

Title IX and Sex Discrimination Policy

2023 - 2024

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I. Introduction and The University's Commitment

The University of the South stands firmly for the principle that its employees, students, and participants of university-sponsored programs and activities have a right to be free from discrimination based on race, color, sex, religion, national origin, age, disability, sexual orientation, gender identity, veteran status, pregnancy and childbirth, and genetic information. As required by Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, the Americans with Disabilities Act of 1990 and the ADA Amendments Act of 2008, Title VII of the Civil Rights Act of 1964 and Title IX of the Education Amendments of 1972, the University does not discriminate on the basis of sex or other protected categories in the education programs or activities which it operates. This requirement of non-discrimination extends to admission to and employment in those programs or activities.¹ The University is committed to sustaining a community in which the dignity of every individual is respected. Key to this value are efforts to nurtu5(i) 1 0 0 1 500.98 -5()-21(of)-3()-10(tT)-10(tT)-10(tT)-10(t9h10(tT)2)-86D-9719BDC q0.01tT -

Related Commitments

The University is also committed to free expression. Speech not specifically directed against individuals in a harassing way may be protected by traditional safeguards of free speech, even though the comments may cause considerable discomfort or concern to others in the community.

Scope

WHAT conduct is covered by this Policy?²

Title IX prohibits discrimination and crimes of discrimination on the basis of sex in any federally funded program or activity. This Policy addresses review and response of complaints of sexual harassment, a form of prohibited sex discrimination, and other prohibited forms of sex discrimination involving individual students, faculty and sex discrimination involving university organizations, rather than individuals, is typically handled under the Student Organization Handbook or under the appropriate advisor, dean, director, or designee for that university organization. Sex discrimination is a broad term that encompasses several forms of prohibited conduct under Title IX. Sexual harassment, a form of sex discrimination, includes such conduct as non-consensual sexual contact, non-consensual sexual intercourse, dating violence, domestic violence and stalking. Other forms of sex discrimination may include claims of sex based decisions related to terms and conditions for participation in University programs (i.e. admissions, employment, athletics and other terms and conditions of participation in University programs). Some conduct that appears to be sex based may not be a Title IX violation, but may still be prohibited conduct that may be addressed as a violation under this or other University policies.

Conduct prohibited by this Policy also includes retaliation and complicity to commit sexual harassment or sex discrimination. Each of these terms is defined below. Discrimination concerns based on categories other than sex are addressed using the Non-Discrimination, Anti-Harassment, Retaliation Policy (i.e. race, religion, etc.). Reports of discrimination that do not fall under this Policy may be reported using one of the reporting forms found on the Provost's website.

The Title IX Policy takes precedence over other University policies and procedures concerning Sexual Harassment or Sex Discrimination under Title IX or other conduct that is prohibited by this Policy in the event of a conflict.

WHO is subject to this Policy?

The University is prohibited by Title IX from discriminating on the basis of sex against any participant in the or activities, including students, employees and individuals seeking admission may report a claim or bring a complaint of sexual harassment or sex discrimination under this Policy. This Policy addresses matters of sexual harassment and sex discrimination involving students, faculty, staff and other participants (i.e. visitors, guests, and applicants) who are participating or attempting to participate in programs and activities sponsored or controlled by the University. All allegations of sexual harassment or sex discrimination involving non-

² This Policy is subject to updates and changes in accordance with the Department of Education, Office for Civil Rights and/or any guidelines or provisions that are deemed necessary to align with other University policies and procedures.

Conference), faculty and staff (i.e. invited speakers, lecturers, guests, visitors, contracted workers, etc.) or non-

II. Definitions of Title IX Sexual Harassment, Discrimination, and Other Prohibited Conduct

giving consent because of their youth or because of their temporary or permanent mental or physical incapacity.

- (4) **Forcible Fondling** - The touching of the private body parts of another person for the purpose of sexual gratification, forcibly

involves a pattern of persistent unwanted interactions and communication that would create fear in a reasonable person

1. **Course of Conduct** means two or more acts, including, but not limited to, acts in which the individual directly, indirectly, or through third parties, by any action, method, device, or means follows, monitors, observes, surveils,

Complicity means conduct that knowingly aids, facilitates, promotes or encourages the commission of an incident of prohibited conduct by another person (as established in this Policy and by the EQB Guide).

Communication means that electronic mail (email) is the official university method for purposes of communication and notification under this Policy. This Policy will be made available to all Sewanee administrators, faculty, staff, and students on an annual basis via email and online on the Title IX website. This Policy is also available procedures web page.

Consent is clear, active, knowing, and voluntary. Silence, in and of itself, cannot be interpreted as consent. Consent can be given by words or actions, as long as those words or actions create mutually understandable clear permission regarding willingness to engage in (and the conditions of) sexual activity.

Consent to any one form of sexual activity cannot automatically imply consent to any other forms of sexual activity.

Previous relationships or prior consent cannot imply consent to future sexual acts.

In order to give effective consent, one must be of legal age and not physically or mentally incapacitated.

Consent can also be withdrawn at any time. It is the responsibility of the person withdrawing consent to communicate, through clear words or actions, that the person no longer wishes to engage in sexual activity.

The clearest consent is affirmative and active! It is the responsibility of the person who wants to engage in a specific sexual activity to make sure that they have obtained effective consent before initiating that activity. Lack of protest or resistance does not constitute effective consent. Silence or passivity does not constitute effective consent. Relying solely on nonverbal communication during sexual activity can lead to misunderstanding and may result in a violation of this Policy. The University urges individuals to communicate with one another before engaging in sexual activity to ensure they both wish to engage in the same activity. The University further urges individuals engaged in sexual activity to clearly indicate to their partner what activities they do or do not consent to.

Important Information about Consent

The person desiring to initiate sexual activity is responsible for obtaining effective consent.

In order to obtain consent, permission must be given prior to or simultaneously with the sexual activity in question.

Effective consent should never be assumed. Lack of protest or resistance does not

consent. Indecisive or insincere, should always be treated as a denial of effective consent.

If there is confusion as to whether effective consent is present (e.g., words, gestures, or other indications of hesitation or reluctance or behavior that could reasonably imply one party has changed their mind about engaging in a particular activity), the parties should stop the sexual activity immediately and verbally communicate with each other to resolve the ambiguity.

retaliation investigations may result in discipline independent of the sex discrimination or harassment outcome.

1. Alleged violations of retaliation that occur within the course of a Title IX/Sex Discrimination reporting or grievance process will be referred to the Title IX Coordinator to be investigated and resolved under this Policy. All other claims of retaliation will be referred for resolution under the appropriate policy for participants, students, graduate students, and employees.
2. The exercise of rights protected under the First Amendment does not constitute retaliation prohibited under this Policy.
3. Charging an individual with a conduct violation for making a materially false statement in bad faith during a reporting or grievance proceeding under this Policy does not constitute Retaliation prohibited under this Policy. However, a determination regarding responsibility, alone, is not sufficient to conclude that any party made a materially false statement in bad faith.

Risk reduction means options designed to decrease perpetration and bystander inaction and increase empowerment for complainants to promote safety and help individuals and communities address conditions that facilitate violence. The University encourages individuals to get training on bystander intervention to increase positive intervention outcomes. See the University Wellness staff or website to request [Bystander Intervention Training](#) for bystander intervention on the [University website](#).

Report of Sexual Harassment under Title IX and Other Prohibited Conduct vs a Formal

Complaint: A sexual harassment report is a report made, asserting a violation under this Policy. A report is usually, but not always, made by an individual affected by the specific behavior. A report of sex discrimination triggers some response on behalf of the University, but does not trigger a formal investigation and resolution process. **A Formal complaint**⁶ means a document filed and signed by a complainant, or signed by the Title IX Coordinator. The formal complaint must allege sexual harassment, sex discrimination (e)9(st)4(.15 Tm5band)9(hehTp0-5(or)-3(m)17(ef7(ef7(eG[(U)5(tef7(ef7r)-3(

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

Sexual Abuse includes persistent patterns of sexual assault perpetrated by one person upon another.

Student¹⁰

Internal Student Background Checks and Release of Information Requests. Please contact the Title IX Coordinator, Dean of Students, or the Dean/Advisor of the Student Honor Council regarding a request for the release of information or the process for internal student background checks. You may review those processes [[Here](#)] on the Title IX website.

How to file a report with the Office for Civil Rights (OCR). Individuals with complaints of sex discrimination/sexual harassment also have the right to file a formal complaint with the United States Department of Education, the federal governing body in charge of enforcing Title IX:

Office for Civil Rights (OCR)
400 Maryland Avenue, SW
Washington, DC 20202-1100
Customer Service Hotline: (800) 421-3481

Facsimile: (202) 453-6012 | TDD#: (877) 521-2172
E-mail: OCR@ed.gov
Web: <http://www.ed.gov/ocr>

How to file a report with the Equal Employment Opportunity Commission. Individuals with complaints related to other employee discrimination may file a complaint with the United States Equal Employment Opportunity Commission, the federal governing body in charge of enforcing Title VII:

U.S. Equal Employment Opportunity Commission
(EEOC)
220 Athens Way Suite 350
Nashville, TN 37228-9940

Telephone: 1-800-669-4000
Fax 615-736

Non-Discrimination, Anti-

VII. Grievance Process and Resolving Title IX Formal Complaints¹¹

The sections that follow outline the process for resolving a formal complaint of sexual harassment and sex

therein. When the Title IX Coordinator dismisses a complaint, the complainant or respondent may appeal the dismissal of the formal complaint (see next section on Appeal Process for Dismissal of a Formal Complaint). At the conclusion of an appeal time frame regardless of if an appeal is filed, the Title IX Coordinator will forward the formal complaint to the Dean of Students Office for students or the appropriate office for employee respondents¹²

Code of Conduct, the appropriate employee Handbook, or other impacted policies or processes at the University.

When, according to the reasons under this Policy, a formal complaint is withdrawn in writing by the complainant or dismissed during an investigation or hearing process, the Title IX Coordinator will provide written notice to the complainant and respondent. A withdrawal will result in dismissal of the formal complaint which will stop the investigative or hearing process unless the complainant requests to move to an informal resolution process. Once the process is stopped due to the withdrawal of a formal complaint, the complaint is deemed closed which means that no further action shall be taken. If an informal resolution process is requested, the Title IX Coordinator will follow the process for informal resolution. If an informal resolution process is not requested, the formal complaint will be dismissed and the matter is deemed closed and precludes the parties from resuming a formal complaint arising from the same allegations. The complainant and respondent will receive notices to that effect and there will not be an opportunity for appeal or further review when a formal complaint is withdrawn by the complainant.

Appeal Process for Dismissal of a Formal Complaint and Emergency Removal. In the event of an
emergency

7. identify the process facilitator;
8. explain that the involved parties may have an advisor of their choice, who may be, but is not required to be an attorney. The advisor may also inspect and review all submitted evidence. Where an involved party does not have an advisor, the University will provide one on their behalf;
9. explain the prohibition against retaliation against any person involved in the investigation;
10. submitting false information
11. instruct the parties not to destroy any evidence (including electronic evidence and photographs) in any format; and
12. provide a copy or link to this Policy.

Dismissal of a Formal Complaint during an Investigation or Hearing Process.

A formal complaint or any allegations therein may be dismissed during an investigation or hearing process if:

1. At any time during the investigation or hearing, a complainant notifies the Title IX Coordinator in writing that the complainant would like to withdraw the formal complaint or any allegations therein, which may dismiss the complaint, unless either involved party makes a request to the Title IX Coordinator in writing to move to an informal process.
2. The respondent is no longer enrolled or employed by the University
3. A specific circumstance prevents the University from gathering evidence sufficient to reach a determination as to the formal complaint or allegations therein.

Investigation Procedures

Compiling the Investigative Report. Once a formal complaint is accepted, the Title IX Coordinator or designee will request that the involved parties schedule separate intake meetings within seven (7) calendar days of the receipt of a notice of investigation. The purpose of the intake meeting is to provide a written statement, all

known witnesses. The investigator will share witness responses with the involved parties. The investigator may make an audio recording as well as notes on each of these meetings.

The respondent, upon learning of the formal complaint and at any time prior to the completion of an investigation responsibility, via written statement, for the conduct alleged. If the respondent accepts such responsibility, the investigation will conclude and a final investigative report will be made available to the complainant, respondent, advisor if applicable, and the decision maker serving as the chair of the hearing (i.e. dean, director, and/or designee) to review the final investigative report. Once the case is referred, the decision maker chair will proceed with a resolution, which will include any sanctions to be imposed. In cases where the respondent does not accept responsibility prior to the conclusion of an investigation, the investigator will move forward in producing a draft report that will be made available for review and response by the complainant, respondent and any advisors.

Review and Response Period. Once an investigative draft report is produced, the investigator simultaneously makes electronic copies of the report available to the complainant, respondent and advisor of each party, for review and response. Due to the draft nature of a preliminary report and in an effort to maintain confidentiality of the investigative process, these electronic copies may not be downloaded, copied, duplicated, shared or maintained in any way.¹⁵ The complainant and respondent will receive a PDF copy of the final report. Each of the parties may review the draft report and submit a written statement to the investigator within ten (10) calendar days of the date

A Review and Response Statement is not required. The purpose of such statements is to allow the parties an response statement should be a separate bulleted document that identifies the page number, paragraph, and perceived factual error or omission of the individual submitting their review and response statement. Investigators ts of witnesses. Review and response statements will be added to the final report.

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Non-

Prior conduct violations. Previous conduct violations of the involved parties are not generally relevant. However, a University official may supply previous conduct information to the investigator if:

the previous incident was substantially similar to the present allegation, or
the information indicates a pattern of behavior and substantial conformity with that pattern by the involved individuals.

Previous conduct information may also be provided to a hearing panel during deliberations if it is relevant to determining an appropriate sanction in the present case.

Hearing Process and Procedures

Once the decision maker chair receives a final investigative report, that official will convene a Hearing Panel. The Hearing Panel is the only option for resolution in cases where there is a formal complaint request for an investigation of any alleged violation of this Policy unless the respondent accepts responsibility of the allegations or there has been a request for an informal resolution. Informal Resolution options are not available where the complaint involves a student and employee.

Hearing Panel: The decision makers for cases are typically chaired by a faculty or staff member who is part of a pool of trained decision makers. If there is no one available from the pool of trained decision makers, the Dean of Students and/or a designee shall chair the hearing for cases in which the respondent is a student. In cases where the respondent is a faculty or staff member, the decision maker chair shall be a designee from the applicable College or School for faculty or from Human Resources for staff.

The decision maker chair will select at least two hearing panelists to hear the case. The decision maker chair will avoid selecting panelists who have a close relationship with the involved individuals or who are closely connected to the issue being reviewed and who might have a difficult time rendering an impartial decision. The decision maker and any panel member is also expected to recuse themselves if there is a conflict of interest or difficulty in rendering an impartial decision.

If either involved party objects to the decision maker chair or hearing panelist based on conflict of interest or perceived bias, the involved party must convey their concern in writing to the Title IX Coordinator within 24 hours of receipt of a hearing notice. The Title IX Coordinator will determine whether the decision maker(s) has a demonstrable personal bias for or against either involved party and, if so, a new decision maker will be designated by the Title IX Coord

Participants in the Hearing. Participants at the hearing include the decision maker chair, hearing panelists¹⁷, the involved parties, advisors to the involved parties, witnesses, the Title IX Coordinator, any designated support staff, and anyone providing authorized accommodations. Any witnesses scheduled to participate in the hearing must have been interviewed by the investigator (s) or have provided a written statement or answered questions from the investigator in writing.

¹⁷ A hearing typically has no more than three hearing panelists (A decision maker chair and two hearing panelists).

Hearing Panel Process and Procedures

The Day Prior to the Hearing

Pre-Hearing Intake: The pre-hearing intake is only for the complainant, respondent and their respective advisors. During the pre-hearing intake, parties and their Advisors may meet with the Title IX Coordinator and support staff separately to review the expectations of the hearing process. The pre-hearing intake is also an opportunity to review written questions previously submitted and/or to submit, in writing, any questions involved parties wish to ask during the live hearing so that the decision-maker chair can be prepared to respond to the relevancy of said questions during the live hearing. This intake does not preclude the advisor from asking additional questions live during the hearing.

Pre-Hearing Submission of Questions: The decision maker chair may request that the parties submit questions, in writing, prior to the hearing. This submission does not preclude the advisor from asking additional questions during the live hearing. The decision-

During the Hearing

The decision maker chair will commence the hearing by providing a statement of expectations on how the hearing will be conducted. The decision maker will also receive the verbal agreement of each person in attendance to participate in and adhere to the parameters of the hearing process and procedures.

The complainant is the first party to meet with the hearing panel, followed by the respondent and then the witnesses. After hearing from the witnesses, the hearing panel may recall either involved party or witnesses in any order for follow-up questions or cross-examination.

Each party commences by sharing an opening oral statement, followed by questions from the decision maker chair and hearing panelists. Involved parties may state that they do not have an opening oral statement if they do not wish to provide one.

After each party and each witness responds to all questions from the decision maker

witness all relevant questions and follow up questions including those challenging credibility.

The advisor will state each question for cross examination to the decision maker chair

The decision maker chair makes the final decision about responsibility and sanctions, if applicable, and notifies the Title IX Coordinator of the outcome and rationale of the Hearing Panel. The Title IX Coordinator will notify both parties of the decision and sanctions, including the rationale for the outcome and any associated sanctions. Where credibility of the parties is an issue in determining preponderance of the evidence, the rationale will include an explanation of how the panel resolved questions of credibility.

Outcomes: Proceedings and decisions will not be disclosed to those outside of the hearing except on a need to know basis or where a release of information waiver has been signed by a student or written consent is provided by an employee. The complainant has a right to be informed in writing of the outcome, any sanctions that directly relate to them, and any essential findings supporting the outcome. Outcome letters to involved parties will include, but are not limited to:

Identification of the allegations potentially constituting sexual harassment under Title IX (see definition of sexual harassment) or any other form of sex discrimination;

A description of the procedural steps taken from the receipt of the formal complaint through the determination, including any notifications to the parties, interviews with parties and witnesses, methods used to gather other evidence, and hearings held;

Findings of fact supporting the determination;

Conclusions regarding the

A statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility, any disciplinary sanctions the University imposes on the respondent, and whether program or activity will be provided by the University to the complainant; and

retaliation.

VIII. Sanctions for Title IX Sexual Harassment Including Sex Discrimination

The range of sanctions under this Policy includes but is not limited to educational sanctions, probation, suspension, expulsion, termination, or a combination of sanctions proportionate to the violation. Determinations of responsibility will be maintained in the student conduct record for students and with the personnel record for employees. All records submitted to the Title IX Office, including but not limited to formal complaints, grievance processes, sex discrimination, sexual misconduct, or other prohibited behavior of a sexual harasser or perpetrator.

appoint a board to assist in the review of the appeal. The appellate officer or chair of the appeal board shall notify the parties, in writing, of the final action on the appeal within five (5) calendar days of receipt of the appeal materials. Where there is a need to extend the 5-day review period of the appeal, the parties will be notified in writing. A five day (5) appeal period will occur regardless of if there is a submission of an appeal from the involved party.

Appeal from a Determination Regarding Responsibility

An appeal will be decided by an appellate board of trained faculty and staff. Either party may appeal a decision and/or sanction. Appeals in cases regarding a finding of responsibility of the Title IX Policy are limited to one or more of the following bases:

1. Procedural irregularity that affected the outcome of the matter;
- 2.

X. Support and Other Resources

Students and Employees with Disabilities

Accommodation Requests: Participants in need of disability related accommodations and/or interpretation services during the investigation or hearing must contact the Title IX Coordinator with said requests five (5) days prior to the first investigative interview or scheduled hearing.

Students seeking accommodations for disabilities under this Policy should contact Student Accessibility Services by phone at (931) 598-1229 or email at sas@sewanee.edu.

Faculty or Staff employees seeking accommodations for disabilities under this Policy should contact the ADA Office by phone at (931) 598-1896 or email ada@sewanee.edu to be put in contact with the Director of ADA. See the ADA web page [[HERE](#)]. Faculty or Staff may also contact the Human Resources Office at 931-

student leaders such as proctors, FYP mentors, PRE/SOP leaders, or orientation leaders.

Call 911 (emergency) or the Sewanee Police Department at 1111 (non-emergency) for support from law enforcement.

Extension 1111 can also be used to be routed to a professional staff member who can contact the Dean-On-Call after normal business hours.

For other emergency, virtual, online, peer and professional support options, that are both in and outside of Sewanee, please refer to the [Title IX website](#).

For support related to pregnancy, please contact the Senior Director of Equity, Equal Opportunity, and Title IX at titleix@sewanee.edu

If you feel that you or someone you know is a victim of sexual harassment/discrimination or that there has been a violation of the Title IX/Sex Discrimination Policy, please contact: