

**Southern Illinois University Carbondale (SIUC) Policy and Procedures on Discrimination
and Harassment Based on Sex, Sexual Orientation Including Gender Identity, or
Pregnancy, or Engaging in Sexual Misconduct**

(effective August 1, 2024)

Purpose and Scope of this Policy

Southern Illinois University prohibits all members of the University community, including but not limited to students, faculty, and staff, from engaging in discrimination or harassment against any person or group of persons based on sex, sexual orientation including gender identity, or pregnancy or engaging in sexual misconduct. SIU does not discriminate on the basis of sex, gender, gender identity, or pregnancy in any phase of its educational or employment programs.

This policy on non-discrimination and non-harassment reaffirms Southern Illinois University's commitment to maintain an environment in which ideas are pursued free of intimidation or fear, and the Policy applies to admissions, employment, access to, and treatment in all University programs and activities. The University has adopted this Policy and Procedure to provide for the prompt and equitable resolution of student and employee complaints alleging sex discrimination and sex-based harassment under Title IX of the Education Amendments of 1972 (Title IX).

This Policy and Procedure implement federal and state laws and Board of Trustee policy prohibiting discrimination or harassment. Specifically, the policy implements *Title IX of the Education Amendments of 1972, 20 U.S.C. Sec. 1681, et seq.* (“Title IX”) and its regulations, which provides in part:

No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving federal financial assistance.

This policy and procedure also implements state law including the *Illinois Preventing Sexual Violence in Higher Education Act*, 110 ILCS 155/1 et. seq., and the *Illinois State Officials and Employees Ethics Act*, 5 ILCS 430/1-5 et seq., to the extent that state law does not conflict with federal laws and regulations. Further, this policy and procedure implements the Board of Trustees Policy on Sexual Harassment, BOT Policy, 7.D, and Policy on Non-Discrimination and Non-Harassment, BOT Policy 7.E. Nothing in this Policy or Procedure should be interpreted to violate any constitutional rights of anyone, including but not limited to First Amendment rights.

Prohibited Conduct defined:

Sex Discrimination means a form of discrimination where a person has been treated inequitably based on sex, marital status, family status, pregnancy, sexual orientation, gender identity, or gender expression. Academic and employment decisions based upon actual or perceived sex or gender and/or sex-based harassment are forms of unlawful sex discrimination that are prohibited.

Discriminatory harassment includes, but is not limited to: conduct (oral, written, graphics or physical) directed against any person or group of persons because of sex, sexual orientation (including gender identity), and/or pregnancy that has the purpose of or reasonably foreseeable effect of creating an offensive, demeaning, intimidating or hostile environment for that person or group of persons. Such conduct includes but is not limited to objectionable epithets, demeaning depictions or treatment, and threatened or actual abuse or harm.

Academic and employment decisions based upon actual or perceived sex or gender and/or acts of sexual misconduct or any form of unlawful sex discrimination are prohibited. SIU does not discriminate on the basis of sex, gender, gender identity, or pregnancy in any phase of its educational or employment programs.

Sexual Misconduct:

Sexual misconduct means any other act of a sexual nature which disrupts or negatively impacts the educational mission of the University, including but not limited to public displays of pornography; possession, creation, or distribution of child pornography; the exchange of money, goods or services in exchange for any sexual activity; causing another person to witness or observe any sexual act without clear, voluntary consent; videotaping, photographing or otherwise recording sex acts without the clear, voluntary consent of all individuals involved or sharing that video, photo, or recording with others without the knowing, voluntary, written, consent of the other party.

Sexual Misconduct also includes the following:

Dating Violence means violence, on the basis of sex, committed by a person who is in or has been in a social relationship of a romantic or intimate nature with the complainant. The existence of such a relationship shall be determined based on a consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship. For the purposes of this definition dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse. Dating violence excludes acts covered under the definition of domestic violence.

Domestic Violence means any act of violence, on the basis of sex, committed by a current or former spouse or intimate partner of the Complainant, by a person with whom the Complainant shares a child in common, or by a person who is cohabitating with, or has cohabitated with, the Complainant as a current or former spouse or intimate partner, or by a person similarly situated to a spouse of the Complainant under the domestic or family violence laws of Illinois or by any other person against an adult or youth Complainant who is protected from that person's acts under the domestic or family violence laws of Illinois. To categorize an incident as Domestic Violence, the relationship between the Respondent and the Complainant must be more than just two people living together as roommates.

Gender Harassment means unwelcome conduct on the basis of actual or perceived gender that, based on the totality of the circumstances, is subjectively and objectively offensive and is so

severe or pervasive that that it limits or denies a person's ability to participate in or benefit from the University's education program or activity.

Sexual Assault means any sexual act directed against another person, without the consent of the complainant, including instances where the complainant is incapable of giving consent. Sexual assault includes the following:

- a. Rape— 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 Complainant.
- b. Sodomy — Oral or anal sexual intercourse with another person, forcibly, and/or against that person's will (non-consensually), or not forcibly or against the person's will in instances in which the Complainant is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity.
- c. Sexual Assault with an Object — The use of an object or instrument to penetrate, however slightly, the genital or anal opening of the body of another person, forcibly, and/or against that person's will (non-consensually), or not forcibly or against the person's will in instances in which the Complainant is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity.
- d. Forcible Fondling — The touching of the private body parts of another person (buttocks, groin, breasts), for the purpose of sexual gratification, forcibly, and/or against that person's will (non-consensually), or not forcibly or against the person's will in instances in which the Complainant is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity.
- e. Incest — Nonforcible sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by Illinois law.
- f. Statutory Rape — Nonforcible sexual intercourse with a person who is under the statutory age of consent.

Sex-Based Harassment includes sexual harassment and other harassment on the basis of sex, sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, and gender identity. Sex-based harassment includes the following:

- (a) *Quid pro quo harassment* means any unwelcome conduct, sexual conduct or advances, requests for sexual favors, or any conduct of a sexual nature, when submission to or toleration of such conduct is made, either explicitly or implicitly, a term or condition affecting the student's or employee's participation in or benefit from any aid, benefit, or service; or
- (b) *Hostile environment harassment* means unwelcome sex-based conduct that, based on the totality of the circumstances, is subjectively and objectively offensive and is so severe, persistent, or pervasive that it affects an employee's work performance, limits or denies a person's ability to participate in or benefit from a University program or activity, or creates an intimidating, threatening, or abusive working or academic environment. Whether a hostile environment has been created is a fact-specific inquiry that includes consideration of the following:
 1. The degree to which the conduct affected the complainant's ability to access an education program or activity at SIUC;

2. The type, frequency, and duration of the conduct;
3. The parties' ages, roles within the education program or activity, previous interactions, and other factors about each party that may be relevant to evaluating the effects of the conduct;
4. The location of the conduct and the context in which the conduct occurred; and
5. Other sex-based harassment in the education program or activity.

Stalking means engaging in a course of conduct involving two or more independent actions, which threatens or endangers the health, safety, emotional welfare, or access to academic resources or employment of another person or which would cause a reasonable person to be fearful for their safety, health, or emotional well-being and which does cause another person to be fearful for their safety, health, or emotional well-being. For the purposes of this definition, "course of conduct" means two or more acts in which the Respondent directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with a person's property. Substantial emotional distress means significant mental suffering or anguish that may but does not necessarily require medical or other professional treatment or counseling.

Institutional Notice of Sexual Harassment

The University, as an institution, will be deemed to have actual knowledge of conduct that may constitute sex discrimination if notice of such allegation is provided to i) the University's Title IX Coordinator or ii) any University employee unless the employee is a confidential employee. Confidential employees shall comply with all relevant laws.

Definitions

As used in this Policy the following terms have the following meaning:

Advisor means any person acting as an advisor to the Complainant or Respondent for purposes of the grievance procedures. The Advisor may, but is not required to, be an attorney or a union representative.

Complainant means an individual who is alleged to be the victim of conduct that could constitute sex discrimination or sex-based harassment or an individual who may be the victim of retaliation as defined herein. The Complainant or Respondent may be referred to as a Party, or collectively as the Parties. Where a Grievance Process involves more than one Complainant, references in this Policy to the singular "Party" or "Complainant" include the plural, as applicable.

Complaint means oral or written request by a Complainant or the Title IX Coordinator alleging sex discrimination, sex-based harassment, or sexual misconduct against a Respondent and requesting that the University investigate the allegation(s).

Clery Act means the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act, 20 U.S.C. §1092(f).

Confidential Advisor means an employee, officially designated as such pursuant to the Illinois Preventing Sexual Violence in Higher Education Act, who has the responsibility of providing emergency and on-going support to student survivors of sexual misconduct. A Confidential Advisor is not a Mandated Reporter of sexual misconduct (irrespective of Clery Act Campus Security Authority status) but may assist a Complainant in making such a report. The Confidential Advisor also works with the Title IX Coordinator regarding supportive measures.

Consent means a clear, affirmative, unambiguous and freely given agreement to engage in a specific sexual activity. Consent is demonstrated verbally or through actions that clearly indicate a willingness to engage in specific sexual activity. Lack of verbal or physical resistance does not constitute consent. Consent to engage in sexual activity with one person does not constitute consent to engage in sexual activity with another person, and consent for a specific activity does not imply consent for any other activity. Use of alcohol, drugs, or other intoxicants does not diminish one's responsibility to obtain consent.

Consent must be knowing and voluntary. To give consent, a person must be awake, of legal age, and have the capacity to reasonably understand the nature of his/her actions. Consent cannot be given by an individual who is mentally or physically incapacitated through the effect of drugs, alcohol or other intoxicants or for any other reason. Consent cannot be given when it is coerced, forced, or obtained by use of duress, fear, threats, or violence. Consent is not implied by the existence of a prior or current relationship or participation in prior sexual activity. A person's manner of dress does not constitute consent. Consent to engage in sexual activity may be withdrawn at any time and is automatically withdrawn by a person who is no longer capable of giving consent.

Day means any weekday in which University offices are open, regardless as to whether classes are in session.

Decision Maker means an individual who is empowered to make a decision as to whether a respondent violated this Policy.

Grievance Process means the process in which a Complaint of Sexual Harassment is investigated, decided, and appealed.

Preponderance of the Evidence means the standard of evidence to determine whether an individual violated this Policy. The Preponderance of the Evidence standard is satisfied by evidence demonstrating that a fact or allegation is more likely true than not.

Remedy(ies) mean University action(s) designed to restore or preserve equal access to the University's education program or activity and are available to a Complainant following a finding of responsibility on the part of the Respondent at the conclusion of the Grievance Process. Remedies may include Supportive Measures, as set forth in this Policy; however, unlike Supportive Measures, Remedies need not be non-disciplinary or non-punitive and need not avoid burdening the Respondent.

Respondent means an individual who is alleged to have engaged in conduct that could constitute sex discrimination or sex-based harassment or an individual who has engaged in

conduct that may be considered retaliation as defined herein. The Complainant or Respondent may be referred to as a Party, or collectively as the Parties. Where a Grievance Process involves more than one Complainant, references in this Policy to the singular “Party” or “Complainant” include the plural, as applicable.

Jurisdiction

This Policy and Procedure applies to all Sex Discrimination, Sex-Based Harassment, or Sexual Misconduct occurring in any University program or activity and includes any off-campus conduct that is subject to the University’s disciplinary authority. Conduct that occurs in any building owned or controlled by an officially recognized student organization is also subject to this policy. Conduct occurring outside the United States but that creates a sex-based hostile environment in a University program or activity may be addressed by the University.

Title IX Coordinator Designation

The following University employee has been designated to serve as the Title IX Coordinator for the University. Allegations and complaints of Sex Discrimination, Sex-Based Harassment, or Sexual Misconduct should be filed with the Title IX Coordinator. Additional information regarding how to report allegations of a violation of this Policy and filing Complaints of Sex Discrimination, Sex-Based Harassment, or Sexual Misconduct can be found at:

TITLE IX COORDINATOR

Nick Wortman, Associate Vice Chancellor for Human Resources
Southern Illinois University Carbondale
0135 Woody Hall, 900 S. Normal Ave
Mail Code 6520
Carbondale, IL 62901
(618) 453-6667
equity@siu.edu

University Response to Allegations of Sex Discrimination and Sex-Based Harassment

The University, through the Title IX Coordinator (or designee), will promptly respond to any allegation of sex discrimination or sex-based harassment in an education program or activity in the United States. In responding to allegations, the Title IX Coordinator (or designee) shall treat Complainants and Respondents equitably, offer Supportive Measures as required by this Policy and Procedure, and follow the grievance procedure to investigate and address the allegations.

Reporting Allegations of Sex Discrimination and Sexual Harassment

Allegations of Sex Discrimination and Sex-Based Harassment may be made by any person (whether or not the person reporting is the person alleged to be the victim of conduct that could constitute Sex Discrimination or Sex-Based Harassment), electronically at safe.siu.edu or in

person, by mail, by telephone, or by electronic mail, to the Title IX Coordinator (or designee). University employees are required to report third-party allegations of Sex Discrimination and Sex-Based Harassment to the Title IX coordinator as soon as possible after receiving those allegations. Failure to report such an allegation may result in disciplinary action pursuant to the applicable collective bargaining agreement or policy.

Initial Response of Title IX Coordinator

Upon receipt of an allegation(s) of Sex Discrimination or Sex-Based Harassment, the Title IX Coordinator (or designee) will contact the Complainant. The Title IX Coordinator (or designee) will explain to the Complainant the requirements and process for filing a Complaint, the jurisdiction requirements under the Title IX Regulations, and possible Supportive Measures. The Title IX Coordinator may consider the necessity of either Emergency Removal or Administrative Leave as described herein.

Supportive Measures

SIUC will offer and implement appropriate and reasonable supportive measures to the parties upon notice of an allegation of Sex Discrimination or Sex-Based Harassment. Supportive measures are non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the parties to restore or preserve access to the University's education program, activity, and/or employment with the University. Such supportive measures are designed to protect the safety of all parties or the University's educational environment, and/or deter Prohibited Conduct. Supportive measures may also provide support during the grievance procedures, including any informal resolution process.

The Title IX Coordinator, normally through the Confidential Advisor, promptly makes supportive measures available to the parties upon receiving notice of allegations of Sex Discrimination or Sex-Based Harassment.

The University will maintain the privacy of the supportive measures, provided that privacy does not impair SIUC's ability to provide the supportive measures. SIUC will act to ensure as minimal an academic/occupational impact on the parties as possible. SIUC will also implement measures in a way that does not unreasonably burden the other party.

Supportive Measures may include, but are not limited to: academic, living, dining, transportation, or working modifications; no contact orders; and/or adherence to state issued orders of protection.

Violations of no contact orders will be referred to appropriate student or employee conduct processes for enforcement, and to the Department of Public Safety.

Complainants or Respondents may seek a modification or reversal of the decision to provide, deny, modify, or terminate supportive measures applicable to them. To seek the modification or reversal, the Complainant or Respondent must notify the Title IX Coordinator of the requested reversal or modification sought and the reason(s) for the request. The Title IX Coordinator (or designee) shall appoint an impartial employee, meaning an individual who did not make the

challenged decision, to review the requested modification or reversal and make a final determination related to the supportive measure(s) being sought.

Emergency Removal

1. Individualized Safety and Risk Analysis.

The Title IX Coordinator (or designee) may determine that an emergency removal of a Respondent is necessary to protect the University community. The Title IX Coordinator (or designee) shall undertake an individualized safety and risk analysis to determine whether the allegations indicate that the Respondent poses an imminent and serious threat to the health or safety of the Complainant or the University community based on the allegations and/or any evidence available at the time of the determination. The Title IX Coordinator may consult with the Threat Assessment Team or others as needed as part of the assessment, but shall ensure that the information is kept as private as possible. The Title IX Coordinator (or designee) shall implement the least restrictive emergency actions needed to protect the University community and/or address the health or safety concerns. These actions could include, but are not limited to: interim suspending a student, placing an employee on administrative leave, removing a student from a residence hall, restricting a student's or employee's access to or use of facilities or equipment, allowing a student to withdraw or take grades of incomplete without financial penalty, authorizing an administrative leave, suspending a student's participation in extracurricular activities, student employment, student organizational leadership, or intercollegiate/intramural athletics.

If the Title IX Coordinator (or designee) determines that emergency removal is appropriate, the Coordinator (or designee) shall notify the Respondent of the decision and an opportunity to challenge the decision within three (3) days following the removal. Any challenge to the decision should address why the action/removal should not be implemented or should be modified. At the discretion of the Title IX Coordinator and in consultation with the Dean of Students and appropriate faculty, alternative coursework options may be pursued to ensure as minimal an academic impact as possible.

The Title IX Coordinator (or designee) has sole discretion under this policy to implement or stay an emergency removal and to determine the conditions and duration. Violation of an emergency removal under this policy will be grounds for discipline pursuant to the Student Conduct Code or other University policy or the appropriate collective bargaining agreement. This meeting is not a hearing on the merits of the allegation(s), but rather is an administrative process solely intended to determine whether the emergency removal is appropriate. A Respondent may be accompanied by an Advisor of their choice when meeting with the Title IX Coordinator (or designee) for the meeting.

This section does not limit the ability of a coach or athletic administrator to place restrictions on a student-athlete arising from the allegations. The decision of a coach or athletic administrator to place such restrictions is not appealable.

Privacy and Confidentiality

For the purpose of this policy and procedure, privacy and confidentiality have distinct meanings. Privacy means that information related to an incident will only be shared with a limited number of employees who “need to know” to assist in reporting, supportive measures, investigations, and ultimate resolution of the underlying complaint or allegations. All employees who are involved in the university’s response to sex discrimination have received training and guidance about safeguarding private information in accordance with federal and state law.

Confidentiality exists only as defined by law in certain relationships, such as healthcare providers, mental healthcare providers, and attorneys. The University has designated individuals who can have privileged communications. When information is shared with a confidential resource, that confidential resource cannot reveal the information to any third party except when an applicable law or court order requires or permits the disclosure. All reporting and disclosures for Clery Act purposes will be in accordance with the applicable University policy. No identifying information about the complainant or reporting person will be disclosed in publicly available recordkeeping, such as the daily crime log, timely warnings, or the Annual Security and Fire Safety Report (ASFSR). Employees who are confidential and who receive reports within the scope of their confidential roles will submit timely anonymous statistical information for Clery Act purposes unless they believe it would be harmful to their client/patient.

Confidential resources include:

- a. Counseling and Psychological Services
- b. On-campus health service providers and staff through the Student Health Services
- c. On-campus Confidential Advisor (although the advisors do share information with the Title IX Coordinator following federal regulations including sharing all information with the Title IX Coordinator (or designee) concerning supportive measures for each party.)
- d. Certain off-campus resources, such as licensed professional counselors and other medical providers, local rape crisis counselors, domestic violence resources, local or state assistance agencies, clergy/chaplains, or attorneys

For students, counselors through Counseling and Psychological Services (CAPS) are available and may be consulted on an emergency basis. CAPS services are free for fee-paying students. Information regarding CAPS can be found here: <https://shc.siu.edu/counseling/crisis-services/>. SIUC also has an employee assistance program. You may contact Human Resources for information regarding that program or review the following information: <https://shc.siu.edu/counseling/crisis-services/>.

Prohibited Disclosure of Personally Identifiable Information

SIU shall not disclose personally identifiable information obtained in the course of an investigation under this Policy and Procedure except as follows:

1. SIU has received a prior written consent from an individual with the legal right to consent to the disclosure;

2. The information is disclosed to another individual with a legal right to receive disclosure on behalf of the person whose personally identifiable information is at issue;
3. To carry out the purposes of this Policy and Procedure, including but not limited to action taken to address conduct that reasonably may constitute sex discrimination under Title IX in a education program or activity;
4. As otherwise required by federal law or regulations or based on the terms and conditions of a federal award, including a grant award or other funding agreement; or
5. When required by State law or when permitted under the Family Educational Right and Privacy Act, 20 U.S.C. 1232g or its regulations but only to the extent such disclosures are not otherwise in conflict with Title IX or the regulations.

Documentation by Title IX Coordinator/Record Retention

For every response to an allegation of Sex Discrimination or Sex-Based Harassment, the Title IX Coordinator will maintain records indicating the measures taken to restore and/or preserve equal access to the University's education program or activity and how such action was, in the conclusion of the Title IX Coordinator, not deliberately indifferent to the allegation of Sex Discrimination or Sex-Based Harassment. All records created under this Policy and Procedure will be retained pursuant to University Policy and for a minimum of seven (7) years.

University Response to a Complaint of Sexual Harassment

The University will not investigate any allegations of Sex Discrimination, Sex-Based Harassment or Sexual Misconduct under this Policy without first receiving a Complaint as described in this Section. Notwithstanding the foregoing, in the absence of a Formal Complaint, the University may, in its sole discretion, address an allegation pursuant to other University Policies.

Filing of a Complaint

Complainants are not required to file Complaints under this Policy. Complainants may receive Supportive Measures whether or not they chose to file a Complaint.

The following individuals may file a complaint (oral or written) of sex discrimination, sex-based harassment, or sexual misconduct and request that SIUC investigate the allegations under this Policy:

1. A Complainant;
2. Any person with the legal right to act on behalf of a Complainant; or
3. The Title IX Coordinator, after making the determination specified in this Section.

For allegations of sex discrimination other than sexual misconduct, in addition to the above, any student or employee or any person other than a student or employee who was participating or attempting to participate in an education program or activity at the time of the alleged sex discrimination may also make a complaint.

In the absence of a complaint or the withdrawal of any or all allegations in a complaint, the Title IX Coordinator may initiate or file a complaint if the Title IX Coordinator determines that the conduct as alleged presents an imminent and serious threat to the health or safety of a person or prevents SIU from ensuring equal access to an education program or activity. Prior to initiating a Complaint, the Title IX Coordinator shall consider: (1) The Complainant's request not to proceed with the complaint; (2) the Complainant's reasonable safety concerns regarding initiation of the Complaint; (3) the risk that additional acts of sex discrimination or sex-based harassment would occur if a complaint is not initiated; (4) the severity of the alleged sex discrimination or sex-based harassment including whether the discrimination, if established, should require the removal of a respondent from campus or the imposition of another disciplinary sanction to end the discrimination and prevent its recurrence; (5) the age and relationship of the parties, including whether respondent is an SIU employee; (6) the scope of the alleged sex discrimination or sex-based harassment, including information suggesting a pattern of ongoing sex discrimination or sex-based harassment or whether the discrimination or harassment is alleged to have impacted multiple individuals; (7) the availability of evidence to assist a decisionmaker in determining whether the discrimination or harassment occurred; and (8) whether SIU could end the alleged discrimination and harassment and prevent its recurrence without initiating an investigation. Prior to initiating a Complaint, the Title IX Coordinator shall notify the Complainant and appropriately address the Complainant's reasonable safety concerns.

Notice of a Formal Complaint

Following the receipt of a Complaint, the Title IX Coordinator (or designee) shall provide a written Notice of Complaint of Sex Discrimination or Sex-Based Harassment (Notice of Complaint) to the Complainant and to the Respondent identified in the Complaint. The Notice of Complaint shall include the following information:

1. These grievance procedures, including any informal resolution process.
2. Sufficient information available at the time to allow the parties to respond to the allegations. Sufficient information includes the identities of the parties involved in the incident(s), the conduct alleged to constitute sex discrimination, sex-based harassment, or sexual misconduct including the date(s) and location(s) of the alleged incident(s) if known.
3. A statement that retaliation is prohibited.
4. A statement that the parties are entitled to an equal opportunity to access the relevant and not otherwise impermissible evidence or an accurate description of the evidence.
5. A statement that the Respondent is presumed not responsible for the alleged violation of the Policy unless a determination regarding responsibility is made at the conclusion of the grievance process.
6. A statement informing the Parties that they may have an Advisor of their choice during the investigation of the Complaint.
7. A statement indicating that the University prohibits knowingly making false statements or knowingly submitting false information during the grievance process.

Obligation to Supplement Notice of Formal Complaint

If, during the course of the investigation of a Complaint, the Title IX Investigator decides to investigate allegations about the Complainant or Respondent that were not included in the Notice of Complaint provided herein, the Title IX Coordinator (or designee) shall provide the Parties with an updated Notice of Complaint providing notice of the additional allegations under investigation.

Consolidation of Formal Complaints

The University may, but is not required to, consolidate Complaints of Sex Discrimination or Sex-Based Harassment against more than one Respondent, or by more than one Complainant against one or more Respondent(s) only where the allegations of Sexual Harassment arise out of the same facts or circumstances.

Dismissal of a Complaint

The Title IX Coordinator (or designee) may dismiss a complaint of sex discrimination or sex-based harassment if:

1. After taking reasonable steps, SIU cannot identify a Respondent;
2. The Respondent is no longer enrolled as a student or employed by SIU;
3. Complainant voluntarily withdraws the allegations in writing and the Title IX Coordinator elects not to initiate a Complaint;
4. The Title IX Coordinator (or designee) determines that even if proven, the conduct would not constitute sex discrimination or sex-based harassment. Prior to dismissing a Complaint for this reason, the Title IX Coordinator (or designee) shall make reasonable efforts to clarify the Complaint with the Complainant.

The Complainant, and the Respondent if Respondent received notice of the Complaint, shall be notified of the dismissal, including the reasons for the dismissal. The notice shall advise that the decision to dismiss the Complaint may be appealed pursuant to this Policy and Procedures.

Informal Resolution Process

Upon receipt of a complaint, the Title IX Coordinator (or designee) shall consider whether the matter may be resolved by utilizing an informal resolution process in lieu of a formal investigation. The informal resolution process may be used only if both parties consent to this process and the Title IX (or designee) determines that it is appropriate. This process shall permit the Complainant and the Respondent to reach a mutually agreeable resolution prior to a formal investigatory finding.

In determining whether an informal resolution process is appropriate for a particular complaint, the Title IX Coordinator (or designee) shall consider the following factors:

- i. the severity of the allegation(s);
- ii. whether any prior complaints have been filed against the Respondent;

- iii. the number of alleged Complainants;
- iv. whether the alleged harm is easily reparable;
- v. whether other steps may be required to ensure that sex discrimination does not continue or recur;
- vi. whether the alleged conduct would present a future risk of harm to others; and
- vii. any other relevant factors consistent with the SIU Policies.

Prior to initiating the informal resolution process, the Title IX Coordinator (or designee) shall provide to the following information to the parties:

- a. the allegations;
- b. the requirements of the informal resolution process;
- c. the process is voluntary and that either party may withdraw from the process at any time prior to a resolution and resume or initiate a formal investigation under these procedures;
- d. any agreement reached as a result of the informal resolution process would prevent the parties from initiating or resuming a formal investigation arising from the same allegations;
- e. any potential terms that may be requested or offered in an informal resolution agreement, including but not limited to notice that an informal resolution agreement is binding only on the parties to the resolution;
- f. what information will be maintained regarding the matter and what information could be disclosed in a formal investigation if a resolution is not reached in the informal process.

If all parties agree to attempt to utilize the informal resolution process, and if Title IX Coordinator (or designee) determines that this process is appropriate for the complaint, the Title IX Coordinator (or designee) shall appoint an individual to facilitate the informal resolution. Any person appointed to facilitate the informal resolution shall not be the decision maker or investigator if the matter returns to being a formal investigation. The facilitator shall meet with the parties and determine whether an appropriate resolution can be reached. Any such resolution may include, if applicable, an appropriate remedy, a plan for ensuring compliance with its terms, and a requirement of confidentiality by and for the parties involved.

If a resolution is reached that all parties agree is appropriate, the resolution shall be reduced to writing and signed by both parties. A record of the resolution shall be maintained by Title IX Coordinator (or designee) for the duration in the resolution agreement or the recordkeeping timeframe contained herein, whichever is longer.

If the parties are unable to reach a resolution of the complaint, then the formal investigation process shall be used to determine the appropriate resolution of the complaint. The facilitator or any party may return the complaint to the formal resolution process at any time prior to resolution.

Sex Discrimination and Sex-Based Harassment Grievance Process

This Grievance Process is intended to provide fair and equitable treatment to Complainants and Respondents. The Respondent is presumed not responsible for the alleged violation of the Policy unless a determination regarding responsibility is made at the conclusion of the grievance process. Therefore, Disciplinary Sanctions may not be imposed against a Respondent until the conclusion of the Grievance Process. During the Grievance Process, the University will bear the burden of proof, by a preponderance of the evidence, and the burden of gathering evidence sufficient to reach a determination regarding responsibility.

All investigations are to be conducted in a thorough, reliable, impartial, prompt, and fair manner. Any individual materially involved in the administration of the informal resolution process, grievance process, or appeal process shall neither have nor demonstrate a conflict of interest or bias for a party generally, or for a specific Complainant or Respondent. Parties should promptly notify the Title IX Coordinator of any concerns related to a conflict of interest regarding any individual involved in the administration of the informal resolution process, grievance process, or appeal process.

Time Frames for Completion of the Grievance Process

The University will act promptly to address allegations of a violation of this Policy. The investigation of Complaints may take up to ninety (90) days to complete. However, time frames established in this Policy and Procedure may be extended for good cause for a reasonable amount of time. The Title IX Coordinator may, upon request of the investigator, decision maker, Complainant, or Respondent, grant a temporary extension of the time frames of the Grievance Process. The Title IX shall notify the Complainant and Respondent in writing of any extensions, including an explanation as reasons for the extension and the duration of extension.

Advisors

The Complainant and Respondent may have an Advisor of their choice during the Grievance Process. Advisors will be required to adhere to the expectations of privacy and confidentiality as described in this Policy. An advisor may, but is not required, to be an attorney or union representative. Advisors may not speak on behalf of the advisee during the investigation process but may be present at all interviews or meetings. A party may have only one advisor during any interview or other meeting.

Retaliation Prohibited

SIUC and any member of SIUC's community are prohibited from taking materially adverse action by intimidating, threatening, coercing, harassing, or discriminating against any individual for the purpose of interfering with any right or privilege secured by law or policy, or because the individual has reported, made a complaint, testified, assisted, participated or refused to participate in any manner during an investigation or other proceeding contained herein. Retaliation means any act of reprisal, including negative or otherwise unwarranted treatment,

related to the reporting of, or participation in a complaint of a violation. Retaliation may include, but is not limited to:

1. Taking unwarranted negative tangible academic or employment actions against a person;
2. Taking actions that substantially interfere with or have a chilling effect on the employee's or student's ability to participate fully in and benefit from the work or educational environment;
3. Failing to provide assistance or instruction that would otherwise be provided;
4. Failing to fairly and/or objectively evaluate an employee's or student's performance;
5. Failing to record an appropriately earned grade for a student; or
6. Otherwise sabotaging an employee's or student's performance or evaluation.

Retaliation may occur even if no responsibility is found for the underlying complaint or investigation.

Acts of alleged retaliation should be reported immediately to the Title IX Coordinator (or designee) and will be promptly investigated under the procedures herein. SIUC will take all appropriate and available steps to protect individuals who fear that they may be subjected to retaliation.

Investigation of Allegations of Sex Discrimination, Sex-Based Harassment, and Sexual Misconduct

The University shall investigate all allegations of Sexual Discrimination, Sex-Based Harassment or Sexual Misconduct included in the Notice and Complaint. The Investigator assigned to a Complaint shall take reasonable efforts to collect all relevant evidence, including both inculpatory and exculpatory evidence, relating to the allegations and interview all parties and witnesses who may have relevant information. Investigations may also include identifying sources of expert information, as necessary.

All parties shall have a full and fair opportunity, through the investigation process, to suggest witnesses and questions, to provide evidence and expert witnesses, and to fully review and respond to all evidence on the record.

Evidence

Both the Complainant or Respondent may, but are not required to, provide evidence relevant to the allegations included in the Complaint. The Investigator shall not access, consider, require, allow, rely upon, disclose, or otherwise use a Party's records, or other evidence that is excluded evidence.

Excluded Evidence

The following evidence shall not be considered as part of any Investigation or determination under this grievance process:

1. Evidence that is protected under a privilege as recognized by federal or State law or evidence provided to a confidential employee unless the person to whom the privilege or confidentiality is owed has voluntarily waived the privilege or confidentiality.
2. A party's or witness's records that are made or maintained by a physician, psychologist, or other recognized professional or paraprofessional in connection with the provision of treatment to the party or witness, unless the party or witness voluntarily consents in writing for the records to be used in the grievance process.
3. Evidence that relates to the Complainant's sexual interests or prior sexual conduct, unless evidence about the Complainant's prior sexual conduct is offered to prove that someone other than the Respondent committed the alleged conduct or is evidence about specific incidents of the Complainant's prior sexual conduct with the respondent that is offered to prove consent to the alleged sexual misconduct or sex-based harassment. Prior consensual sexual conduct between the Complainant and Respondent does not by itself demonstrate or imply that Complainant's consent to the alleged sex-based harassment or sexual misconduct or preclude a determination that sex-based harassment or sexual misconduct occurred.

Investigative Interviews

Title IX Investigators shall attempt to interview all parties to the Complaint and all witnesses who have or may have relevant information or evidence. Complainants and Respondents may have an Advisor of their choosing at any interview. Neither the Complainant nor the Respondent will be permitted to participate or attend any witness interviews.

The Complainant and Respondent may propose individual questions for any party or witness. The Title IX Investigator shall consider the questions and whether they are appropriate and designed to obtain relevant evidence or information.

Other than the official recording by the Investigators, no party or witness may record, either by audio or video, during investigation meetings. Investigators shall audio record all interviews, if possible. If Investigator(s) elect to audio and/or video record interviews, all involved parties must be made aware of and consent to audio and/or video recording.

Title IX Initial Investigative Report

The Title IX Investigator shall write a comprehensive initial investigatory report fully summarizing the investigation, including all witness interview transcripts, and addressing all relevant evidence. Appendices including relevant physical or documentary evidence will be included. The Investigator shall gather, assess, and synthesize evidence, but shall not make any conclusions, engage in policy analysis, or make any recommendations as part of their report.

Right to Review and Comment

Upon completion of the initial investigatory report, the parties and the Decision Maker shall have ten (10) days to review the report and make any comments or suggest additional evidence the Investigator should gather, including but not limited to proposing questions for a party or

witness. The Decision Maker shall review the proposed questions or request to gather additional information for relevance and direct the Investigator to conduct any follow-up interviews or request any additional evidence.

The Investigator shall revise any report based on the additional evidence or interviews and submit the final report for review by the parties and the Decision Maker. The parties shall have ten (10) days to review the final report and make any comments or suggest additional evidence which should be gathered or considered, including but not limited to any questions for a party or witness.

Decision Maker Review and Written Determination

The Decision Maker shall review the report and all comments and suggestions. The Decision Maker may meet with any party or witness as needed to make a decision or to assess credibility. The Decision Maker may place less or no weight upon any statement by a party or witness who refuses to respond to questions deemed relevant and not impermissible. However, the Decision Maker shall not draw an inference about whether a party violated this Policy and Procedure based solely on a party's or witness's refusal to respond to questions. If the Decision Maker meets with a party or witness, the transcripts of any meeting shall be provided to the parties and both parties shall have ten (10) days to respond or comment.

After a thorough review, the Decision Maker shall then make findings of fact and issue a decision as to whether the Respondent violated the Policy through a written determination. The written determination shall include:

1. A description of the alleged sex discrimination, sex-based harassment, or sexual misconduct;
2. Information about the policies and procedures that were used to evaluate the allegations;
3. The Decision Maker's evaluation of relevant and not otherwise impermissible evidence;
4. A determination and rationale for the result as to each allegation;
5. If the Decision Maker finds that the Respondent violated this policy and procedure, the disciplinary sanctions imposed against the respondent and whether remedies designed to restore or preserve equal access to the University's education program or activity will be provided to the Complainant.
6. The procedures for appealing the written determination.

The Decision Maker shall serve the written determination on the parties simultaneously. The Written Determination, including any Disciplinary Sanctions, will not be final until the conclusion of any appeal of the written determination, or if no appeal is filed, immediately after the time to appeal has ended.

Potential Disciplinary Sanctions following a Determination of Responsibility

Sanctions are to be determined by the Title IX Coordinator or designee, who may confer with other University offices as needed in making such decisions.

Potential Remedies following a Determination of Responsibility

Remedies are to be determined by the Title IX Coordinator or designee, who may confer with other University offices as needed in making such decisions.

Appeals

The Complainant and/or Respondent may submit an appeal from a Written Determination A Complainant or Respondent may file a written appeal to the Title IX Coordinator within seven (7) days after receipt of the Written Determination. Any Party submitting an appeal will have an opportunity to provide a statement in support of, or challenging, the Written Determination or Dismissal.

Grounds for Appeals

A Complainant or Respondent may appeal based only on one or more of the following grounds:

1. The process had a procedural irregularity that would change the outcome of the written determination;
2. New evidence exists that would change the outcome which was not reasonably available when the determination or dismissal occurred; and/or
3. An Investigator, the Decision Maker, or the Title IX Coordinator had a conflict of interest or bias for or against complainants or respondents generally or the specific complainant or respondent in the case that would change the outcome of the decision.

Notice of Appeal.

The Title IX Coordinator shall notify the non-appealing party of the appeal and provide a copy of the appeal. The non-appealing party will be given seven (7) days to submit a response to the Title IX Coordinator addressing any portion of the appeal that relates to that party. At that time, the non-appealing party (if any) may also choose to raise new ground(s) for appeal. If this occurs, the new appeal shall be reviewed by the Title IX Coordinator to determine whether it meets the requirements contained this Policy and Procedure. If the Title IX Coordinator finds that the new grounds raised by the non-appealing party are appropriate, then the Coordinator shall notify the party who initially requested an appeal and allow them to submit a response within seven(7) days. The response shall be provided to all parties. Neither party may submit any new requests for appeal after this occurs.

Appeal Decision

The Title IX Coordinator may consider the complete file and the relevant information provided by the parties in reaching a decision. The Title IX Coordinator shall render a written decision within ten (10) days after receipt of the final responses, unless the Title IX Coordinator advises the parties of the need for an extension and the reason(s) for the extension. The Appeal Decision shall be sent to all parties simultaneously.

Amnesty

For students, in good faith, who report an alleged violation of this policy and procedure to a University employee, the University is required to include an amnesty provision in this policy and will not sanction the reporting student for a student conduct violation that is revealed in the course of the investigation unless the University determines the violation was egregious such as an act that places the health or safety of another person at risk. Whether to make a charge for a violation of the Student Conduct Code is within the discretion of Student Rights and Responsibilities.

False Statements

The University prohibits parties and witnesses from making knowingly false statements or knowingly providing false evidence during the grievance process. The University will not discipline an individual for making a false statement or for engaging in consensual sexual conduct based solely on the University's determination of whether sex discrimination, sex-based harassment, or sexual misconduct occurred. However, individuals may be disciplined for making knowingly false statements or knowingly providing false evidence if evidence independent of the determination of whether sex discrimination, sex-based harassment, or sexual misconduct occurred exists. Evidence developed during the Title IX grievance process may be used in any such disciplinary process.

Training, Education, and Prevention

The University will conduct sexual violence primary prevention and awareness programs for all students and new employees and ongoing awareness campaigns related to prevention of sexual misconduct for all students and employees. These programs shall include a statement that the University prohibits sexual assault, dating violence, domestic violence, and stalking; the definition of these offenses as well as the definition of consent, safe and positive options for bystander intervention an individual may take to prevent harm or intervene; and recognition of signs of abusive behavior and hot to avoid potential attacks.

In addition, all University employees are required to attend training on an annual basis pursuant to federal and state law regarding sex discrimination, sex-based harassment, and sexual misconduct. Individuals directly involved in the Title IX grievance procedure or others may be required to attend additional training related to their roles.

Administrative Contact Information

Complaints or notice of alleged policy violations, inquiries about or concerns regarding this Policy, or reports of Prohibited Conduct may be made internally to:

Office of Equity and Compliance
900 S. Normal Ave
Woody Hall Room 478 Mail Code 4316
Carbondale, IL 62901
(618) 453-4807

equity@siu.edu

ELECTRONICALLY @ SAFE.SIU.EDU

**DEPARTMENT OF PUBLIC SAFETY
SOUTHERN ILLINOIS UNIVERSITY**

Trueblood Hall
Carbondale, IL 62901
(618) 453-3771
Emergencies should dial 911

SIUC CONFIDENTIAL ADVISOR

Rose Robinson-Berkman
Student Health Center, Room 120
374 E. Grand Ave.
Carbondale, IL 62901
(618) 453-4429

For assistance off-campus at the Carbondale location:

SURVIVOR EMPOWERMENT CENTER (OFF CAMPUS)

610 S. Thompson St.
Carbondale, IL 62901
Phone: (618) 549-4807
24-hour crisis hotline: (800) 334-2094
Website: [www.empowering survivors.org](http://www.empowering-survivors.org)

CARBONDALE POLICE DEPARTMENT

501 S. Washington St.
Carbondale, IL 62901
(618) 457-3200
Emergencies should dial 911

NATIONAL SEXUAL ASSAULT HOTLINE:

(800) 656-4673 (HOPE)

SIH MEMORIAL HOSPITAL OF CARBONDALE

405 W Jackson St
Carbondale, IL 62901
(618) 549-0721

For the Carbondale campus, a list of current Title IX Team members and their roles are available on the Office of Equity and Compliance website (<https://equity.siu.edu/>)

External Agency Complaint Information

In addition to the reporting options in this Policy and Procedure, individuals who believe that they have been subjected to retaliation for reporting discrimination allegations may seek whistleblower protections under the Illinois State Officials and Employees Ethics Act (5 ILCS 430/et seq.), the Illinois Human Rights Act, (775 ILCS 5/et seq.), or the Whistleblower Act (740 ILCS 174/et seq.).

While the University encourages use of its internal policy and procedures, the University's policy does not preclude individuals who feel that they have been the victim of discrimination, sex-based harassment, or sexual misconduct from seeking redress through these external agencies. Filing with the external agencies can be done in lieu of or simultaneously with the University's complaint process. Filing a complaint with the University does not result in the waiver or extension of any time limits required by an external agency.

The Illinois Human Rights Act prohibits discrimination, including sexual harassment, and retaliation, and establishes the Department of Human Rights and the Human Rights Commission to handle charges of discrimination, including sexual harassment. The federal Government's Civil Rights Act prohibits discrimination, including sexual harassment, and retaliation by an employer, and assigns the complaint process to the Equal Employment Opportunity Commission (EEOC).

The United States Department of Education Office for Civil Rights enforces several federal civil rights laws that prohibit discrimination in programs or activities that receive federal financial assistance from the Department of Education, including Title IX of the Education Amendments of 1972, which prohibits discrimination, including sexual harassment, and retaliation.

For sexual harassment, an individual may make a confidential report to the SIU Ethics Officer (ethics.siu.edu/contacts.html) or the Office of the Executive Inspector General for the Agencies of the Illinois Governor.

Office for Civil Rights (OCR)
U.S. Department of Education
400 Maryland Avenue, SW
Washington, D.C. 20202-1100
Customer Service Hotline #: (800) 421-3481
Facsimile: (202) 453-6012
TDD#: (877) 521-2172
Email: OCR@ed.gov
Web: <http://www.ed.gov/ocr>

Office for Civil Rights (OCR)
U.S. Department of Education
Chicago Office

U.S. Department of Education
John C. Kluczynski Federal Building
230 S. Dearborn Street, 37th Floor
Chicago, IL 60604
Telephone: (312) 730-1560
Facsimile: (312) 730-1576
[Email: OCR.Chicago@ed.gov](mailto:OCR.Chicago@ed.gov)

Illinois Department of Human Rights (IDHR)

Website: www.state.il.us/dhr
In Chicago:
James R. Thompson Center
100 West Randolph Street, 10th Floor
Intake Unit
Chicago, IL 60601
Telephone: (312) 814-6200
TTY: (866) 740-3953
Facsimile: (312) 814-6251

In Springfield:
535 West Jefferson
1st Floor
Intake Unit
Springfield, IL 62702
(217) 785-5100
(866) 740-3953 (TTY)
(217) 785-5106 (FAX)

In Marion:
2309 W. Main St., Suite 112
Intake Unit
Marion, IL 62959
Telephone: (618) 993-7463
TTY: (866) 740-3953
Facsimile: (618) 993-7464

Equal Employment Opportunity Commission (EEOC)

Website: www.eeoc.gov
Telephone: (800) 669-4000
TTY: (800) 669-6820 TTY
1-844-234-5122 (ASL Video Phone for Deaf/Hard of Hearing callers only)

St. Louis District Office (for Carbondale locations)
Robert A. Young Federal Building

1222 Spruce St., Rm 8.100
St. Louis, MO 63103
Facsimile: (314) 539-7894

Chicago District Office (for Springfield locations)
JCK Federal Building
230 S Dearborn Street
Chicago, IL 60604
Facsimile: [\(312\) 588-1260](tel:3125881260)

The Office of the Executive Inspector General for Agencies of the Illinois Governor

Website: <https://www.illinois.gov/oeig/about/Pages/writeus.aspx>

In Chicago
Office of Executive Inspector General for the Agencies of the Illinois Governor
69 West Washington Street
Suite 3400
Chicago, Illinois 60602
Phone: (312) 814-5600 or (888) 261-2734 (TTY)
Fax: (312) 814-5479

In Springfield
Office of Executive Inspector General for the Agencies of the Illinois Governor
Illinois Building - 607 East Adams Street
14th Floor
Springfield, Illinois 62701
Phone: (217) 558-5600
Fax: (217) 782-1605

Office for Civil Rights
U.S. Department of Health and Human Services
233 N. Michigan Ave., Suite 240
Chicago, IL 60601
Customer Response Center: (800) 368-1019
Fax: (202) 619-3818
TDD: (800) 537-7697
Email: ocrmail@hhs.gov