

Sexual Assault and Title IX Policy (rev. 5/18/22)

SECTION 1 - INTRODUCTION

1.1 Policy Statement: Southern Adventist University is committed to creating and maintaining a learning and working environment that is free from unlawful discrimination based on sex in accordance with Title IX of the Higher Education Amendments of 1972 (Title IX), which prohibits discrimination on the basis of sex in education programs or activities; Title VII of the Civil Rights act of 1964 (Title VII), which prohibits sex discrimination in employment; and the Campus Sexual Violence Elimination Act, Clery Act, and the Violence Against Women Act (VAWA). Sexual Harassment and Retaliation under this Policy will not be tolerated by Southern and is grounds for disciplinary action, up to and including, permanent dismissal from Southern and/or termination of employment.

1.2 Purpose: Southern takes all reported sexual harassment seriously. Southern will promptly sanction any individuals within its control who are found responsible for violating this Policy. Additionally, reported University Sexual Harassment, and Sexual Exploitation that does not meet the definitions and jurisdiction of this policy will be referred for review under the Student Code of Conduct or the Employee Code of Conduct in compliance with VAWA and Clery Act (Employee Handbook, Student Handbook)

1.3 Applicability: This Policy applies to students and employees as follows:

- a. To Students: Where the Respondent is a student at Southern at the time of the alleged conduct, the alleged conduct includes Sexual Harassment under this Policy, the alleged conduct occurs in Southern's Education Program and Activity, the alleged conduct occurs against a person in the United States, and the Complainant is participating in or attempting to participate in Southern's Education Program or Activity, on campus, off campus, as a participant in clinicals, internships, externships, Vision mission trips, long-term mission trips, intramurals, and Adventist Colleges Abroad. Failure to identify a Southern-sponsored activity by name should not be interpreted as that program being exempted from this policy.
- b. To Employees: Where the Respondent is an employee at Southern at the time of the alleged conduct, where the alleged conduct includes Sexual Harassment under this Policy, the alleged conduct occurs in Southern's Education Program and Activity, the alleged conduct occurs against a person in the United States, and the Complainant is participating in or attempting to participate in Southern's Education Program or Activity, on campus, off campus, as a participant in clinical instruction, internship instruction, externship instruction, Vision mission trips and long-term mission trips. Failure to identify a Southern-sponsored activity by name should not be interpreted as that program being exempted from this policy.

1.4 Title IX Coordinator and Key Title IX Officials: The Title IX Coordinator is the Southern administrator who oversees Southern's compliance with Title IX. The Title IX Coordinator is responsible for administrative response to reports and Formal Complaints of Sexual Harassment. The Title IX Coordinator is available to discuss the grievance process, coordinate supportive measures, explain Southern's policies and procedures, and provide education on relevant issues. The Title IX Coordinator may designate one or more Deputy Title IX Coordinators to facilitate these responsibilities.

Any member of the Southern community may contact the Title IX Coordinator with questions. Title IX Coordinator and Deputy Title IX Coordinator contact information is as follows:

Title IX Coordinator

Dennis Negrón
Vice President for Student Development
Office of Student Development
Ulmer Student Center, Rm. 4135

Telephone: 423.236.2813

negron@southern.edu

Deputy Coordinator for Student-Related Cases

Lunelle Bertresse

Associate Professor of Social Work

School of Social Work

Daniells Hall 113

Telephone: 423.236.2634

lunelleb@southern.edu

Deputy Coordinator for Student-Related Cases

Renita Moore

First-Year Experience Coordinator

Student Support Services

Lynn Wood Hall #3034A

Southern Adventist University

Telephone: 423.236. 2575

renitak@southern.edu

Deputy Coordinator for Employee-Related Cases

Brenda Flores-Lopez

Associate Vice President for Human Resources

Human Resource office

Wright Hall, Suite 2066

Telephone: 423.236.2277

bfloreslopez@southern.edu

In addition to the Title IX Coordinator, Southern appoints investigators, decision makers, informal resolution facilitators, and advisors who have roles in the formal grievance process more fully explained in Sections 6 and 8 of this policy.

The Title IX Coordinator, Deputy Title IX Coordinators, investigators, decision-makers, and informal resolution facilitators receive annual training in compliance with Title IX. All administrators in these roles do not rely on sex stereotypes and do provide impartial investigations and adjudications of Formal Complaints of Sexual Harassment. All materials used to train these administrators will be publicly made available on Southern's website in accordance with Title IX requirements.

The Title IX Coordinator, Deputy Title IX Coordinators, investigators, decision-makers, and informal resolution facilitators shall not have a conflict of interest or bias for or against Complainants or Respondents generally or an individual Complainant or Respondent.

1.5 Notification: Southern will use University electronic mail (email) for purposes of communication and notification under this Policy.

1.6 Free Speech: Freedom of speech and principles of academic freedom are central to the mission of institutions of higher education. Constitutionally protected expression cannot be considered Sexual Harassment under this Policy.

1.7 Dissemination of Policy: This Policy will be made available to all Southern administrators, faculty, staff, and students online and in Southern student catalog(s) and any employee handbook of operating procedures.

1.8 Effective Date: The effective date of this Policy is August 14, 2020.

1.9 Annual Review: This Policy will go through an annual review to assure that it is up to date with current law. The review of this Policy was last completed on May 18, 2022.

1.10 Retaliation and False Statements Prohibited: Neither Southern nor any other person may intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by Title IX or this Policy or because the individual has made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under this Policy.

- a. Alleged violations of Retaliation will be referred to the Dean of Students for student matters or the Office of Human Resources for employee matters.
- b. The exercise of rights protected under the First Amendment does not constitute retaliation prohibited under this Policy.
- c. Charging an individual with a Code of Conduct violation for making a materially false statement in bad faith in the course of a grievance proceeding under this Policy does not constitute Retaliation prohibited under Policy. However, a determination regarding responsibility, alone is not sufficient to conclude that any party made a materially false statement in bad faith.

1.11 Amnesty: Reporting Sexual Harassment is encouraged at Southern. Thus, it is imperative that Complainants and witnesses share information without fear of potential consequences for certain policy violations including, but not limited to, underage consumption of alcohol or the use of illicit drugs. Southern offers parties and witnesses amnesty from such Code of Conduct violations but may include educational opportunities for individuals in lieu of a finding of responsibility or punitive sanctions.

1.12 Other University Policies: This Policy takes precedence over other University policies and procedures concerning Sexual Harassment under Title IX in the event of a conflict.

1.13 For employee information on Sexual Harassment, see Employee Handbook policies 2020 “Harassment of Employees and Students,” 2025 “Fraternalization,” and 030 “Sexual Misconduct” at the following link: https://www.southern.edu/administration/hr/foremployees/employee_handbook.html#/employment-policies

1.14 For student information on sexual harassment, see at the following link: Student Handbook policy “Sexual Integrity”

1.15 Alleged violations of the student or employee Code of Conduct that arise from the same events as alleged sexual misconduct under this Policy will be investigated and resolved under the grievance process in this Policy unless the Sexual Harassment has been dismissed under Section 5.2 of this Policy.

SECTION 2 - DEFINITIONS

2.1 Definitions of Prohibited Conduct under this Policy

2.1.1 Sexual Harassment means conduct on the basis of sex that satisfies one or more of the following:

1. The perpetrator of the sexual harassment conditioning the provision of an aid, benefit, or service of the recipient on an individual’s participation in unwelcome sexual conduct;

2. Unwelcome conduct determined by a Reasonable Person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the recipient's education program or activity[1]; or
3. Sexual Assault, Dating Violence, Domestic Violence or Stalking as defined in this Policy.

2.1.2 Sexual Assault[2] means an offense classified as a forcible or nonforcible sex offense under the uniform crime reporting system of the Federal Bureau of Investigation, including Rape, Fondling, Incest, and Statutory Rape as defined in this Policy.

2.1.3 Rape[3] means the penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the Consent of the victim.

2.1.4 Fondling[4] means the touching of the private body parts of another person for the purpose of sexual gratification, without the Consent of the victim, including instances where the victim is incapable of giving Consent because of his/her age or because of his/her temporary or permanent mental Incapacity.

2.1.5 Incest[5] means sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law (see Tennessee Code § 39-15-302).

2.1.6 Statutory Rape[6] means sexual intercourse with a person who is under the statutory age of Consent. In the state of Tennessee, the age of consent is 18 years old.

2.1.7 Dating Violence[7] means violence committed by a person—

- a. who is or has been in a social relationship of a romantic or intimate nature with the victim; and
- b. where the existence of such a relationship shall be determined based on a consideration of the following factors:
 - o The length of the relationship
 - o The type of relationship
 - o 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.

2.1.8 Domestic Violence[8] includes felony or misdemeanor crimes of violence committed by:

- a current or former spouse or intimate partner of the victim
- a person with whom the victim shares a child in common
- a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner
- a person similarly situated to a spouse of the victim under the domestic or family violence laws of Tennessee, or
- any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of Tennessee.

2.1.9 Stalking[9] means engaging in a Course of Conduct directed at a specific person that would cause a Reasonable Person to—

- fear for his or her safety or the safety of others; or
- suffer Substantial Emotional Distress.

2.2 Definitions Related to Sexual Harassment: Consent, Course of Conduct, Incapacitation, Reasonable Person, Substantial Emotional Distress

2.2.1 Coercion is defined as the application of unreasonable pressure to take part in sexual activity or in any of the prohibited conduct listed in this document. Unreasonable pressure can be exerted through physical or emotional force, intimidation, misuse of authority, or outright threats.

2.2.2 Consent is affirmative, conscious, voluntary, and revocable. Consent to sexual activity requires of each person an affirmative, conscious, and voluntary agreement to engage in sexual activity of any kind.

It is the responsibility of each person to ensure they have the affirmative Consent of the other to engage in the sexual activity. Lack of protest, lack of resistance, or silence do not, alone, constitute consent. Affirmative consent must be ongoing and can be revoked at any time during sexual activity.

The existence of a dating relationship or past sexual relations between the Complainant and Respondent will never by itself be assumed to be an indicator of consent (nor will subsequent sexual relations or dating relationship alone suffice as evidence of Consent to prior conduct).

The Respondent's belief that the Complainant consented will not provide a valid defense unless the belief was actual and reasonable. In making this determination, the Decision-maker will consider all of the facts and circumstances the Respondent knew, or reasonably should have known, at the time. In particular, the Respondent's belief is not a valid defense where:

1. The Respondent's belief arose from the Respondent's own intoxication or recklessness;
2. The Respondent did not take reasonable steps, in the circumstances known to the Respondent at the time, to ascertain whether the Complainant affirmatively Consented; or
3. The Respondent knew or a reasonable person should have known that the Complainant was unable to Consent because the Complainant was incapacitated, in that the Complainant was:
 - asleep or unconscious
 - unable to understand the fact, nature, or extent of the sexual activity due to the influence of drugs, alcohol, or medication
 - unable to communicate due to a mental or physical condition.

2.2.3 Course of Conduct means two or more acts, including, but not limited to, acts in which the individual 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.

2.2.4 Incapacitation means that a person lacks the ability to actively agree to sexual activity because the person is asleep, unconscious, under the influence of alcohol or other drugs such that the person does not have control over their body, is unaware that sexual activity is occurring, or their mental, physical or developmental abilities render them incapable of making rational informed decisions. Incapacitated is a state beyond drunkenness or intoxication. A person is not necessarily incapacitated merely as a result of drinking, using drugs, or taking medication.

A person violates this policy when they engage in sexual activity with another person who is incapacitated and a Reasonable Person in the same situation would have known that the person is incapacitated. Incapacitation can be voluntary or involuntary. Signs of incapacitation may include, without limitation, sleep; total or intermittent unconsciousness; lack of control over physical movements (e.g., inability to dress/undress without assistance; inability to walk without assistance); lack of awareness of circumstances or surroundings; emotional volatility; combativeness; vomiting; incontinence; unresponsiveness; and inability to communicate coherently. Incapacitation is an individualized determination based on the totality of the circumstances.

2.2.5 Reasonable Person means a reasonable person under similar circumstances and with similar identities to the victim.

2.2.6 Sexual Exploitation means any act whereby one individual violates the sexual privacy of another or takes unjust or abusive sexual advantage of another who has not provided consent. Examples may include, but are not limited to:

- Surreptitiously observing, photographing, audiotaping, videotaping, or recording an image of a person who is engaging in Sexual Contact or Sexual Penetration, or a person's breasts, buttocks, groin, or genitals, when the person being observed / photographed / audiotaped / videotaped / recorded is in a place in which the person has a reasonable expectation of privacy;
- Allowing or enabling a person to surreptitiously observe, photograph, audiotape, videotape, or record an image of another person who is engaging in Sexual Contact or Sexual Penetration, or another person's breasts, buttocks, groin, or genitals, when the person being observed, photographed, audiotaped, videotaped or recorded is in a place in which the person has a reasonable expectation of privacy;
- Showing, posting, or sharing video, audio, or an image that depicts a person who is engaging in sexual contact or sexual penetration, or a person's breasts, buttocks, groin, or genitals, when the person being observed, photographed, audiotaped, videotaped, or recorded is in a place in which the person has a reasonable expectation of privacy, if all persons who are depicted have not agreed to having the video/audio/image shown, posted, or shared;
- Prostituting another person or engaging in sex trafficking;
- Knowingly exposing another person to a sexually-transmitted infection or disease without informing the other person that one has a sexually-transmitted infection or disease;
- Forcing a person to participate in Sexual Contact or Sexual Penetration with a person other than oneself;
- Forcing a person to expose the person's breasts, buttocks, groin, or genitals;
- Forcing a person to take an action against that person's will by threatening to show, post, or share video, audio, or an image that depicts the person's nudity or depicts the person engaging in Sexual Contact or Sexual Penetration;
- Forcing a person to take an action of a sexual nature against that person's will by threatening to disclose information that would harm a person's reputation;
- Forcing a person to take an action against that person's will by threatening to disclose information of a sexual or intimate nature that would harm a person's reputation; or
- Causing or requesting an incapacitated person to expose the person's breasts, buttocks, groin, or genitals or to participate in Sexual Contact or Sexual Penetration with a person other than oneself.

2.2.7 Substantial Emotional Distress means significant mental suffering or anguish that may, but does not necessarily require, medical or other professional treatment or counseling.

2.2.8 University Sexual Harassment means unwelcome verbal or physical behavior which is directed at an individual based on sex, when these behaviors are sufficiently severe or pervasive to have the effect of unreasonably interfering with an individual's education experience, working conditions, or living conditions by creating an intimidating, hostile, or offensive environment. Examples of conduct that can constitute sexual harassment if based on an individual's sex include, but are not limited to:

- Unwelcome jokes or comments (e.g., sexist jokes);
- Disparaging remarks about sex, gender identity, or gender expression (e.g., negative or offensive remarks or jokes about an individual's self-presentation);
- Displaying negative or offensive posters or pictures about sex;
- Electronic communications, such as e-mail, text messaging, and Internet use, that violates this policy.

2.3 Other Defined Terms

2.3.1 Business Day means any weekday not designated by SOUTHERN as a holiday or administrative closure day. When calculating a time period of Business Days specified in this Policy, the Business Day of the event that triggers a time period is excluded.

2.3.2 Complainant means an individual who is alleged to be the victim of conduct that could constitute sexual harassment. Complainants and Respondents are referred to collectively as “parties” throughout this Policy.

2.3.3 Confidential Employee means an individual who will not report any information about an incident to the Title IX Coordinator without the Complainant’s permission.

2.3.4 Disciplinary Sanctions means any penalties that are imposed only after a finding of responsibility through the grievance process or an agreement through the informal resolution process.

2.3.5 Education Program or Activity means any locations, events, or circumstances over which Southern exercises substantial control over both the Respondent and the context in which the Sexual Harassment occurs. This includes conduct that occurs on Southern property, during any Southern activity, or in any building owned or controlled by a student organization that is officially recognized by Southern.

2.3.6 Formal Complaint means a document filed by a Complainant or signed by the Title IX Coordinator alleging Sexual Harassment against a Respondent and requesting that Southern investigate the allegation of Sexual Harassment.

2.3.7 Official with Authority means an individual who has the authority to institute corrective measures and is required to report Sexual Harassment to the Title IX Coordinator. Officials with Authority include the Title IX Coordinator and Deputy Title IX Coordinators.

2.3.8 Remedies means any actions designed to restore or preserve equal access to Southern’s Education Program or Activity. Remedies may include, but are not limited to, the same individualized services as Supportive Measures; however, Remedies need not be non-disciplinary or non-punitive and need not avoid burdening the respondent.

2.3.9 Respondent means an individual who has been reported to be the perpetrator of conduct that could constitute sexual harassment. Complainants and Respondents are referred to collectively as “parties” throughout this Policy.

2.3.10 Responsible Employee means any individual who is employed by Southern and not deemed to be a Confidential Employee. Responsible Employees are expected by Southern to report Sexual Harassment to the Title IX Coordinator promptly upon receiving a report of a Sexual Harassment.

2.3.11 Retaliation means intimidation, threats, coercion, or discrimination, including charges against an individual for code of conduct violations that do not involve sex discrimination or Sexual Harassment, but arise out of the same facts or circumstances as a report or complaint of sex discrimination, or a report or Formal Complaint of Sexual Harassment, for the purpose of interfering with any right or privilege secured by Title IX or this Policy.

2.3.12 Supportive Measures means non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the Complainant or the Respondent before or after the filing of a Formal Complaint or where no Formal Complaint has been filed.

Such measures are designed to restore or preserve equal access to Southern's Education Programs or Activities without unreasonably burdening the other party, including measures designed to protect the safety of all parties or Southern's educational environment, or deter sexual harassment.

Supportive measures may include, but are not limited to, counseling, extensions of deadlines or other course-related adjustments, modifications of work or class schedules, campus escort services, mutual restrictions on contact between the parties, changes in work or housing locations, leaves of absence, increased security and monitoring of certain areas of the campus, and other similar measures.

SECTION 3 - REPORTING SEXUAL HARASSMENT AND PRESERVATION OF EVIDENCE

3.1 Reporting to Southern

3.1.1 Reporting to Title IX Coordinator: Reports of Sexual Harassment may be made directly to the Title IX Coordinator in any of the following ways, by anyone, at any time: email, phone, online form, mail. Reports may be made to the Title IX Coordinator in person at the Title IX Office in the Student Development suite during normal business hours. After Title IX Sexual Harassment has been reported to the Title IX Coordinator, the Title IX Coordinator will promptly offer supportive measures to the Complainant, regardless of whether the Complainant was the reporter of the Sexual Harassment.

3.1.2 Reporting to Officials with Authority: The following positions are Officials with Authority (Southern's Title IX Coordinator and Title IX Deputy Coordinators). If Officials with Authority are notified of Sexual Harassment, they will promptly report such Sexual Harassment to the Title IX Coordinator.

3.1.3 Reporting to Confidential Employees: The Vice-President for Spiritual Life/Chaplain, Associate Chaplain, Assistant Chaplain, Student Missions Coordinator, Vision Trips Coordinator, ERC Coordinator, mental health counselors, and University Health Center personnel are Confidential Employees. Reports made to Confidential Employees are considered confidential reports and will not be reported to the Title IX Coordinator without the Complainant's permission and will not constitute actual notice to Southern. Professors in the School of Religion, though holding ministerial credentials, have been hired primarily for instruction; therefore, reports made to any of them are not considered confidential reports.

3.1.5 Anonymous Reporting: Anonymous reports may be made by telephone, in writing or electronically (by clicking on the following link: https://www.southern.edu/administration/student-development/title_ix/campusresources.html) with the Title IX Coordinator. A decision to remain anonymous, however, may greatly limit Southern's ability to stop the alleged conduct, collect evidence, or take action against parties accused of violating this Policy.

3.2 Reporting to Law Enforcement: Reports may be filed with local law enforcement agencies. The Title IX Coordinator can assist with contacting law enforcement agencies. Law enforcement investigations are separate and distinct from Southern investigations. The Collegedale Police Department contact information is as follows:

Collegedale Police Department
4910 Swinyar Drive
Collegedale, TN 37363

Telephone: 423.468.1866
Telephone: 423.396.3135
<http://www.collegedaletn.gov/index.aspx?nid=181>

3.3 Reporting to Outside Agencies: Students and employees may report to external agencies:

Students

Office for Civil Rights
U.S. Department of Education
61 Forsyth St. SW, Suite 19T40
Atlanta, GA 30303
Telephone: 404.974.9450
Fax: 404.974.9459

Employees

U.S. Equal Employment Opportunity Commission
220 Athens Way
Suite 350
Nashville, TN 37228-9940
Phone: 1-800-669-4000
Fax: 615-736-2107

Outside Agency Confidential Support and Resources:

Tennessee Department of Health

Chattanooga – Hamilton County Health Department
921 E. 3rd Street
Chattanooga, Tennessee 37403
Telephone: 423.209.8000
<http://health.hamiltontn.org/>

Partnership for Families, Children, and Adults

1800 McCallie Avenue
Chattanooga TN 37404
Telephone: 423.755.2700
<https://www.partnershipfca.com/www>

Erlanger Health System

975 East 3rd Street
Chattanooga, TN 37403
Telephone: 423.778.7000
<https://www.erlanger.org/>

Erlanger East Hospital

1751 Gunbarrel Road
Chattanooga TN 37421
423.680.8000
<http://www.erlanger.org/east-hospital/about-east>

Parkridge Medical Center

2333 McCallie Avenue

Chattanooga, TN 37404

Telephone: 423.698.6061

<https://parkridgehealth.com/locations/parkridge-medical-center/>

RAINN (Rape, Abuse and Incest National Network):

1-800-656-HOPE (4673)

<https://www.rainn.org/>

This comprehensive national resource includes a telephone and on-line hotline, and may be particularly helpful for male survivors of sexual assault.

Tennessee Statewide Crisis Line

Telephone: 855-CRISIS-1 or (855-274-7471)

<https://www.tn.gov/behavioral-health/need-help/crisis-services/mental-health-crisis-services/tn-statewide-crisis-phone-line.html>

For mental health emergencies. A free service, statewide crisis line, available 24/7/365 call system to help anyone experiencing a mental health crisis.

Volunteer Behavioral Health Care System

413 Spring Street

Chattanooga, TN 37405

Telephone: 800.911-0911

Telephone: 800.704.2651, 24-Hour Crisis Line

<https://www.vbhcs.org/>

3.4 Time Limits on Reporting. There are no time limits on reporting Sexual Harassment to the Title IX Coordinator or Southern. If the Respondent is no longer subject to Southern's Education Program or Activity or significant time has passed, Southern will have limited ability to investigate, respond and/or provide disciplinary remedies and sanctions.

3.5 Southern's Federal Reporting Obligations

Certain Southern employees, called Campus Security Authorities, have a duty to report certain incidents of misconduct to comply with the Clery Act. Campus Security Authorities are not required to report personally identifiable information for Clery Act purposes, but statistical information must be sent regarding the type of incident that occurred and its general location (e.g., on or off-campus) for publication in an annual report of crime statistics, called the Annual Security Report. Statistics published in the Annual Security Report help to provide the campus community with a clearer picture of the extent and nature of campus crime, but the statistics do not personally identify Complainants or Respondents. Reports by Campus Security Authorities are not official police reports and do not initiate criminal investigations.

When Sexual Assault, Domestic Violence, Dating Violence, and/or Stalking are reported under the Clery Act, Southern must issue timely warnings for such incidents that pose a serious or continuing threat of bodily harm or danger to members of the campus community.

Southern will not disclose a Complainant's name and other identifying information in a timely warning but will provide sufficient information for Southern community members to make informed safety decisions in response to potential danger.

3.6 Preservation of Evidence: Southern recognizes that a Complainant may need time to decide whether to report an incident of Sexual Harassment to the police and/or Southern. The purpose of this section is to provide Complainants with suggestions on preserving evidence while they decide whether to report an incident. Southern encourages Complainants, as soon as possible after experiencing Sexual Assault, to take steps to preserve evidence such as:

- Having a forensic sexual assault nurse examination performed as soon as possible after the incident, but no later than 72-96 hours after the incident;
- When possible, prior to having a forensic sexual assault nurse examination performed, avoiding changing clothing, bathing, showering, using a douche, using the bathroom, brushing one's teeth, drinking liquids, washing one's hands or face, or combing one's hair;
- Preserving any clothing, sheets, or other materials (items containing bodily fluids should be stored in cardboard boxes or paper bags);
- Preserving or capturing electronic communications such as text messages, e-mails, social media posts or exchanges (e.g., Snapchat, Facebook, Twitter);
- Preserving or capturing video, audio (e.g., voice mail messages), or photographs, including those stored on smartphones or other devices; and
- Preserving any other physical, documentary, and/or electronic data that might be helpful to an investigator.

SECTION 4 - INITIAL RESPONSE TO REPORTED SEXUAL HARASSMENT.

Upon receipt of a report of Sexual Harassment, the Title IX Coordinator will promptly contact the Complainant, regardless of whether the Complainant was the individual who initiated the report. During the initial contact with the Complainant, the Title IX Coordinator will:

- Provide the Complainant with notice of their rights and options
- Explain the process for filing a Formal Complaint;
- Explain the Grievance Process;
- Discuss the availability of Supportive Measures regardless of whether a Formal Complaint is filed;
- Consider the Complainant's wishes with respect to Supportive Measures.

SECTION 5 - FORMAL COMPLAINT

Southern will investigate all allegations of Sexual Harassment in a Formal Complaint.

5.1 Filing a Formal Complaint: A Formal Complaint must

1. Contain an allegation of Sexual Harassment against a Respondent;
2. Request that Southern investigate the allegation; and
3. Be signed by the Complainant or Title IX Coordinator.

In limited circumstances, if a Complainant does not sign a Formal Complaint, the Title IX Coordinator may sign a Formal Complaint. In determining whether to sign a Formal Complaint, the Title IX Coordinator will consider factors that include, but are not limited to:

- Whether there have been other reports of Sexual Harassment or other relevant misconduct concerning the same Respondent whether or not the incidents occurred while the Respondent was a Southern student or employee;
- Whether the Respondent threatened further Sexual Harassment or other misconduct against the Complainant or others;
- Whether the alleged Sexual Harassment was committed by multiple perpetrators;

- The nature and scope of the alleged Sexual Harassment including whether the Sexual Harassment was perpetrated with a weapon;
- The ages and roles of the Complainant and the Respondent;
- Whether Southern can pursue the investigation without the participation of the Complainant (e.g., whether there are other available means to obtain relevant evidence of the alleged Sexual Harassment such as security cameras or physical evidence);
- Whether the report reveals a pattern of perpetration (e.g., perpetration involving illicit use of drugs or alcohol) at a given location or by a particular group.

5.2 Dismissal of a Formal Complaint.

5.2.1 Required Dismissal: The Title IX Coordinator will dismiss a Formal Complaint for purposes of Sexual Harassment if:

1. The conduct alleged in the Formal Complaint would not constitute Sexual Harassment as defined in this Policy even if proved;
2. The conduct alleged did not occur in Southern’s Education Program or Activity (including mission trips); or
3. The Conduct alleged in the Formal Complaint did not occur against a person in the United States.

Dismissal of a Formal Complaint does not preclude action under other provisions of the Southern’s policies and procedures. If a Formal Complaint is dismissed under this policy, the matter will be reviewed to determine whether the matter will be pursued under the Southern Student or Employee Code of Conduct or other Southern Policy.

5.2.2 Permissive Dismissal: The Title IX Coordinator may dismiss a Formal Complaint or any allegations within the Formal Complaint, if at any time during the investigation or hearing:

1. A Complainant notifies the Title IX Coordinator in writing that the Complainant would like to withdraw the Formal Complaint or any allegations within the Formal Complaint,
2. The Respondent is no longer enrolled or employed by Southern, or
3. Specific circumstances prevent Southern from gathering evidence sufficient to reach a determination as to the Formal Complaint or allegations within the Formal Complaint.

5.2.3 Appeal of Dismissal: Either party may appeal the dismissal of a Formal Complaint or any allegations therein. See Section 7 for bases and process for appeals.

5.3 Consolidation of Formal Complaints: The Title IX Coordinator may consolidate Formal Complaints as to allegations of Sexual Harassment against more than one Respondent or by more than one Complainant against one or more Respondents where the allegations arise out of the same facts or circumstances.

SECTION 6 - GRIEVANCE PROCESS

The grievance process within this Policy is designed to treat Complainants and Respondents equitably. Remedies are provided to a Complainant where a determination of responsibility for Sexual Harassment has been made against the Respondent and Disciplinary Sanctions are not imposed against a Respondent prior to the completion of the grievance process.

6.1: General Grievance Process Information:

6.1.1 Burden of Proof and Burden of Gathering Evidence: All investigations and proceedings, including hearings, relating to Sexual Harassment will be conducted using a “preponderance of the evidence” (more likely

than not) standard. The burden of proof and the burden of gathering evidence sufficient to reach a determination regarding responsibility rest on Southern, not the parties.

6.1.2 Presumption of Not Responsible: The Respondent is presumed to be not responsible for the alleged conduct until a determination regarding responsibility is made at the end of the grievance process.

6.1.3 Time Frames for Grievance Process: Southern strives to complete the grievance process within one hundred and twenty (120) Business Days. Temporary delays and/or extensions of the time frames within this Policy may occur for good cause. Written notice will be provided to the parties of the delay and/or extension of the time frames with explanation of the reasons for such action. Examples of good cause for delay/extensions include but are not limited to considerations such as the absence of a party, a party's advisor, or a witness; concurrent law enforcement activity; or the need for language assistance or accommodation of disabilities.

6.1.4 Medical Records: Southern will not access, consider, disclose, or otherwise use party's records that are made or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in the professional's or paraprofessional's capacity, or assisting in that capacity, and which are made and maintained in connection with the provision of treatment to the party, unless Southern obtains that party's voluntary, written permission to do so for the grievance process within the Policy.

6.1.5 Privileged Information: Southern will not require, allow, rely upon, or otherwise use questions or evidence that constitute, or seek disclosure of, information protected under a legally-recognized privilege, unless the person holding the privilege has waived the privilege.

6.1.6 Range of Disciplinary Sanctions and Remedies

- Possible remedies may include:
- No--contact order between Respondent and Reporter/Claimant
- Limiting access to certain college facilities or activities
- Limiting access to campus to specific times of day
- Alteration of class or work schedules
- Alteration of on- or off-campus housing arrangements
- Removal from on-campus housing
- Changing campus work schedules or job assignments
- Suspension from on--campus employment
- Suspension from student organizations
- Rescheduling of exams, papers, or other assignments
- Provisional suspensions or restrictions in extraordinary circumstances
- Authorized incomplete in a class
- Authorized withdrawal from a class
- Withdrawal from study-abroad program
- Alternative course-completion options
- Voluntary leave of absence
- Access to counseling services
- Providing an escort to ensure safe movement between classes and activities
- Increased security at specified locations
- Providing academic support services
- Any other reasonable remedy that can be tailored to the involved individuals

A Respondent who has been found responsible of violating this policy may expect a sanction from the following range of disciplinary measures:

- **Written Warning** – the Hearing Panel determines that the harassment is not substantial enough to warrant separating the Respondent from the campus. It then issues in writing a cease-and-desist mandate with the warning that subsequent acts of sexual misconduct will likely result in sterner consequences.
- **Probation** – the Hearing Panel determines that the harassment is not substantial enough to warrant separating the Respondent from the campus but believes the action warrants more than a warning where the Respondent is subject to a period of good behavior.
- **Short-term Suspension** – the Hearing Panel determines that the Respondent must leave campus for a short period (3-5 days). An employee’s suspension will be consistent with their rights as defined by the Employee Handbook.
- **Long-term Suspension** – the Hearing Panel determines that the Student Respondent must leave for a complete semester or academic year. In the latter case he or she is dropped as a registered student. A Respondent who has received a sanction of indefinite suspension must submit a request for readmission to the Vice President for Student Development. An employee’s suspension will be consistent with their rights as defined by the Employee Handbook
- **Dismissal/Termination** – the Hearing Panel determines for an immediate separation between the student or employee and Southern’s community, and the student or employee is banned from Southern’s properties. The student is not eligible for readmission.

All cases in which rape has been determined to have occurred will result in a sanction of dismissal for a student and termination for an employee.

All Respondents who have received a sanction of Long-term Suspension may be asked to participate in a period of mental health counseling (the counselor must be approved by Southern’s Counseling Services if not a Southern counselor) as a stipulation of readmittance. Upon the conclusion of the stipulated length of separation from Southern’s community, the counselor’s assessment will be used to determine readmission for Long-term Suspended students who choose to reapply to Southern and long-term suspended employees who reapply to work at Southern.

All sanctions include the stipulation that the Respondent is to have no contact with the Complainant. If the Hearing Panel has not recommended that the Respondent be dismissed, a Respondent’s failure to abide by this stipulation may result in his or her dismissal.

Respondents who have received a sanction of Dismissal are also banned from all properties owned by Southern, including but not limited to Fleming Plaza, the church grounds, all ball fields, the White Oak and Bauxite Mountain Trails, and the Student Park.

6.1.7 Notice of Meetings, Interviews, and Hearings: Parties and witnesses will be provided notice of any meeting, interview, and/or hearing with sufficient time to prepare to participate. This notice will include the date, time, location, participants and purposes of the meeting, interview and/or hearing.

6.2 Notice of Allegations: Upon receipt of a Formal Complaint, the investigator will provide Notice of Allegations to the parties who are known. The Notice of Allegations will include:

1. Notice of the party’s rights and options
2. Notice of Southern’s grievance process
3. Notice of Southern’s informal resolution process and options
4. Notice of the allegations of Sexual Harassment including:
 - The identities of the parties involved in the incident, if known,
 - The conduct allegedly constituting Sexual Harassment, and

- The date and location of the incident, if known.
- 5. Notice that the Respondent is presumed not responsible of the alleged conduct and that a determination regarding responsibility is made at the conclusion of the grievance process.
- 6. Notice that the parties may have an advisor of their choice, who may be, but is not required to be an attorney, and that the advisor may inspect and review evidence as explained in this Policy.
- 7. Notice of the Southern Code of Conduct provision that prohibits knowingly making false statements or knowingly submitting false information during the grievance process (See “False Reports” in the Student Handbook).

The Notice of Allegations will be updated and written notice provided to the parties if at any time during the investigation, Southern decides to investigate allegations about the Complainant or Respondent that are not included in the initial Notice of Allegations.

6.3 Investigation of Formal Complaint. Southern will conduct an investigation following a Formal Complaint and Notice of Allegations. During all meetings and interviews the parties may be accompanied by an advisor of their choice, which can be, but is not required to be an attorney. During the investigation stage of the grievance process, the advisor’s role is limited to assisting, advising, and/ or supporting a Complainant or Respondent. An advisor is not permitted to speak for or on behalf of a Complainant or Respondent or appear in lieu of a Complainant or Respondent during the investigation phase of the grievance process.

6.3.1 Opportunity to Provide Information and Present Witnesses: Each party will be provided an equal opportunity to provide information to the investigator and present witnesses for the investigator to interview. The information provided by the parties can include inculpatory and exculpatory evidence. The witnesses can include both fact witnesses and expert witnesses.

6.3.2 Opportunity to Inspect and Review Evidence: Each party will be provided an equal opportunity to inspect and review any evidence obtained as part of the investigation that is directly related to the allegations raised in the Formal Complaint, including evidence upon which Southern does not intend to rely upon in reaching a determination regarding responsibility. This review includes inculpatory and exculpatory evidence that is obtained by a party, witness, or other source. Each party and their advisor (if any) will be provided an electronic copy of the evidence for inspection and review. The parties will have ten (10) Business Days to review the evidence and submit a written response to the investigator. The investigator will consider the written responses prior to completing an investigative report. All evidence provided during the inspection and review phase will be available at any hearing for the parties to use during the hearing, including for purposes of cross examination.

6.3.3 Investigative Report: Following the opportunity to inspect and review evidence directly related to the allegations raised in the Formal Complaint, the investigator will create an investigative report that fairly summarizes relevant evidence obtained during the investigation.

6.3.4 Review of the Investigative Report: At least ten (10) Business Days prior to a hearing, the investigator will provide each party and the party’s advisor (if any) an electronic copy of the investigative report for their review and written response.

6.3.5 Investigation Timeframe: The investigation of a Formal Complaint will be concluded within 90 Business Days of the filing of a Formal Complaint. The parties will be provided updates on the progress of the investigation, as needed.

6.4 Live Hearing: After the investigation, Southern will provide for a live hearing for all Formal Complaints of Sexual Harassment that have not been dismissed per Section 5.2 or resolved by informal resolution under

Section 8. At the request of either party, or at the discretion of the Title IX Coordinator, Southern will provide for the live hearing to occur with the parties located in separate rooms with technology enabling the decision-maker and parties to simultaneously see and hear the other party or witness answering questions.

6.4.1 Information at the Hearing: The following information/evidence will be available in electronic form at the hearing:

1. Evidence from the investigation, including the evidence directly related to the allegations that was reviewed by the parties, regardless of whether it was incorporated into the report.
2. The investigation report and any attachments/appendices.

6.4.2 Decision-makers: The decision-makers will be appointed by Southern and will not be the Title IX Coordinator or investigator. The decision-makers will be trained, impartial, and without a conflict of interest. The decision-makers will be a panel of three (3) Southern employees with one panel member serving as a chairperson. In the case of several members of the Hearing Panel pool having conflicts of interest, an external individual designated by Southern will serve as decision maker.

6.4.3 Challenge to a decision maker: Either party may challenge the appointment of a decision-maker, based on conflict of interest or bias, in writing to the Title IX Coordinator, no less than five (5) Business Days prior to the scheduled hearing.

6.4.4 Advisor's Role at the Hearing: Each party must have an advisor present at the hearing. The advisor's role is limited to supporting, advising, and assisting the party during the hearing and conducting questioning (cross-examination) of participants. Advisors are required to follow rules of decorum enforced by the decision-maker. Failure to follow the rules of decorum by an advisor may result in removal of an advisor from the hearing. If a party does not have an advisor present at the live hearing, Southern will appoint the party with an advisor without fee or charge.

6.4.5 Recording of the Hearing: Southern will create an audio or audiovisual recording of all live hearings and make the recording available to the parties for inspection or review.

6.4.6 Hearing Process Facilitator: Southern may designate a hearing process facilitator to coordinate the hearing, including, but not limited to, coordination and scheduling of the hearing; the logistics of physical or virtual rooms for parties and/or witnesses, including separation of the parties; ensuring all technology is working appropriately; ensuring the parties have access to electronic documents during the hearing; distributing materials; etc. The facilitator may also be the Title IX Coordinator. The facilitator may invite the parties and their advisors, separately, to a meeting prior to the hearing to review the hearing process for the purpose of ensuring a smooth hearing. This meeting is separate from the pre-hearing conference discussed below.

6.4.7 Pre-Hearing Matters: In order to streamline the hearing process, the chairperson^[10] may request the submission of questions prior to the hearing through electronic submission and/or a pre-hearing conference.

1. **Pre Hearing Submission of Questions:** The chairperson may request the parties to submit questions, in writing prior to the hearing. This submission does not preclude the Advisor from asking additional questions live during the hearing. The chairperson may allow for the pre-hearing submission of questions regardless of whether a pre-hearing conference occurs.
2. **Pre-Hearing Conference:** The chairperson may hold a pre-hearing conference. During the pre-hearing conference, parties and their Advisors will be asked to submit, in writing, any questions they wish to ask during the live hearing so that the chairperson can be prepared to respond to relevancy at the hearing. This conference does not preclude the Advisor from asking additional questions live during the hearing.

At the pre-hearing conference, the chairperson may also hear arguments regarding the relevance of the evidence identified in the investigation report as relevant or not relevant, and/or directly related to the allegations.

6.4.8 Participants in the Hearing. Participants at the hearing include the decision-makers, the investigator(s) who conducted the investigations, the parties, advisors to the parties, witnesses and anyone providing authorized accommodations. In addition, Southern may have a hearing facilitator present. Any witnesses scheduled to participate in the hearing must have been first interviewed by the investigator (s) or have provided a written statement or answered questions from the investigator in writing.

6.4.9 Hearing Process and Phases: The live hearing will include the following phases:

1. **Notice of Hearing:** After the investigative report has been completed and at least ten (10) Business Days prior to the date set for the hearing, the Deputy Title IX Coordinator assigned to the case will provide the parties and their Advisors a Notice of the Hearing. The Notice will include the date, time, location, name of the decision-maker, names of all participants in the hearing, and the location (virtual or in person) of the hearing.
2. **Opening Statements:** Each party will have the opportunity to present an opening statement to the decision-makers.
3. **Questioning of Hearing Participants (Parties and Witnesses):**
 - i. **By the Chairperson:** The chairperson will ask initial questions of the participants at the hearing.
 - ii. **By the Advisors:** After the chairperson asks questions of a participant, each party's advisor will be permitted to ask relevant questions and follow up questions orally, directly, and in real time of the participant. The parties are never permitted to ask questions of participants directly. The questioning of participants by advisors will be conducted in the following manner:
 - A question is asked by an advisor
 - Before participant answers the questions, the chairperson determines whether the question is relevant
 - If the question is determined relevant by the chairperson, the participant answers the question
 - If the question is determined not to be relevant by the chairperson, the decision-maker must explain the decision to exclude a question as not relevant.
 - iii. **Evidence and Questions Excluded:**
 - **Sexual Predisposition** or Prior Sexual Behavior of the Complainant: Questions and evidence about the Complainant's sexual predisposition or prior sexual behavior are not relevant, unless such questions and evidence about the Complainant's prior sexual behavior are offered to prove that someone other than the Respondent committed the conduct alleged by the Complainant, or if the questions and evidence concern specific incidents of the Complainant's prior sexual behavior with respect to the Respondent and are offered to prove Consent.
 - **Privileged Information:** No person will be required to disclose information protected under a legally recognized privilege. The decision-maker must not allow into evidence or rely upon any questions or evidence that may require or seek disclosure of such information, unless the person holding the privilege has waived the privilege. This includes information protected by the attorney-client privilege.
 - **Medical Records:** Evidence or records that are made or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in the professional's or paraprofessional's capacity, or assisting in that capacity, and which are made and maintained in connection with the provision of treatment to the party,

are not permitted to be used during a hearing unless the party provides voluntary, written permission to do so for the grievance process within this Policy.

- iv. **Closing Statements:** Each party will have the opportunity to present a closing statement to the decision-makers.

6.4.10 Determination Regarding Responsibility: After the live hearing, the decision-makers will deliberate in private. The chairperson will issue a written determination based on a majority vote of the decision-makers regarding responsibility using the preponderance of the evidence standard. The chairperson will provide the Complainant and the Respondent with the written determination simultaneously. The determination regarding responsibility becomes final either on the date that Southern provides the parties with the written determination of the result of the appeal, if an appeal is filed, or, if an appeal is not filed, the date on which an appeal would no longer be considered timely. The written notice will include:

- Identification of the allegations potentially constituting Sexual Harassment;
- 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 the application of this Policy to the facts;
- A statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility, any disciplinary sanctions that Southern imposes on the Respondent, and whether remedies designed to restore or preserve equal access to Southern's education program or activity will be provided by Southern to the Complainant[11]; and
- The procedures and permissible bases for the Complainant and Respondent to appeal.

SECTION 7 - APPEALS

Either party may appeal the determination regarding responsibility, or the dismissal of a Formal Complaint or any allegations therein within three (3) Business Days of the receipt of the determination regarding responsibility or dismissal. The appeals must be made in writing and delivered to the Title IX Coordinator.

7.1 Bases for Appeal: Appeals of the determination of responsibility or the dismissal of a Formal Complaint may be made on the following bases:

- Procedural irregularity that affected the outcome of the matter;
- New evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made, that could affect the outcome of the matter; or
- The Title IX Coordinator, investigator, or decision-maker had a conflict of interest or bias for or against Complainants or Respondents generally or the individual Complainant or Respondent that affected the outcome of the matter.

7.2 Appeal Procedures: If an appeal is submitted, Southern will

1. Notify the other party in writing when an appeal is filed and implement appeal procedures equally for both parties.
2. Ensure that the decision-maker for the appeal is not the same person as the decision-maker that reached the determination regarding responsibility or dismissal, the investigator or the Title IX Coordinator.
3. Provide the non-appealing party with five (5) Business Days from receipt of the notification of appeal to submit a written statement in support of the outcome of the determination or dismissal.
4. Issue a written decision describing the result of the appeal and the rationale for the result which can be one of the following:

- Affirm the decision-maker's determination regarding the Respondent's responsibility and affirm the disciplinary sanctions and remedies, if applicable;
- Affirm the decision-maker's determination regarding the Respondent's responsibility and amend the disciplinary sanctions and remedies, if applicable;
- Remand the process back to the hearing stage for the decision-maker to remedy any procedural irregularity or consider any new evidence;
- Reverse the decision-maker's determination of the Respondent's responsibility and amend the disciplinary sanctions and remedies, if applicable; or

Affirm or amend the sanctions and/or remedies outlined in the determination issued under this Policy.

5. Provide the written decision simultaneously to both parties.

7.3 Appeal Timeframe: The appellate decision-maker will release the written decision within twenty (20) Business Days of receiving the appeal.

SECTION 8 - INFORMAL RESOLUTION PROCESS

At any time after a Formal Complaint has been signed and before a determination regarding responsibility has been reached, the parties may voluntarily agree to participate in an informal resolution facilitated by Southern, that does not involve a full investigation and adjudication. Types of informal resolution include, but are not limited to, mediation, facilitated dialogue, conflict coaching, and restorative justice and resolution by agreement of the parties.

8.1 Informal Resolution Notice: Prior to entering the informal resolution process, Southern will provide the parties a written notice disclosing:

1. The allegations;
2. The requirements of the informal resolution process, including the right of any party to withdraw from the informal resolution process and resume the grievance process and the circumstances which preclude parties from resuming a Formal Complaint arising from the same allegations;
3. Consequences resulting from the informal resolution process, including that the records will be maintained for a period of seven (7) years but will not be used by investigators or decision-makers if the formal grievance process resumes.

8.2 Informal Resolution Agreement: Prior to entering the informal resolution process, the parties must voluntarily agree, in writing to the use of the informal resolution process.

8.3 Informal Resolution Availability: The informal resolution process is not permitted to resolve allegations that an employee committed Sexual Harassment against a student.

8.4 Informal Resolution Timeframe: Informal resolutions of a Formal Complaint will be concluded within 45 Business Days of notice to Southern that both parties wish to proceed with the informal resolution process. Such notice that the parties wish to proceed with an informal resolution process will "pause" the counting of the timeframe to conclude the Grievance Process of this Policy, should the informal resolution process fail and the parties continue with the Grievance Process.

8.5 Informal Resolution Documentation. Any final resolution pursuant to the Informal Resolution process will be documented and kept for seven (7) years. However, no recording of the Informal Resolution process will be made and all statements made during the informal resolution process will not be used for or against either party (and the decision-maker and/or appellate decision-maker may not consider any such statement made during

Informal Resolution) should the parties resume the grievance process. Failure to comply with an Informal Resolution agreement may result in disciplinary action.

SECTION 9 - EMERGENCY REMOVAL AND ADMINISTRATIVE LEAVE

9.1 Emergency Removal: At any time after the Title IX Coordinator is on notice of Sexual Harassment, Southern may remove a Respondent on an emergency basis. Southern will only conduct an emergency removal after:

1. Undertaking an individualized safety and risk analysis,
2. Determining that an immediate threat to the physical health or safety of any student or other individual arising from the allegations of Sexual Harassment justifies removal, and
3. Providing the Respondent with notice and an opportunity to challenge the decision to the Title IX Coordinator, within two (2) Business Days following the removal.

9.2 Administrative Leave: Southern may place a non-student employee Respondent on administrative leave during the pendency of the grievance process in this Policy.

SECTION 10 - RECORD KEEPING

Southern will maintain all of the documentation related to reports of Sexual Harassment, Formal Complaints, the grievance process, and information resolution process for seven (7) years in accordance with state and federal records laws and requirements. The documentation of all records are private and confidential to the extent possible under law. Student records of the grievance process are disciplinary records under Family Education Rights and Privacy Act (FERPA). Employee records of the grievance process are subject to the Freedom of Information Act (FOIA) and applicable state laws, and included in the employee's official employment record.

SECTION 11 - ADDITIONAL CONDUCT VIOLATIONS RELATED TO THIS POLICY

Alleged violations of the terms in this section will be sent to the Vice President for Student Development/Title IX Coordinator or Dean of Students for student Respondents or to the Associate Vice President for Human Resources for employee Respondents for investigation and adjudication under the Southern Code of Conduct and Employee Handbook.

- a. **Retaliation:** Retaliation against any person or another individual for any reason is a violation of this policy. In cases of alleged sexual harassment or assault, "retaliation" includes intimidation, threats, other forms of harassment, and other adverse action threatened or taken against any reporter or Complainant or other person participating in the conduct process. Retaliation should be reported promptly to the Title IX Coordinator. Potential victims of retaliation specifically include individuals who have filed a report of sexual harassment, been the subject of a report of sexual harassment, or assisted or participated in any way, as a reporter, Complainant, witness or otherwise, in the investigation or resolution of an alleged violation of this policy. Action is generally deemed retaliatory if it would deter a reasonable person in the same circumstances from assisting or participating in any way in the investigation or resolution of a good faith allegation of an incident of sexual harassment or other prohibited conduct under this policy. Retaliation may be present even when there is ultimately a finding of "no responsibility" on the underlying sexual harassment charges. Retaliation may be committed by the Respondent, a Complainant or a reporter or by any other individual or group. The range of sanctions for retaliation begin at short-term suspension but also include the possibility of dismissal for students and termination for employees.
- b. **False Information:** Making a false report of sexual harassment or assault against oneself or in support of a Complainant's or Respondent's statements in a case that is being investigated will be treated as a violation of the policy on false information in Southern's Code of Conduct. Moreover, the making of a false report may also violate criminal statutes and civil defamation laws. The range of sanctions for a false report begin at short-term suspension but also include the possibility of dismissal for students and termination for employees.

- c. **Interference with Grievance Process:** Any interference with the grievance process, whether by a student or an employee, may result in sanctions against the individual who has interfered with the process should the Title IX Coordinator or the Associate Vice President for Human Resources deem the action as a deliberate attempt to obstruct the investigation from being completed in a timely manner. The range of sanctions for interference with the grievance process begin at short-term suspension but also include the possibility of dismissal for students and termination for employees
- d. **No-Contact Directive Violations:** Failure to abide by the dictates of a no-contact directive may result in sanctions against a Complainant, Respondent, or third party in a Title IX case. The range of sanctions for violating a no-contact order begin at a warning but also include the possibility of dismissal for students and termination for employees.

SECTION 12 - APPLICABLE STATE LAWS AND DEFINITIONS

12.1 Domestic Assault: TCA § 39-13-111 A person commits domestic assault who commits an assault as defined in TCA § 39-13-101 against a domestic abuse victim.

Domestic abuse victim is defined as:

1. Adults or minors who are current or former spouses;
2. Adults or minors who live together or who have lived together;
3. Adults or minors who are dating or who have dated or who have or had a sexual relationship, but does not include fraternization between two (2) individuals in a business or social context;
4. Adults or minors related by blood or adoption;
5. Adults or minors who are related or were formerly related by marriage; or
6. Adult or minor children of a person in a relationship that is described in subdivisions (a)(1)-(5)

Assault: TCA § 39-13-101

A person commits assault who:

1. Intentionally, knowingly or recklessly causes bodily injury to another;
2. Intentionally or knowingly causes another to reasonably fear imminent bodily injury; or
3. Intentionally or knowingly causes physical contact with another and a reasonable person would regard the contact as extremely offensive or provocative.

12.2 Incest: TCA § 39-15-302 A person commits incest who engages in sexual penetration as defined in § 39-13-501, with a person, knowing the person to be, without regard to legitimacy:

1. The person's natural parent, child, grandparent, grandchild, uncle, aunt, nephew, niece, stepparent, stepchild, adoptive parent, adoptive child; or
2. The person's brother or sister of the whole or half-blood or by adoption.

“Sexual penetration” means sexual intercourse, cunnilingus, fellatio, anal intercourse, or any other intrusion, however slight, of any part of a person's body or of any object into the genital or anal openings of the victim's, the defendant's, or any other person's body, but emission of semen is not required

12.3 Statutory Rape: TCA § 39-13-506

- a. Mitigated statutory rape is the unlawful sexual penetration of a victim by the defendant, or of the defendant by the victim when the victim is at least fifteen (15) but less than eighteen (18) years of age and the defendant is at least four (4) but not more than five (5) years older than the victim.
- b. Statutory rape is the unlawful sexual penetration of a victim by the defendant or of the defendant by the victim when:
 - c. The victim is at least thirteen (13) but less than fifteen (15) years of age and the defendant is at least four (4) years but less than ten (10) years older than the victim; or

- d. The victim is at least fifteen (15) but less than eighteen (18) years of age and the defendant is more than five (5) but less than ten (10) years older than the victim.
- e. Aggravated statutory rape is the unlawful sexual penetration of a victim by the defendant, or of the defendant by the victim when the victim is at least thirteen (13) but less than eighteen (18) years of age and the defendant is at least ten (10) years older than the victim.

12.4 Fondling/Sexual Contact: TCA § 39-13-509

- a. It is an offense for a defendant to engage in unlawful sexual contact with a minor when:
 - 1. The minor is at least thirteen (13) but less than eighteen (18) years of age;
 - 2. The defendant is at least four (4) years older than the victim; and
 - 3. The defendant was, at the time of the offense, in a position of trust, or had supervisory or disciplinary power over the minor by virtue of the defendant's legal, professional, or occupational status and used the position of trust or power to accomplish the sexual contact; or
 - 4. The defendant had, at the time of the offense, parental or custodial authority over the minor and used the authority to accomplish the sexual contact.
- b. As used in this section, "sexual contact" means the defendant intentionally touches or kisses the minor's lips with the defendant's lips if such touching can be reasonably construed as being for the purpose of sexual arousal or gratification.

12.5 Rape: TCA § 39-13-503

Rape is unlawful sexual penetration of a victim by the defendant or of the defendant by a victim accompanied by any of the following circumstances:

- 1. Force or coercion is used to accomplish the act;
- 2. The sexual penetration is accomplished without the consent of the victim and the defendant knows or has reason to know at the time of the penetration that the victim did not consent;
- 3. The defendant knows or has reason to know that the victim is mentally defective, mentally incapacitated or physically helpless; or
- 4. The sexual penetration is accomplished by fraud.

"Coercion" means:

- a. Causing or threatening to cause bodily harm to any person, physically restraining or confining any person or threatening to physically restrain or confine any person;
- b. Exposing or threatening to expose any fact or information that, if revealed, would tend to subject a person to criminal or immigration proceedings, hatred, contempt or ridicule;
- c. Destroying, concealing, removing, confiscating or possessing any actual or purported passport or other immigration document, or any other actual or purported government identification document, of any person; or
- d. Providing a controlled substance, as defined in § 39-17-402 , or a controlled substance analogue, as defined in § 39-17-454 , to a person;

SECTION 13 - FOOTNOTES AND REVISION DATE

[1] A severe, pervasive, and objectively offensive assessment includes, but is not limited to, a consideration of the frequency of the offensive conduct, the nature of the unwelcome sexual acts or words, such as whether the harassment was physical, verbal or both; whether the harassment was merely an offensive utterance; and the number of victims involved and the relationship between the parties including, but not limited to, the ages of the harasser and the victim. In evaluating whether conduct is severe, pervasive, and objectively offensive, Southern Adventist University will look at the totality of the circumstances, expectations and relationships.

[2] In Tennessee, sexual assault is known as sexual battery (see Tennessee Code 39-13-505) and is defined as the “unlawful sexual contact with a victim by the defendant or the defendant by a victim accompanied by any of the following circumstances.”

[3] Rape as defined in the Uniform Crime Reporting Program (UCR) includes: Forcible Rape: The carnal knowledge of a person, forcibly and/or against that person’s will or not forcibly or against the person’s will in instances where the victim is incapable of giving consent because of his/her temporary or permanent mental or physical incapacity.

Forcible Sodomy: Oral or anal sexual intercourse with another person, forcibly and/or against that person’s will or not forcibly or against the person’s will in instances where the victim is incapable of giving consent because of his/her youth or because of his/her temporary or permanent mental or physical incapacity.

Sexual Assault with and Object: —To use an object or instrument to unlawfully penetrate, however slightly, the genital or anal opening of the body of another person, forcibly and/or against that person’s will or not forcibly or against the person’s will in instances where the victim is incapable of giving consent because of his/her youth or because of his/her temporary or permanent mental or physical incapacity.

[4] Fondling is referred to as Forcible Fondling in the UCR.

[5] Incest is a Nonforcible Offense in the UCR (see Tennessee Code § 39-15-302).

[6] Statutory Rape is a Nonforcible Offense in the UCR (see Tennessee Code § 39-13-506).

[7] In the state of Tennessee, dating violence is referred to domestic assault (see Tennessee Code § 39-13-111).

[8] In Tennessee, the phrase domestic assault is used in place of domestic violence (See Tennessee code § 39-13-111)

[9] See Tennessee code § 39-17-315

[10] This role will be facilitated by the external decision-maker if a panel is not utilized.

[11] The Title IX Coordinator is responsible for the implementation of any remedies.

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