

# Title IX Grievance Procedures

(amended August 2020)

It is the policy of Southern Virginia University to comply with Title IX of the Education Amendments of 1972, which prohibits discrimination based on sex (including sexual harassment and sexual violence) in the University's educational programs and activities and on campus. Title IX also prohibits retaliation for asserting or otherwise participating in claims of sex discrimination.

Sexual harassment is unwelcome conduct of a sexual nature, such as quid pro quo, dating violence, domestic violence, stalking, unwelcome sexual advances, requests for sexual favors, and other verbal, nonverbal, or physical conduct of a sexual nature. Sexual violence is a form of sexual harassment and refers to physical sexual acts perpetrated against a person's will or where a person is incapable of giving consent (e.g., due to the student's age or use of drugs or alcohol, or because an intellectual or other disability prevents the student from having the capacity to give consent). A number of different acts fall into the category of sexual violence, including rape, sexual assault, sexual battery, sexual abuse, and sexual coercion. Gender-based harassment is another form of sex-based harassment and refers to unwelcome conduct based on an individual's actual or perceived sex, including harassment based on gender identity or nonconformity with sex stereotypes, and not necessarily involving conduct of a sexual nature.

When a student, faculty or staff member, or other participant in the University's programs and activities on University property, feels that they have, at any time, been subjected to discrimination on the bases of sex carried out by employees, students, or volunteers, they may use these Title IX grievance procedures to bring concerns to the attention of the University Title IX Coordinator for the purpose of obtaining a prompt and equitable resolution. Academic advisors, department supervisors, full time faculty, members of the university's president's council, coaches, and members of the student housing staff are considered responsible employees. As such, they are required to report to the Title IX Coordinator immediately if they become aware of or reasonably suspect any incidents of sexual misconduct. The University's Title IX Coordinator is Stephanie Hardy. She can be contacted at 540-261-4090, [stephanie.hardy@svu.edu](mailto:stephanie.hardy@svu.edu), [titleix@svu.edu](mailto:titleix@svu.edu), or in person at Library 1.

**Guiding Principles:** The University will take steps to prevent recurrence of harassment and to correct its discriminatory effects on the complainant others, if appropriate.

**Privacy and Confidentiality:** All activities under these grievance procedures shall be conducted with due regard for any legitimate privacy and reputational interests of those involved. It is expected that any materials and information prepared or acquired under these grievance procedures will be shared only with those who have a legitimate need to know. Disclosure of such information may also be made if it is permitted by law and the university Title IX Coordinator determines in his or her judgment: (1) that such disclosure is necessary to protect the health, safety, or well-being of members of the Southern Virginia community; or (2) that such disclosure advances the interests of those involved in the process and/or the University and outweighs the interest in confidentiality. While the Title IX Coordinator will consider any requests made by a complainant for confidentiality or that a Title IX grievance not be investigated, the University Title IX Coordinator must take appropriate steps to respond to the grievance consistent with the requirements of Title IX.

**Retaliation:** Retaliation against any person in the University community either for alleging discrimination prohibited by Title IX or for cooperating in these grievance procedures is strictly prohibited.

**Standard of Evidence:** Allegations of discrimination prohibited by Title IX shall be reviewed by applying a preponderance of the evidence standard.

## Procedures

**Filing a Complaint:** Any University community member who believes they have been subjected to discrimination prohibited by Title IX, is encouraged to bring the concern directly to the attention of the Title IX Coordinator or Deputy Title IX Coordinator as soon as possible in order to facilitate a more accurate and timely investigation. While the University welcomes an informal resolution, the Title IX Coordinator is fully prepared to receive and address such allegations through formal grievance procedures.

Retaliation against any person or group who makes a complaint, cooperates with an investigation, or participates in a grievance procedure is a violation of University policy. Retaliation should be reported promptly to the Title IX coordinator for investigation, which may result in disciplinary action independent of any sanction or interim measures imposed in response to the underlying allegations of discrimination and/or harassment.

No student will have their educational status adversely affected as a result of making a complaint.

No employee will have their employment adversely affected as a result of making a complaint.

Once the University's Title IX office decides to open an investigation that may lead to disciplinary action against a respondent, a written notice will be provided to the respondent stating the allegations constituting a potential violation of the University's sexual misconduct policy. The notice will include sufficient details to prepare a response prior to any initial interview including, but not limited to: a description of the prohibited conduct allegedly constituting the potential violation, the University policy/specific section of the code of conduct allegedly violated, the date and the location of the incident, and the identity of the individuals involved. The respondent will be given at least 10 days to prepare for an initial interview. All parties involved in an investigation will be given at least 10 days to prepare for each interview throughout the investigation and will receive written notice in advance of each interview.

**Potential remedies and sanctions for the Complainant and/or the Respondent:**

Upon receipt of a report or actual knowledge, the University may impose reasonable and appropriate interim, supportive measures, some of which could become permanent upon resolution of the complaint, to protect the parties involved. The University will make reasonable efforts to communicate with the parties to ensure that all safety concerns, both emotional and physical well-being, are being addressed. Such measures may be imposed regardless of whether formal disciplinary action is sought by the complainant or the University and will be implemented at the discretion of the University. Potential supportive measures may include:

- Implementation of a "no-contact" order whereby neither the complainant nor the accused may contact each other further
- Access to counseling services and assistance in setting up initial appointment, both on or off campus
- Rescheduling of exams and assignments (in conjunction with appropriate faculty)
- Providing alternative course completion options (with the agreement of the appropriate faculty)
- Change in class schedule, including the ability to take an "incomplete," drop a course without penalty or transfer sections (with the agreement of the appropriate faculty)
- Change in work schedule or job assignment
- Change in on-campus housing
- Arranging to dissolve an on-campus housing contract and pro-rating a refund in accordance with campus housing policies
- Assistance from University support staff in completing on-campus housing relocation
- Limit an individual or organization's access to certain University facilities or activities pending resolution of the matter
- Voluntary leave of absence
- Providing an escort to ensure safe movement between classes and activities

- Providing academic support services, such as tutoring
- Interim suspension or University-imposed leave
- Any other remedy that can be tailored to the involved individuals to achieve the goals of the policy

**Informal Resolution:** In many instances, an informal discussion may be useful in resolving concerns about allegations of discrimination prohibited by Title IX. Complainants who wish to resolve their concerns informally should bring them to the attention of the Title IX Coordination. In working to resolve the matter, the Title IX Coordinator ordinarily will interview the complainant and, as appropriate, others who may have knowledge of the facts underlying the grievance. At any point, including while the informal process is ongoing or afterwards, the complainant may elect to end the informal process in favor of filing a formal grievance.

While the University welcomes informal resolution of grievances when appropriate, it will not use mediation between a complainant and respondent or any other informal resolution mechanism to resolve grievances pertaining to non-consensual sexual contact.

#### **Formal Grievance Process:**

**Investigation:** In the case of a formal grievance, the University will initiate an investigation. The University may designate an investigator of its choosing, provided that the investigator has specific training in investigating allegations of sexual misconduct. The University will provide annual training for all investigators, and any investigator chosen to conduct the investigation must be impartial and free of any conflict of interest. The investigator may be an employee of the University, an external investigator engaged to assist the University in its fact-gathering, or a team of investigators that pairs employees or pairs an external investigator with a University employee related to the roles of the parties on campus (student, staff, or faculty).

The investigator(s) will conduct the investigation in a manner appropriate in light of the circumstances of the case, which will typically include interviews with the complainant, the respondent, and any witnesses. Disclosure of facts to parties and witnesses shall be limited to what is reasonably necessary to conduct a fair and thorough investigation. During the investigation and adjudication of the Title IX complaint, any prior relationship history of the complainant with anyone other than the respondent will not be considered. The interviews will be supplemented by the gathering of any physical, documentary, or other evidence, as appropriate and available. The investigation is designed to:

- Be respectful of the needs and rights of individuals involved
- Proceed as promptly as possible per the time frame noted in this policy

- Permit a complainant and a respondent to have the same opportunity to have an appropriate support person or advisor present at any interview or hearing, in a manner consistent with the governing procedures. Both parties shall also have similar and timely access to information used at hearings
- Include notifying the complainant of their right to proceed with a criminal investigation and a Title IX complaint simultaneously
- Be conducted in accordance with applicable due process standards and privacy laws
- Provide notice to both the complainant and respondent (through written letter or email) of the outcome in a timely manner, as permitted by applicable privacy law
- Be based on a preponderance of evidence standard.
- During the investigation the complainant and the respondent will be kept informed at regular intervals of the status of the investigation.

At the conclusion of the investigation, the investigator will prepare a written report which will be provided to the University President and the Title IX Coordinator. At a minimum, the report will:

- Detail the investigative steps taken by the investigator
- Provide summaries of testimony for all witnesses interviewed
- Include copies of all documents reviewed
- Set forth the analysis of the investigator supporting the conclusion drawn

At the conclusion of the investigation, the complainant and the respondent will simultaneously receive a written copy of the investigative report, including general findings, a summary of the relevant evidence, and any recommendations the investigator considers appropriate. .

**Hearing:** Upon completion of the investigation, the Title IX Coordinator will schedule a live hearing. Written notice will be provided to both parties and their advisors, and the hearing will take place at least 10 days after this notice is given.

Prior to the hearing and after receiving the investigative report, both the Complainant and Respondent will submit any written response to the investigative report, the names and contact information for any witnesses and the name and contact information of their advisor. If they have not identified an advisor, the University will appoint an advisor at no cost to that party.

The University will appoint a decision maker to conduct the formal hearing in an impartial manner. This decision maker may be an appropriately trained employee of the University community or an external decision maker engaged for the hearing. During the live hearing, all participants will either be in the same room or, if requested, in

separate rooms with technology that permits simultaneous participation. Should either party wish to be physically separated from the other party, a written request to the Title IX Coordinator should be submitted 10 days in advance to permit the arrangement of the needed technology.

During the hearing, the decision maker may ask questions of the Complainant, Respondent, the investigators, and/or witnesses. Both parties will be provided with the opportunity to present statements. Each advisor will also have the opportunity to ask questions. However, neither the Complainant or Respondent will be permitted to directly question the other party.

A recording or transcript of the hearing will be made available to both parties for review after the hearing.

Sanctions imposed are implemented immediately unless the President of the University, or their designee, stays implementation in extraordinary circumstances, pending the outcome of the appeal.

## **Appeals**

Either party may appeal the final outcome in writing to the appointed "Appeals Officer." The appeal will be conducted in an impartial manner by an impartial decision maker. The appeal must be filed in writing (which can include email) within five (5) business days of receiving the written outcome. The appeal shall consist of a plain, concise, and complete written statement outlining the grounds for appeal and all relevant information to substantiate the basis for the appeal.

Dissatisfaction with the outcome of the hearing is not grounds for appeal. The only grounds for appeal are:

- A procedural or substantive error occurred that significantly affected the outcome of the hearing (e.g., substantiated bias, material deviation from established procedures, etc.)
- New evidence, unavailable during the original hearing or investigation, that could substantially impact the original finding or sanction (a summary of this new evidence and its potential impact must be included)

The receipt of the appeal will be acknowledged in writing (which can include email). Each party will be given the opportunity to respond in writing to the other party's appeal. Any response by the opposing party must be submitted to the designated Appeals Officer within five (5) business days from receipt of the appeal. The appeals documents from each party will be considered together in one appeal review process. In any

request for an appeal, the burden of proof lies with the party requesting the appeal, as the original determination and action are presumed to have been decided reasonably and appropriately. The designated Appeals Officer shall first consider whether the appeal was filed in a timely manner, and, if so, whether the appeal is properly framed based on the two grounds. If the designated Appeals Officer determines that the appeal is not properly framed, the appeal will be denied.

The designated Appeals Officer will render a written decision on the appeal to the complainant and respondent within fifteen (15) business days from the date of the submission of all appeal documents by both parties. Appeal decisions are final.

In the event that the investigation and resolution exceeds this time frame, or any of the other time frames included in this procedure, the University will notify all parties of the reason(s) for the delay and the expected adjustment in time frames. Best efforts will be made to complete the process in a timely manner by balancing principles of thoroughness and fundamental fairness with promptness.

## **Amnesty**

As it is in the best interest of the Southern Virginia University community that all individuals who have been the subject of or witness to sexual misconduct report the behavior, the University seeks to remove any deterrents to reporting to encourage reporting, an individual who reports sexual misconduct, either as a complainant or a third-party witness, will not be subject to disciplinary action by the University for his or her own personal consumption of alcohol or drugs at or near the time of the incident.

## **Conflicts of Interest**

These procedures will be administered in a manner that eliminates any conflict of interest (real or perceived) by the individuals handling the procedures.

Anyone who feels there is any conflict of interest related to a Title IX proceeding should report the conflict to the Title IX coordinator or the University President if they feel the conflict of interest involves the Title IX Coordinator or their supervisor. The final decision as to whether to remove the individual is the prerogative of the University President. When considering whether to remove an individual from the proceedings, the President should consider: (a) the nature of the relationship between the individual and the situation (or those involved), and (b) whether that individual could be reasonably expected to render a fair and impartial analysis regardless of the relationship.

