

Sexual Misconduct & Relationship Violence Policy; Procedures for Handling Sexual Misconduct and Relationship Violence Complaints

South University values civility, dignity, diversity, education, honesty, and safety and is firmly committed to maintaining a campus environment free from all forms of sex discrimination, sexual harassment, and sexual assault. Sexual Misconduct and Relationship Violence, defined more specifically below, are inconsistent with these values, violate institutional policy, and will not be tolerated at South University and are expressly prohibited. Similarly, retaliation for having brought forward a concern or allegation or for participating in an investigation of a report of Sexual Misconduct or Relationship Violence is also expressly prohibited and is grounds for disciplinary action.

This Policy provides information regarding how an individual - whether a student, faculty member, or staff member - can make a report of Sexual Misconduct or Relationship Violence impacting a student and how South University will proceed once it is made aware of any such report.

For faculty and staff members who believe they are the victim of sexual misconduct, please follow our No Harassment policy in the Employee Handbook.

I. PRELIMINARY ISSUES & IMPORTANT DEFINITIONS

This Policy prohibits "Sexual Misconduct" and "Relationship Violence," broad categories encompassing the conduct defined below. Sexual Misconduct and Relationship Violence can be committed by anyone, including third parties, and can occur between people of the same sex or different sexes and regardless of one's biological sex or transgendered sex. This policy applies to Sexual Misconduct and Relationship Violence that is committed against a student when that Sexual Misconduct or Relationship Violence occurs: (i) on campus; (ii) off-campus if in connection with a University-sponsored program or activity or in student housing; or (iii) off-campus, including at internship/externship/practicum sites if allegedly perpetrated by a fellow student, faculty member, staff member, or third party when the victim/reporting student reasonably believes that the off-campus conduct has created a hostile educational environment.

A. What is "Sexual Misconduct"?

Sexual Misconduct includes:

- Sexual Assault: Having or attempting to have sexual intercourse, cunnilingus, or fellatio without Consent (as defined below). Sexual intercourse is defined as anal or vaginal penetration by a penis, tongue, finger, or inanimate object.
- Non-Consensual Sexual Contact: Any intentional sexual touching with any body part or object by any person upon any person without Consent.
- Sexual Exploitation: An act attempted or committed through the abuse or exploitation of another person's sexuality. Examples include, but are not limited to, prostituting another student; inducing a student into sexual intercourse, sexual contact, or other sexual activity by implicit or explicit threat of exposure of personal information or academic consequences; non-consensual video or audio-taping of sexual activity; allowing

others to observe a personal consensual sexual act without the knowledge or Consent of all involved parties; and knowingly transmitting or exposing another person to a sexually transmitted infection without the person's knowledge.

- Indecent Exposure: the exposure of the private or intimate parts of the body in a lewd manner in public or in private premises when the accused may be readily observed.
- Sexual Harassment: unwelcome sexual advances, requests for sexual favors, and other physical or verbal conduct of a sexual nature when it meets any of the following: (a) Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's academic status; or (b) Submission to or rejection of such conduct by an individual is used as the basis for academic decisions affecting such individual; or (c) Such conduct has the purpose or effect of unreasonably interfering with an individual's work or academic performance or creating an intimidating, hostile, or offensive environment for working, learning, or living on campus.

B. What is "Relationship Violence"?

Relationship Violence includes:

- Domestic Violence: Violence, including but not limited to sexual or physical abuse or the threat of such abuse, committed by a current or former spouse or intimate partner or any other person from whom the student is protected under federal or applicable state law.
- Dating Violence: Violence, including but not limited to sexual or physical abuse or the threat of such abuse, committed by a person who is or has been in a social relationship of a romantic or intimate nature with the alleged victim. The existence of such a relationship is generally determined based on a consideration of the length and type of relationship and the frequency of interaction.
- Stalking: A course of conduct directed at a specific person that would cause a reasonable person to fear for their own safety or the safety of others or suffer substantial emotional distress. A course of conduct means two or more acts in which a person 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.

The following also constitute violations of this Policy:

- Complicity: Assisting, facilitating, or encouraging the commission of a violation of this Policy.
- Retaliation: Acts or attempted acts for the purpose of interfering with any report, investigation, or proceeding under this Policy, or as retribution or revenge against anyone who has reported Sexual Misconduct or Relationship Violence or who has participated (or is expected to participate) in any manner in an investigation, or proceeding under this Policy. Prohibited retaliatory acts include, but are not limited to, intimidation, threats, coercion, or discrimination. To be clear, retaliation against a Complainant for reporting an incident or against any witness who participates in an investigation is strictly prohibited.

C. Who are "Complainants" and "Respondents"?

South University is not a court of law. We also do not engage in victim-blaming or rushes to judgment. Therefore, without judgment, we refer to anyone who reports that s/he has experienced Sexual Misconduct as a "Complainant" and to anyone who reportedly has engaged in Sexual Misconduct as a "Respondent."

D. Defining Consent

In many cases of Sexual Misconduct, the central issue is consent or the ability to give consent. Consent is a voluntary agreement to engage in sexual activity. Consent to engage in sexual activity must exist from beginning to end of each instance of sexual activity. Past Consent does not imply future Consent, and Consent to engage in one form of sexual activity does not imply Consent to engage in a different form of sexual activity. Consent is demonstrated through mutually understandable words and/or actions that clearly indicate a willingness to engage in a specific sexual activity. 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 her/his actions. Individuals who are physically or mentally incapacitated cannot give Consent.

Silence, without actions evidencing permission, does not demonstrate Consent. Where force, threats, or coercion is alleged, the absence of resistance does not demonstrate Consent. Force, threats, or coercion invalidates Consent.

The responsibility of obtaining Consent rests with the person initiating sexual activity. Use of alcohol or drugs does not diminish one's responsibility to obtain Consent or negate one's intent.

Consent to engage in sexual activity may be withdrawn by either person at any time. Once withdrawal of Consent has been clearly expressed, the sexual activity must cease.

Incapacitation is the inability, temporarily or permanently, to give Consent, because the individual is mentally and/or physically helpless due to drug or alcohol consumption, either voluntarily or involuntarily, due to an intellectual or other disability that prevents the student from having the capacity to give Consent, or the individual is unconscious, asleep or otherwise unaware that the sexual activity is occurring. In addition, an individual is incapacitated if they demonstrate that they are unaware of where they are, how they got there, or why or how they became engaged in a sexual interaction. Where alcohol is involved, incapacitation is a state beyond drunkenness or intoxication. Some indicators that an individual is incapacitated may include, but are not limited to, vomiting, unresponsiveness, inability to communicate coherently, inability to dress/undress without assistance, inability to walk without assistance, slurred speech, loss of coordination, lack of awareness of circumstances or surroundings, or inability to perform other physical or cognitive tasks without assistance.

E. Title IX Coordinator & Deputy Coordinators

The Title IX Coordinator for South University is: Alisa Krouse, Assistant Chancellor for Student Affairs. The Title IX Coordinator is responsible for, among other things, coordinating the campus's efforts to comply with and carry out the campus's responsibilities under Title IX of the Education Amendments of 1972, including compliance with this policy. The Title IX Coordinator will help to coordinate any investigations under this Policy.

In addition, the University Deans of Student Affairs serve as Deputy Title IX Coordinators to help oversee investigations and determination proceedings under this Policy.

F. Advisor

The parties may select an advisor of their choice who may be, but isn't required to be, an attorney. The advisor may provide support to a party. In a hearing, cross-examination must be done by an advisor, and not by a party. For a hearing, if a party does not have an advisor present, South University must provide one without fee to the party.

The advisor provided by South University to conduct cross-examination at a hearing (if the party does not have an advisor of choice) does not have to be an attorney even if the other party has hired an attorney as their advisor of choice. Advisors conducting cross-examination that are not professionals (attorneys or experienced advocates) must at least be adults capable of understanding the purpose and scope of cross-examination.

Any opportunity provided by South University to have an advisor of choice present during any phase of the Title IX process must be given to both parties. South University may limit the extent that an advisor may participate in the proceedings, but the restrictions must apply equally to both parties. The choice of advisor will not be limited with the exception of decorum issues explained in the Hearings section below.

G. Witness

A person who has knowledge related to specific aspects of a case and may have reported such aspects to the institution.

H. Supportive Measures

Non-disciplinary, non-punitive individualized service offered as appropriate and reasonably available without fee to the Complainant or Respondent before or after the filing of a formal complaint or where no formal complaint is filed. Supportive measures are designed to restore or preserve equal access to the education program or activity without unreasonably burdening the other party. The measures are designed to protect the safety of all parties or the educational environment or to deter sexual harassment. They may include 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.

II. REPORTING & CONFIDENTIALITY

We encourage victims of Sexual Misconduct & Relationship Violence to talk to somebody about what happened - so they can get the support they need, and so the University can respond appropriately.

Different employees on campus have different abilities to maintain confidentiality:

- **CONFIDENTIAL REPORTING:** Some individuals are required to maintain near complete confidentiality. These include professional counselors such as those provided by the Student Assistance Program counselling services. These individuals can provide resources and generally talk to a victim without revealing any personally identifying information about an incident to the University. A victim can seek assistance and support from these individuals without the University's involvement in the matter.
- **NON-CONFIDENTIAL REPORTING.** Other than professional counselors defined above, most other employees and contractors are required to report all the details of an incident to the Title IX Deputy or Coordinator. A report to these employees (called "responsible employees") constitutes a report to the University and generally obligates the University to take appropriate steps to address the situation. The following campus employees (or categories of employees) are examples of responsible employees: the Title IX Coordinator, all Deputy Title IX Coordinators, Assistant Vice Chancellor for Student Services, Dean of Student Affairs, other Student Affairs staff, Academic Advisors, the Security Team (including contract security personnel), all full-time and adjunct Faculty, Human Resources, and Employee Relations.
- **Electronic and Anonymous Reporting.** You may also file a complaint about sexual misconduct using the appropriate links below. While anonymous complaints are accepted, South University's ability to address misconduct reported anonymously is significantly limited. Individuals may use this link on the South University portal to electronically file a report of sexual misconduct with South University by clicking here: www.SUTitleIX@southuniversity.edu
- **Local Law Enforcement.** At all South University locations, call 9-1-1 to contact local law enforcement, fire, or EMS to report an emergency or crime. Call 9-9-1-1 from a South University phone.
- **Prohibition of False Accusations.** Deliberately false and/or malicious accusations of sexual misconduct, relationship violence, stalking or other conduct prohibited by this policy, as opposed to complaints which, even

if erroneous, are made in good faith, are serious and will subject the perpetrator of those accusations to appropriate disciplinary action. Good faith means that a report is made based on fact or reasonable beliefs and not solely on personal animus against the person accused.

The University will seek to protect the privacy and confidentiality of the individuals involved in any report of alleged Sexual Misconduct or Relationship Violence to the extent possible and allowed by law. The Title IX Coordinator will evaluate any request for confidentiality in the context of the University's responsibility to provide a safe and nondiscriminatory environment to all members of its community.

The University will complete any publicly available record-keeping, including Clery Act reporting and disclosure, without the inclusion of identifying information about the alleged victim. It will also maintain as confidential any interim measures or remedies provided to the alleged victim to the extent that maintaining confidentiality will not impair its ability to provide the interim measures or remedies.

In addition to internal reporting, the University strongly encourages anyone who believes they have experienced a sexual assault (or any other crime) to make a report to local law enforcement. Collection and preservation of evidence relating to the reported sexual assault is essential for law enforcement investigations, so prompt reporting of the incident to law enforcement is especially critical. Designated staff will, upon request, assist an individual in making a report to law enforcement as necessary and appropriate.

Although we strongly encourage complainants to report to local law enforcement, such a report is not a prerequisite to the University's review and investigation of any complaint covered by this Policy. The University will honor a Complainant's request not to report the matter to local law enforcement UNLESS we have a reasonable basis to believe that the safety and security of the campus community is at risk. In this event, the University will endeavor to notify a Complainant or Reporter of the institution's intent to report the matter to law enforcement in advance of any such report.

The University does not limit the time frame for reporting under this Policy, although a delay in reporting may impact the University's ability to take certain actions.

Please Note: The Title IX Coordinator and Deputy Coordinators are not confidential sources of support. While they will address your complaint with sensitivity and will keep your information as private as possible, confidentiality cannot be guaranteed. See the list below of outside services which may provide confidential counseling.

Please Also Note: Making a report is different from filing a complaint. A report is defined as notification of an incident of sexual misconduct to the Title IX Coordinator/designee. A report may be accompanied by a request for (1) supportive or interim measures; (2) no further action; and/or (3) the filing of a formal complaint. See Process After Report of Sexual Misconduct section below for subsequent steps.

Other Code of Conduct Violations: The University encourages students who have been the victim of Sexual Misconduct or Relationship Violence to come forward. Students should not be discouraged from reporting such incidents because they fear discipline for their own violations of the Student Code of Conduct, such as use of alcohol in University housing. Therefore, the University has discretion not to pursue other violations of the Student Code of Conduct that occurred in the context of the reported incident of Sexual Misconduct or Relationship Violence.

III. RIGHTS AND RESPONSIBILITIES

- A. Reports and complaints have different meanings. An individual has a right to make a report of sexual misconduct to South University, which may be accompanied by request for supportive measures. An individual

also has a right to make a complaint of sexual misconduct, which is a request to initiate South University in an informal resolution process or a formal disciplinary process, which includes an investigation and may proceed to a formal hearing.

- B. Prior to the conclusion of a sexual misconduct investigation, the reporting party may request to withdraw the complaint by contacting the Title IX Coordinator or designee in writing. They will determine whether to close the case or conclude the investigation without the Complainant's continued participation.
- C. An individual also has the right to report sexual misconduct to law enforcement, separate and apart from any report or complaint made to South University.
- D. At the time a report is made, the reporting party does not have to decide whether to file a complaint or make a report of sexual misconduct to law enforcement.
- E. An affected party has the right to request supportive measures from South University, which may include interim contact restrictions.
- F. The reporting party has the right to seek medical treatment to address physical and mental health and to preserve evidence.
- G. A report may become a formal complaint, either initiated by the Complainant or the Title IX Coordinator. To file a formal complaint, please contact the Title IX Coordinator/designee.

IV. COMPLAINT RESPONSE, SUPPORTIVE MEASURES AND INFORMAL RESOLUTION

Students are encouraged to report any incident of Sexual Misconduct or Relationship Violence to the Title IX Coordinator, Deputy Title IX Coordinator, the Dean of Student Affairs, or the Assistant Vice Chancellor for Student Services.

Formal Complaint. A formal complaint is a document filed by a Complainant alleging sexual harassment against a Respondent and requesting that South University investigate the allegation of sexual harassment. A formal complaint may be filed with the Title IX Coordinator or a Deputy Title IX Coordinator in person, by mail, by electronic mail, or using an available online reporting system. A formal complaint filed by a Complainant must have the Complainant's physical or digital signature or otherwise indicate that the Complainant is the person filing the formal complaint.

There is no specific form required to file a formal complaint. Moreover, there is no requirement that the formal complaint include a detailed statement of facts or the name of the Respondent if that is not known.

In addition to a Complainant, there are circumstances when the Title IX Coordinator may sign a formal complaint. Other third parties cannot. A Title IX Coordinator may sign a formal complaint in the absence of one signed by a Complainant in order to protect the educational community. In deciding whether to sign a formal complaint, the Title IX Coordinator may consider a variety of factors, including a pattern of alleged misconduct by a particular Respondent; allegations of the use of violence and/or the use of weapons; or similar factors. The Title IX Coordinator may sign a formal complaint only after the Title IX Coordinator has contacted the Complainant (the person alleged to have been victimized by sexual harassment) to discuss the availability of supportive measures, considered the Complainant's wishes with respect to supportive measures, and explained to the Complainant the process for filing a formal complaint.

When the Title IX Coordinator decides to sign a formal complaint that originated with an anonymous complaint, the written notice of the allegations must be sent to both parties and include the identity of the parties, if known.

The signing of a formal complaint by the Title IX Coordinator does not place the Title IX Coordinator in a position adverse to the Respondent. When the Title IX Coordinator initiates an investigation based on allegations of which the Title IX Coordinator has been made aware, the Title IX Coordinator is not prevented from being free from bias or conflict of interest with respect to any party.

An investigation and grievance process cannot proceed pursuant to this Title IX policy in the absence of a signed formal complaint. If the Complainant's identity is unknown, the grievance process may proceed if the Title IX Coordinator determines it is necessary to sign a formal complaint. In that case, the written notice of the allegations would not include the Complainant's identity as it is unknown. A Complainant's formal complaint must be investigated even if the Complainant does not know the Respondent's identity because an investigation may reveal the Respondent's identity. Once a Respondent's identity is known, South University will send written notice to both parties.

Formal complaints against more than one Respondent or by more than one Complainant may be consolidated if they arise out of the same facts or circumstances. In that instance, there may be a combined grievance process. A consolidation of formal complaints may include counter-complaints by one party against the other party.

Notice After Filing of a Formal Complaint. When a formal complaint is received (whether signed by the Complainant or the Title IX Coordinator), written notice must be sent to the known parties that includes:

- Notice of the grievance process including any informal resolution process
- Notice of the allegations of potential sexual harassment including sufficient details, if known at the time (identities of the parties involved in the incident; conduct allegedly constituting sexual harassment; date and location of the alleged incident(s))
- A statement that the Respondent is presumed not responsible and that a determination regarding responsibility is made at the conclusion of the grievance process
- A statement that the parties may have an advisor of their choice who may be, but is not required to be, an attorney
- A statement that the parties may inspect and review the evidence as permitted by this policy and law after the investigation
- A statement that knowingly making false statements or knowingly submitting false information during the Title IX grievance process violates South University's code of conduct.

Known parties will be provided notice of additional allegations being investigated not included in the initial notice.

Upon receipt of a complaint, the University will generally proceed as described below.

A. Initial Response

Upon receipt of a report of sexual misconduct, the Title IX Coordinator or designee will provide resources and support information by contacting the potential Complainant and offering an initial meeting between the reporting party and the Title IX Coordinator or designee. The initial meeting is optional and the reporting party may decline. The purpose of the initial meeting is for the Title IX Coordinator or designee to gain a basic understanding of the nature and circumstances of the report and provide information about resources, supportive measures, and resolution options to the reporting party.

The Respondent also will be offered appropriate resources and notified of applicable policies and procedures.

B. Interim and Supportive Intervention

The Title IX Coordinator or a Deputy Title IX Coordinator will promptly contact the Complainant to discuss supportive measures and how they are available with or without the filing of a formal complaint, consider the Complainant's wishes with respect to supportive measures, and explain to the Complainant the process for filing a formal complaint. The Respondent and other affected parties may also be provided supportive measures. These measures may be to protect, assist, and/or to forestall retaliation. South University may also take interim measures to protect the South University community at large. See the definition of "supportive measures" in the Definitions section.

South University's primary goal is to ensure that the parties and the South University community are safe. Regardless of whether a Complainant chooses to pursue disciplinary action, South University will take interim measures to protect those involved and ensure that all safety, emotional, and physical well-being concerns are met.

Reasonable interim measures to protect the safety of the parties will be determined on a case-by-case basis. In making the determination, South University will consider, at a minimum, the parties' expressed need, the severity or pervasiveness of the allegations, the continuing effects, the likelihood that the parties will come into contact with each other through daily activities, and whether any legal steps have been taken to protect either party.

Student Supportive Measures:

Some examples of supportive measures South University may provide to students include modifying class schedules, workplace schedules, and/or extracurricular activities; assisting in obtaining counseling and academic support services; student financial aid guidance; offering extra time to complete a course if possible; providing escort services on campus from the campus police; and initiating a no contact order. Also see the Emergency Removal of the Respondent section.

Staff Supportive Measures:

Some examples of supportive measures South University may provide to a staff member include modifying work schedule, workplace department or location, or supervisor; assisting in obtaining counseling services; providing escort services on campus and increasing security around the employee; initiating a no-contact order; and issuing a persona non grata order to prevent a person from coming on campus.

Faculty Supportive Measures:

Some examples of supportive measures South University may provide to a faculty member include modifying teaching schedule, workplace schedule, extracurricular schedule, or supervisor; assisting in obtaining counseling services; providing escort services on campus and increasing security around the faculty member; initiating a no-contact order; and issuing a persona non grata order to prevent a person from coming on campus.

Emergency Removal of the Respondent

South University is permitted to remove a Respondent from its education program or activity on an emergency basis if South University undertakes an individualized safety and risk analysis and determines 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. In that instance, South University will provide the Respondent with notice and an opportunity to challenge the decision immediately following the removal.

Administrative Leave

South University may place a non-student employee on administrative leave during the pendency of a grievance process.

C. Informal Resolution

Only after a formal complaint has been filed, the parties may decide to participate in an informal resolution process, however such participation may not be required. South University may facilitate an informal resolution process at any time prior to reaching a determination regarding responsibility. Informal resolution processes do not involve a full investigation and adjudication and may encompass a broad range of conflict resolution strategies, including, but not limited to, arbitration, mediation, or restorative justice.

At any time prior to agreeing to a resolution, any party may withdraw from the informal resolution process and resume the grievance process with respect to the formal complaint. The parties must provide voluntary written consent for an informal resolution process to proceed. In that event, the parties must be provided written notice disclosing the allegations and the requirements of the informal resolution process. No informal resolution process is available regarding allegations that an employee sexually harassed a student.

D. Decision to Proceed to Investigation

If it is appropriate and the parties choose and complete an informal resolution process there may be no formal investigation. If necessary, a full investigation will be promptly engaged. Such investigations will include interviews with the Complainant, Respondent, and relevant witnesses. In conducting the investigation, the manager of the investigation/resolution process may be assisted by other individuals, including special consultants engaged for the particular investigation. A thorough review of pertinent physical and documentary evidence will also occur. The evidence may include photographs, videos, electronic messages (including emails and text messages), social media postings, and any other relevant resources. The parties should be most scrupulous in preserving all evidence.

The parties are not granted the right to depose parties or witnesses, nor to invoke a court system's subpoena powers to compel parties or witnesses to appear at hearings.

V. INVESTIGATION, HEARING AND APPEAL PROCEDURES

- A Complainant is not required to participate in the Title IX process or to provide any information to the Title IX Coordinator.
- South University may not access, consider, disclose, or otherwise use a 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 were made and maintained in connection with the provision of treatment to the party unless the party provides voluntary written consent to do so for a grievance process.
- Both parties must be given an equal opportunity to present fact and expert witnesses and other inculpatory and exculpatory evidence.
- Neither party should be restricted in the ability to discuss the allegations under investigation or to gather and present relevant evidence.
- Both parties must have the same opportunities, if any, to have others present during any meeting or grievance proceeding, including the opportunity to be accompanied to any related meeting or proceeding by the advisor of their choice, who may be, but is not required to be, an attorney.
- South University may establish restrictions regarding the extent to which the parties' advisors may participate in the proceedings; such restrictions shall apply equally to both parties.
- Both parties must be given written notice of all hearings, investigative interviews, or other meetings at which they are invited or expected to attend with sufficient time to prepare. Notice must include the date, time, location, participants, and purpose.

- Both parties must be provided with an equal opportunity to inspect and review any evidence obtained in the investigation of the allegations raised in a formal complaint, including evidence South University does not intend to rely on in reaching a determination regarding responsibility. Such evidence includes inculpatory and exculpatory evidence. It includes evidence obtained from a party or other source.
- Non-participating Complainants must also be given the opportunity to inspect, review, and respond to the evidence.
- Prior to completion of the investigative report, both parties must be sent (including their advisor, if any), the evidence subject to inspection and review in an electronic format or a hard copy and given at least ten days to submit a written response. The investigator must consider such written responses prior to completion of the investigative report. This evidence must be available at any hearing so that it may be referred to or used for cross-examination.
- South University may impose on the parties and each party's advisor restrictions or require a non-disclosure agreement (NDA) not to disseminate any of the evidence subject to inspection and review or use such evidence for any purpose unrelated to the Title IX grievance process, as long as doing so does not violate Title IX regulations or other applicable laws.

A. About the investigation report:

After the investigation and the parties have been given an opportunity to submit a response to the evidence they were able to inspect and review, the investigator will create an investigative report that summarizes the relevant evidence. The report must be sent at least ten days prior to a hearing or other time of determination regarding responsibility to each party and each party's advisor, if any. The report must be sent in an electronic format or a hard copy for their review and written response.

All evidence summarized in the investigative report must be relevant. Evidence is relevant if it is probative of any material fact concerning the allegations, with exceptions. The investigator may redact from the investigative report information that is not relevant and also information protected by a legally recognized privilege, or treatment records for which there is no written consent to use. The investigative report may include facts and interview statements.

The investigator may include recommended findings or conclusions in the investigative report, however the decision-maker is under an independent obligation to objectively evaluate relevant evidence and cannot simply defer to the recommendations made by the investigator in the investigative report.

A single investigative report may be made in the context of a grievance process that involves multiple Complainants, multiple Respondents, or both.

B. Hearings

- Formal complaints not dismissed or resolved by informal resolution will proceed to a live hearing. Elements of the live hearing follow.
- Hearings are held live, however at the request of either party, the live hearing may occur with the parties located in separate rooms with technology enabling the decision maker(s) and parties to simultaneously see and hear the party or the witness answering questions.
- Parties' advisors may represent parties during the entire live hearing.
- Parties must inform South University at least seven (7) days prior to a hearing whether the party intends to bring an advisor of choice to the hearing. If the party does not intend to bring an advisor of choice, South University will appoint an advisor for that party for the hearing.

- If a party appears at a hearing without an advisor and South University did not have the seven day advance notice to appoint an advisor for the party, the hearing will stop and may be rescheduled if necessary to permit South University to assign an advisor to that party to conduct cross-examination.
- Parties and advisors must participate respectfully and non-abusively during a hearing; this includes not yelling at the other party or others in the hearing. If a party's advisor refuses to act in a respectful and non-abusive manner, South University may require the party to use a different advisor.
- South University may permit the parties' advisors to make brief opening or closing statements.
- South University may make an opening or closing statement.
- South University may present evidence to the decision-maker which may be used by the decision-maker in reaching a determination regarding responsibility.
- The decision-maker has the right and responsibility to ask questions and elicit information from parties and witnesses on the decision-maker's own initiative to aid the decision-maker in obtaining relevant evidence both inculpatory and exculpatory, and the parties also have an equal right to present evidence in front of the decision-maker so the decision-maker has the benefit of perceiving each party's unique perspective about the evidence.
- At the live hearing, the decision-maker(s) must permit each party's advisor to ask the other party and any witnesses relevant and follow-up questions, including to challenge credibility. Cross-examination must be conducted directly, orally, and in real time by the party's advisor, but never by a party personally.
- Only relevant cross-examination and other questions may be asked of a party or witness. Before a question is answered by a party or witness, the decision-maker(s) must first determine whether the question is relevant and explain decisions to exclude a question as not relevant.
 - In determining what evidence is relevant, a layperson's determination that a question is not relevant is made by applying logic and common sense, but not against a backdrop of legal expertise.
 - At a hearing, a decision-maker may find that a question is irrelevant because it is not probative of any material fact concerning the allegations.
 - Where evidence is duplicative of other evidence, the decision-maker may deem the evidence not relevant.
 - Information that is not relevant includes information protected by a legally recognized privilege; any party's medical, psychological, and similar records unless the party has given voluntary, written consent; and party or witness statements that have not been subjected to cross examination at a live hearing.
 - Questions and evidence about the Complainant's sexual predisposition or prior sexual behavior are not relevant unless such evidence is offered to prove that someone other than the Respondent committed the alleged conduct 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.
 - Relevant evidence will not be excluded solely because such relevant evidence may be unduly prejudicial, concern prior bad acts, or constitute character evidence.
 - Written questions may not be submitted for the purpose of ascertaining relevance prior to or during a hearing.
 - The advisors may discuss the relevance determination with the decision-maker during the hearing, however there will be no challenging the relevance determination after receiving the decision-maker's explanation during the hearing.
- Parties and witnesses may not waive a question.
- If a party or witness does not submit to cross-examination at the live hearing, the decision-maker(s) must not rely on any statement of that party or witness in reaching a determination regarding responsibility.
 - This includes statements made against a party's interest.
 - This includes situations where the party or witness does not appear due to death or post-investigation disability.
 - Family or friends of a party cannot recount the statement of the party who does not appear at the hearing; the party must submit to cross-examination.
 - A party's statements in a police or SANE (sexual assault nurse examiner) report may not be relied upon unless the party or witness submits to cross-examination.

- Text message and emails, even where parties' statements are intertwined, may not be relied upon unless the makers of the text messages or emails submit to cross-examination.
- The decision-maker(s) cannot draw an inference about responsibility based solely on a party's or witness's absence from the live hearing or refusal to answer cross-examination or other questions.
- A decision-maker may consider video evidence showing the underlying incident even if a Complainant refuses to answer cross-examination questions.
- Where a grievance process is initiated because the Title IX Coordinator, and not the Complainant, signed the formal complaint, the Complainant who did not wish to initiate a grievance process remains under no obligation to then participate in the grievance process and statements by the Complainant who does not submit to cross-examination at a hearing may not be considered by the decision-maker.
- South University will create an audio or audiovisual recording or transcript of any live hearing and make it available to the parties for inspection and review. South University is not obligated to send the parties a copy of the recording or transcript.
- The decision-maker(s) must issue a written determination regarding responsibility using the standard of evidence adopted, preponderance of the evidence.
 - The decision-maker must objectively evaluate all relevant evidence, both inculpatory and exculpatory, and independently reach a determination regarding responsibility without giving deference to the investigative report.
 - Admissible, relevant evidence must be evaluated for weight or credibility by the decision-maker.
 - Credibility determinations are not based solely on observing demeanor, but also are based on other factors (e.g., specific details, inherent plausibility, internal consistency, corroborative evidence).
 - The degree to which any inaccuracy, inconsistency, or implausibility in a narrative provided by a party or witness should affect a determination regarding responsibility is a matter to be decided by the decision-maker after having the opportunity to ask questions of parties and witnesses and observing how parties and witnesses answer the questions posed by the other party.

C. Possible remedies and disciplinary sanctions

Upon a finding that the Respondent was responsible for the alleged actions constituting prohibited activities under this policy, the potential penalties range from remedies similar to supportive measures to probation, suspension, and dismissal from South University.

D. Decision-Maker's Written Determination

The written determination must 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. Include notifications to the parties, interviews with the parties and witnesses, site visits, methods used to gather other evidence, and hearings held.
- Findings of fact supporting the determination. The decision-maker must lay out the evidentiary basis for conclusions reached in the case.
- There is no requirement that the written determination address evaluation of contradictory facts, exculpatory evidence, "all evidence" presented at a hearing, or how credibility assessments were reached.
- Conclusions regarding the application of South University's code of conduct to the facts
- A statement with the determination regarding responsibility for each allegation and the rationale for each such determination
- Disciplinary sanctions to be imposed on the Respondent
- Whether remedies designed to restore or preserve equal access to South University's education program or activity will be provided to the Complainant, however the nature of the remedies provided to the Complainant

should not appear in the written determination. Remedies which do not directly affect the Respondent must not be disclosed to the Respondent. The Title IX Coordinator is responsible for effective implementation of any remedies.

- Procedures and permissible bases for the Complainant and Respondent to appeal

The written determination must be provided to the parties simultaneously. The determination regarding responsibility is final either on the date that the written determination of the result of an appeal is provided to the parties, if an appeal is filed, or on the date when an appeal would no longer be considered timely.

If it is determined that a violation of the Title IX policy did not occur, but the reported behavior would violate a different South University policy such as the student code of conduct, the case may be referred for resolution as appropriate.

E. Right to Appeal

Both parties may appeal from a determination regarding responsibility and from a dismissal of a formal complaint or any allegations therein on these 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
- The Title IX Coordinator, investigator(s), or decision-maker(s) 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

The other party will be notified in writing when a party files an appeal and will be provided the appeal document. The other party may file a written statement in response to the appeal within seven (7) business days of the date the appealing party's appeal was provided.

An appeal must be filed with the Title IX Coordinator within seven (7) business days of the date of the decision-maker's written determination. The appeal must include an explanation of the basis of the appeal. The Title IX Coordinator will forward the appeal, the decision-maker's written determination, and all other materials from the investigation and hearing to the Assistant Vice Chancellor for Student Services of South University for a final decision.

The Assistant Vice Chancellor for Student Services will review the materials provided using a preponderance of the evidence standard and will issue in a reasonably timely manner an Appeal Outcome Letter detailing the final decision and the rationale for the result, which may affirm, reverse or modify the determination of the decision-maker. The decision of the Assistant Vice Chancellor for Student Services is final. The written appeal decision will be simultaneously provided to both parties.

VI. CRIME VICTIM AND OTHER COUNSELING SERVICES

South University students may access confidential counseling services at no cost, 24 hour/day, 7 days/week, by calling South University- Reach Student Assistance Program at 833-434-1217. Students may speak or video chat with a licensed counselor regarding any concern. Students may be referred to up to six counseling sessions with a licensed mental health counselor. A student in crisis should call "911".

Additional counseling and wellness resources are available through the Be Well at South Portal. Students should see the Dean of Student Affairs for log in credentials to access these digital resources.

Local law enforcement information, crime reporting procedures and support services are found in the Student Handbook:

| Campus | Crime Report Link |
|-----------------|---|
| Atlanta | https://www.southuniversity.edu/-/media/files/Atlanta/crime-report-atlanta.pdf |
| Austin | https://www.southuniversity.edu/-/media/files/Austin/crime-report-austin.pdf |
| Columbia | https://www.southuniversity.edu/-/media/files/Columbia/crime-report-columbia.pdf |
| High Point | https://www.southuniversity.edu/-/media/files/High Point/crime-report-high-point.pdf |
| Montgomery | https://www.southuniversity.edu/-/media/files/Montgomery/crime-report-montgomery.pdf |
| Online Programs | https://www.southuniversity.edu/-/media/files/Savannah/crime-report-savannah.pdf |
| Orlando | https://www.southuniversity.edu/-/media/files/Orlando/crime-report-orlando.pdf |
| Richmond | https://www.southuniversity.edu/-/media/files/Richmond/crime-report-richmond.pdf |
| Savannah | https://www.southuniversity.edu/-/media/files/Savannah/crime-report-savannah.pdf |
| Tampa | https://www.southuniversity.edu/-/media/files/Tampa/crime-report-tampa.pdf |
| Virginia Beach | https://www.southuniversity.edu/-/media/files/Virginia-Beach/crime-report-virginia-beach.pdf |
| West Palm Beach | https://www.southuniversity.edu/-/media/files/West-Palm-Beach/crime-report-west-palm-beach.pdf |

VII. CAMPUS CONTACT INFORMATION

- Atlanta 1-855-758-5662
- Austin 1-512-516-8800
- Columbia 1-803-799-9082
- High Point 1-336-812-7200
- Montgomery 1-334-395-8800
- Online Programs 1-888-444-3404
- Orlando 1-407-393-3100
- Richmond 1-804-727-6800
- Savannah 1-912-201-8000
- Tampa 1-813-393-3800
- Virginia Beach 1-757-493-6900
- West Palm Beach 1-561-273-6500