct, or the transferring student prevails in a request to appeal the withholding of a transcript or notation pursuant to Part 3 of this Section, whichever occurs first.



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### XIII. Data Publications

#### 1. Power-Based Violence Climate Survey



Recipient and the campus law enforcement agency be documented. The policy shall also provide for guidelines on referring the reports to the appropriate law enforcement agencies.

## XV. Memorandum of Understanding

On or before January 1, 2022, the University Police Department, the City of Hammond Police Department, and the 21<sup>st</sup> Judicial District District Attorney's Office shall enter into and maintain a written memorandum of understanding (MOU) to clearly delineate responsibilities and share information in accordance with applicable federal and state confidentiality laws, including but not limited to trends about power-based violence committed by or against Recipient's students. The MOU must be signed by all parties to the MOU.

Each MOU shall include the following:

- a. Delineation and sharing protocols of investigative responsibilities;
- b. Protocols for investigation, including standards for notification and communication, and measures to promote evidence preservation;
- c. Agreed-upon training and requirements for the parties to the MOU on uses related to power-based violence for the purpose of sharing information and coordination of training to the extent possible;
- d. A method of sharing general information about power-based violence occurring within the jurisdiction of the parties to the MOU in order to improve campus safety; and
- e. A requirement that the local law enforcement agency shall include information on its police report regarding the status of the Complainant as a student at Recipient.

Each executed MOU shall be reviewed annually by Recipient's President, the Title IX Coordinator, and the executive officers of the City of Hammond Police Department and the 21<sup>st</sup> Judicial District District Attorney's Office, and shall be revised as considered necessary.

Nothing in this Section or any MOU shall be construed as prohibiting a Complainant or Responsible Employee from making a complaint to both Recipient and a law enforcement agency.

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- f. The telephone number and website address for a local, state, or national hot line providing information to Complainants of power-based violence, which shall be updated at least on an annual basis;
- g. The names and location of the nearest medical facility where an individual may have a rape kit administered by an individual trained in sexual assault forensic medical examination and evidence collection, and information on transportation options and available reimbursement for a visit to such facility;
- h. Each current memorandum of understanding between Recipient and the City of Hammond Police Department and between Recipient and the 21<sup>st</sup> Judicial District District Attorney's Office; and
- i. Data publications as specified in Section XIII of this Policy.

## Appendix One: Other Requirements of State Law, Federal Law and Department of Education Regulations

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

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

### Medical and Counseling Resources

#### The National Sexual Assault Telephone Hotline

If you need immediate help, call 800.656.HOPE (

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