

Sex Discrimination (Title IX) Policy and Grievance Procedures

*Effective August 1, 2024**

***Note Regarding Allegations That Pre-Date This Policy:**

Reports or Complaints of conduct that occurs on or after August 1, 2024, that may be a violation of this policy will be processed under the procedures outlined below. This policy and its procedures do not apply to conduct that occurred before August 1, 2024. For alleged incidents of prohibited conduct occurring prior to August 1, 2024, the policy and procedures in place at the time of the alleged incident apply.

***Note Regarding Pending Legal Challenges to the Title IX Regulations:**

This policy is drafted to align with the requirements of the U.S. Department of Education Title IX regulations that took effect on August 1, 2024. However, per various federal court orders, the U.S. Department of Education is prohibited from enforcing these regulations in some jurisdictions until further notice. In those jurisdictions, the previous Title IX regulations remain in effect. If South College receives allegations of prohibited conduct in any of the applicable jurisdictions, the College will apply the applicable policy and procedures that pre-dated the August 1, 2024, revisions.

South College (“College”) is committed to fostering an environment that is free from all forms of sex discrimination, including Sex-Based Harassment, as defined in 34 CFR §106 (et seq.) and explained below. The institution takes steps to increase awareness of sex discrimination, to thoroughly investigate reports of sex discrimination, and to take fair and appropriate actions as warranted. Creating a safe and non-discriminatory campus environment is the shared responsibility of all members of the South College community.

Nondiscrimination Policy

Consistent with Title IX of the Education Amendments of 1972, South College does not discriminate against students, faculty, staff, third parties, or applicants based on sex in any of its programs or activities, including but not limited to educational programs, employment, and admission. Sex-based harassment, including sexual violence, is a kind of sex discrimination and is prohibited by Title IX and by the institution. Individuals who engage in such conduct are subject to disciplinary action. This policy applies to all students, faculty, staff, third parties, and applicants regardless of sexual orientation or gender identity. Further, this policy applies to discrimination based on sex that involves an applicant, student, employee, or third-party affiliate against a student at any location in the United States, including campus/clinical/student teaching/practicum/internship/fieldwork site or any locations, events, or circumstances over which South College exercises substantial control over both the Respondent and the context in which the harassment occurs, and also includes any building owned or controlled by a student organization that is officially recognized by South College. This can include conduct occurring outside South College’s program or activities or outside the United States where such conduct contributes to a hostile environment in the United States.

Inquiries about the application of Title IX and this part may be referred to the Title IX Coordinator, to the Assistant Secretary of the U.S. Department of Education, or both.

Sex-Based Harassment includes a broad range of behaviors that will not be tolerated in the South College’s education programs or activities. The federal rules governing Title IX define Sex-Based Harassment broadly to include any of three types of misconduct on the basis of sex, all of which jeopardize the equal access to education that Title IX is designed to protect:

- any instance of quid pro quo harassment by a school's employee;
- any unwelcome conduct that a reasonable person would find so severe, pervasive, and objectively offensive that it denies a person equal educational access; or
- any instance of sexual assault (as defined in the Clery Act), dating violence, domestic violence, or stalking as defined in the Violence Against Women Act (VA WA).

Sex-Based Harassment can occur between strangers, acquaintances, or people who know each other well, including those who are involved in an intimate or sexual relationship, and can be committed by anyone regardless of sex, gender, or gender identity. South College does not tolerate any form of Sex-Based Harassment.

Questions regarding Title IX and the Campus SaVE Act may be referred to the College's Title IX Coordinator or to the U.S. Department of Education's Office for Civil Rights.

Retaliation Prohibited

Retaliation means taking any adverse action or attempting to take adverse action, including intimidating, threatening, coercing, or in any way discriminating against an individual for the purpose of interfering with any right or privilege secured by Title IX or this policy, or because the individual has made a report or Complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing.

Intimidation, threats, coercion, or discrimination, including charges against an individual for code of conduct violations that do not involve sex discrimination or Sex-Based Harassment, but arise out of the same facts or circumstances as a report or Complaint of sex discrimination, or a report or Complaint of sex discrimination, for the purpose of interfering with any right or privilege secured by Title IX or this policy, constitutes retaliation.

Complaints alleging retaliation may be filed according to the grievance procedures for sex discrimination included herein.

The exercise of rights protected under the First Amendment does not constitute prohibited retaliation.

Charging an individual with a code of conduct violation for making a materially false statement in bad faith in the course of a grievance proceeding under this part does not constitute prohibited retaliation, provided, however, that a determination regarding responsibility, alone, is not sufficient to conclude that any party made a materially false statement in bad faith.

Retaliation against any person who alleges a violation of this Policy or who reports or assists South College in the investigation of a Complaint under this Policy may result in disciplinary action up to and including termination or dismissal by South College. Retaliation against any person who is a Respondent to an alleged Sex-Based Harassment violation is prohibited as well. South College will take steps to protect all parties from retaliation or harm and will work with the Complainant to create a safety plan. Any alleged retaliation should be reported to the Title IX Coordinator or appropriate Deputy Title IX Coordinator.

Definitions

Definition of Knowledge.

Knowledge means a non-confidential South College employee is aware of conduct that reasonably may constitute sex discrimination

Definition of Complainant

A “Complainant,” includes:

- a student or employee of South College who is alleged to have been subjected to conduct that could constitute sex discrimination under Title IX; or
- a person other than a student or employee of South College who is alleged to have been subjected to conduct that could constitute sex discrimination under Title IX or its regulations at a time when that individual was participating or attempting to participate in South College’s education program or activity;

Definition of Respondent

An individual who is alleged to have violated South College’s prohibition on sex discrimination.

Definition of Consent

Consent must be affirmative. Consent means a knowing, voluntary and mutual decision among all participants to engage in sexual activity. Consent can be given by words or actions, as long as those words or actions create clear permission regarding willingness to engage in sexual activity. Silence or lack of resistance, in and of itself, does not demonstrate consent. The definition of consent does not vary based upon a participant’s sex, sexual orientation, gender identity, or gender expression.

- Consent to any sexual act or prior consensual activity between or with any party does not necessarily constitute consent to any other sexual act.
- Consent is required regardless of whether the person initiating the act is under the influence of drugs and or alcohol.
- Consent may be initially given but withdrawn at any time.
- Consent cannot be given when a person is incapacitated.
- Consent cannot be when it is the result of any coercion, intimidation, force, threat of harm.

When consent is withdrawn or can no longer be given, sexual activity must stop.

Definition of Incapacitation

Incapacitation (or incapacity), for purposes of this policy, is the state in which an individual’s perception or judgment is so impaired that the individual lacks the cognitive capacity to make or act on conscious decisions. The use of drugs or alcohol can cause incapacitation. An individual who is incapacitated is unable to consent to a sexual activity. Engaging in sexual activity with an individual who is incapacitated (and therefore unable to consent), where an individual knows or ought reasonably to have understood that the individual is incapacitated, constitutes Title IX Sex-Based Harassment as defined by this policy.

Definition of Supportive Measures

Supportive Measures means non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the Complainant or the Respondent before or after the filing of a Complaint or where no Complaint has been filed. Such measures are designed to restore or preserve equal access to the education program or activity without unreasonably burdening the other party, including measures designed to protect the safety of all parties or the College's educational environment, or deter Sex-Based Harassment. Supportive Measures 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. The College must maintain as confidential any Supportive Measures provided to the Complainant or Respondent, to the extent that maintaining such confidentiality would not impair the ability of the College to provide the Supportive Measures. The Title IX Coordinator is responsible for coordinating the effective implementation of Supportive Measures.

Definition of Third Party

Third party refers to any individual who is not a College student, a faculty member, or a staff member (e.g., vendors, alumni/ae, or local residents).

Definition of Witness

Witness refers to any individual who shares information relating to an allegation of prohibited conduct under this policy.

Definition of Sex-Based Harassment

Sex-Based Harassment is a form of sex discrimination and means sexual harassment and other harassment on the basis of sex, including on the basis of sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, and gender identify, that that satisfies one or more of the following:

- a. An employee of the College conditioning the provision of an aid, benefit, or service of the College on an individual's participation in unwelcome sexual conduct;
- b. Unwelcome sex-based conduct that, based on the totality of the circumstances, is subjectively and objectively offensive and is so severe or pervasive that it limits or denies a person's ability to participate in or benefit from the College's education program or activity;
- c. Any form of sexual assault. "Sexual assault" means an offense classified as a forcible or nonforcible sex offense under the uniform crime reporting system of the Federal Bureau of Investigation. Forcible sex offenses means any sexual act directed against another person, without the consent of the victim including instances where the victim is incapable of giving consent; these offenses include:
 - i. Rape: The carnal knowledge of a person, without the consent of the victim, including instances where the victim is incapable of giving consent because of their age or because of their temporary or permanent mental or physical incapacity;
 - ii. Sodomy: Oral or anal sexual intercourse with another person, without the consent of the victim, including instances where the victim is incapable of giving consent because of their age or because of their temporary or permanent mental or physical incapacity;

- iii. Sexual Assault with an Object: To use an object or instrument to unlawfully penetrate, however slightly, the genital or anal opening of the body of another person, without the consent of the victim, including instances where the victim is incapable of giving consent because of their age or because of their temporary or permanent mental or physical incapacity;
- iv. Fondling: The touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the victim, including instances where the victim is incapable of giving consent because of their age or because of their temporary or permanent mental or physical incapacity;
- d. Nonforcible Sex Offenses (Except Prostitution Offenses) means unlawful, nonforcible sexual intercourse; these offenses include:
 - i. Incest: Sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law; or
 - ii. Statutory Rape: Sexual intercourse with a person who is under the statutory age of consent.
- e. “Dating violence” means violence committed by a person-
 - i. who is or has been in a social relationship of a romantic or intimate nature with the victim; and where the existence of such a relationship shall be determined based on a consideration of the following factors:
 - (A) The length of the relationship.
 - (B) The type of relationship.
 - (C) The frequency of interaction between the persons involved in the relationship.
- f. “Domestic violence” includes felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, or by any other person against an adult or youth victim who is protected from that person’s acts under the domestic or family violence laws of the jurisdiction.
- g. “Stalking” means engaging in a course of conduct directed at a specific person that would cause a reasonable person to— (i) fear for his or her safety or the safety of others; or (ii) suffer substantial emotional distress.

Definition of Pregnancy or Related Conditions

Pregnancy or Related Conditions means:

- Pregnancy, childbirth, termination of pregnancy, or lactation;
- Medical conditions related to pregnancy, childbirth, termination of pregnancy, or lactation; or
- Recovery from pregnancy, childbirth, termination of pregnancy, lactation, or related medical conditions.

The Title IX Grievance Process

South College has adopted Title IX grievance procedures that provide for the prompt and equitable resolution of Complaints of sex discrimination made by students, employees, or other individuals

who are participating or attempting to participate in its education program or activity, or by the Title IX Coordinator.

Reporting Policies and Protocols

South College is committed to responding promptly and effectively when it learns of any form of possible discrimination based on sex that involves an applicant, student, employee, or Third Party affiliate against a student at any location, including campus/clinical/student teaching/practicum/internship/fieldwork site or any locations, events, or circumstances over which South College exercises substantial control over both the Respondent and the context in which the harassment occurs, and also includes any building owned or controlled by a student organization that is officially recognized by South College. South College's Title IX Coordinator and Deputy Title IX Coordinators are responsible for overseeing all Title IX incidents reported to the institution and for implementation of this policy, including but not limited to, identifying and addressing any systemic gender-based harassment, discrimination, and sexual misconduct.

Allegations should be reported to the Title IX Coordinator or appropriate Deputy Title IX Coordinator using the [Sex Discrimination \(Title IX\) Incident Form](#) as soon as possible following the alleged incident of sex discrimination. All applicants, employees, students, and third parties can access the Sex Discrimination (Title IX) Incident Form on the South College Portal and on the South College website. Reports can be submitted at any time, including non-business hours, in person, by mail, by telephone, or by email using the contact information listed below:

Title IX Coordinator for South College

Dr. Mari-Kathryn Arnold, Executive Director of Institutional Student Affairs
3904 Lonas Drive, Knoxville, TN 37909
marnold@south.edu, 865-392-4733

Deputy Title IX Coordinator for the Main Campus and Parkside Campus

Dr. Melanie Yerk, Dean of Academic and Student Services
3904 Lonas Drive, Knoxville, TN 37909
myerk@south.edu, 865-288-5708

Deputy Title IX Coordinator for the Main Campus (CBE Programs Only)

Dr. Persis Young, Dean of Academic and Student Services-CBE Programs
400 Goody's Lane, Knoxville, TN 37922
pfay@south.edu, 971-295-9525

Deputy Title IX Coordinator for the Asheville Campus

Dr. Samantha Sircey, Dean of Academic and Student Services
140 Sweeten Creek Road, Asheville, NC 28803
ssircey@south.edu, 828-398-2580

Deputy Title IX Coordinator for the Nashville Campus

Mrs. Jennifer Carroll, Dean of Academic and Student Services
616 Marriott Drive, Nashville, TN 37214
jcarroll2@south.edu, 629-802-3175

Deputy Title IX Coordinator for the Atlanta Campus

Dr. Jennifer Johnke, Dean of Academic and Student Services
2600 Century Parkway NE, Atlanta, GA 30345
jjohnke@south.edu, 470-322-1211

Deputy Title IX Coordinator for Online

Dr. Anne Petrella, Campus President
3904 Lonas Drive, Knoxville, TN 37909
apetrella@south.edu, 865-288-8782

Deputy Title IX Coordinator for the Indianapolis Campus

Dr. Lynn Patton, Dean of Academic and Student Services
301 Pennsylvania Pkwy., Indianapolis, IN 46280
lpatton@south.edu, 317-819-7912

Deputy Title IX Coordinator for the Orlando Campus

Dr. Amy Bro, Dean of Academic and Student Services
6649 Westwood Blvd., Orlando, FL 32821
abro@south.edu, 407-447-6985

Deputy Title IX Coordinator for the Pittsburgh Campus

Ms. Kaitlin Cobourne, Interim Dean of Academic and Student Services
3000 Westinghouse Dr., Suite 200, Cranberry Township, PA 16066
kcobourne@south.edu, 724-720-9500

Deputy Title IX Coordinator (Employees):

Mr. Randall Carr, Vice President of Talent Management & Human Resources
3904 Lonas Drive, Knoxville, TN 37909
randall.carr@south.edu, 865-293-4550

Reporting

Although violations of this policy should be reported to the Title IX Coordinator or appropriate Deputy Title IX Coordinator, South College understands that from time to time other employees may learn of potential violations of this policy. South College has assigned certain employees authority to institute corrective measures, and those employees, in addition to any employee who has responsibility for administrative leadership, teaching, or advising functions within South College, are required to notify the Title IX Coordinator when the employee has Knowledge of conduct that may constitute sex discrimination (“Mandatory Reporters”). All other employees, except those designated Confidential Employees, may either notify the Title IX Coordinator or refer the Complainant to the Title IX Coordinator to make a Complaint, if the Complainant opts to do so. The issue will be reported to the Title IX Coordinator or appropriate Deputy Title IX Coordinator using the Sex Discrimination (Title IX) Incident form. To the extent possible, the information reported will only be shared with the employees charged with handling the College’s response to the report.

If the College receives a report of alleged sex discrimination by someone other than the Complainant (e.g., friend or roommate, resident advisor) or from an anonymous source, the College's Title IX Coordinator will promptly notify the Complainant of the report, and inform the Complainant of the available resources and assistance, and will follow the process outlined in this policy.

The following employees (or categories of employees) are authorized by the College to institute corrective measures:

- Institutional Leadership: Vice Chancellor of Institutional Advancement and Effectiveness, Executive Director of Institutional Student Affairs, Associate Vice Chancellor of Academic & Student Affairs, and Chief Academic Officer
- Dean of Academic and Student Services
- Director of Student Affairs/Services
- Vice President of Talent Management and Human Resources (for employees)

Reports to the Title IX Coordinator should include any and all relevant known details about the alleged incident, including the following:

- The names of the involved parties;
- The alleged conduct; and
- The date, time, and location of the incident.

Where possible, Mandatory Reporters should make an effort to ensure that the person reporting the conduct understands the employee's mandatory reporting obligation and the person's right to share the information confidentially with Confidential Employees, or with off-campus confidential resources.

Confidentiality

South College encourages Complainants of sex discrimination to talk to somebody about what happened so that they can get the support they need, and so that South College can respond appropriately. Different employees on campus have different abilities to maintain a Complainant's confidentiality. A "Confidential Employee" is a South College employee who is not required to notify the Title IX Coordinator when a person informs them of conduct that reasonably may constitute sex discrimination if that information is provided while the Confidential Employee is functioning within the scope of their duties to which confidentiality applies.

A Confidential Employee must explain to any person who informs the Confidential Employee of conduct that reasonably may constitute sex discrimination under this Title IX Policy:

- The employee's confidential status, including the circumstances in which the employee is not required to notify the Title IX Coordinator about conduct that reasonably may constitute sex discrimination;
- How to contact The College's Title IX Coordinator and how to make a Complaint; and
- That the Title IX Coordinator may be able to offer and coordinate Supportive Measures, as well as initiate an informal resolution process or an investigation under the grievance procedures.

Professional Counselors

Professional, licensed counselors who provide mental-health counseling to members of the school community (and including those who act in that role under the supervision of a licensed counselor) are not required to report any information about an incident to the Title IX Coordinator or appropriate Deputy Title IX Coordinator without a Complainant's permission. These counselors will only provide information to the College if there is a serious threat to the safety of students and employees.

Determining Confidentiality

If a Complainant discloses an incident to an authorized employee but wishes to maintain confidentiality or requests that no investigation into a particular incident be conducted or disciplinary action taken, the institution will weigh that request against its obligation to provide a safe, non-discriminatory environment for all students, including the Complainant. If the request for confidentiality is honored, a Complainant must understand that the institution's ability to meaningfully investigate the incident and pursue disciplinary action against the alleged perpetrator(s) may be limited. Although rare, there are times when the College may not be able to honor a Complainant's request in order to provide a safe, nondiscriminatory environment for all students. All requests for confidentiality will be determined by the Title IX Coordinator.

Release of Information

South College will otherwise keep confidential the identity of any individual who has made a report or Complaint of sex discrimination, including any individual who has made a report or filed a Complaint of sex discrimination, any Complainant, any individual who has been reported to be the perpetrator of sex discrimination, any Respondent, and any Witness, except as may be permitted by the Family Education Rights and Privacy Act (FERPA), or as required by law, or to carry out the purposes of Title IX and this policy, including the conduct of any investigation, hearing, or judicial proceeding arising thereunder.

Supportive Measures for Reported Complainants of Sex Discrimination

When South College learns of any form of possible discrimination based on sex, the Title IX Coordinator will promptly contact the Complainant to discuss the availability of Supportive Measures, consider the Complainant's wishes with respect to Supportive Measures, inform the Complainant of the availability of Supportive Measures (with or without the filing of a Complaint), and explain to the Complainant the process for filing a Complaint. The Title IX Coordinator is responsible for coordinating the effective implementation of Supportive Measures. Supportive Measures may also include informing the Complainant(s) of the right to report a crime to campus or local law enforcement and provide the Complainant(s) with assistance if determination is made to do so.

Emergency Removal of Respondent

If upon receiving a report of sex discrimination, the College 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 sex discrimination justifies removal, a Respondent may be removed from the College's education program or activity on an emergency basis. The College will provide the Respondent with notice and an opportunity to challenge the decision immediately following the removal.

Administrative Leave of Respondent Non-Student Employee

The College may place a non-student employee Respondent on administrative leave during the pendency of a grievance process.

Pregnancy or Related Conditions

The College does not discriminate in its education programs or activities against any student based on the student's current, potential, or past Pregnancy or Related Conditions.

When a College employee is informed of a student's Pregnancy or Related Condition by the student or a person with the legal right to act on behalf of the student, the employee must promptly provide that person with the Title IX Coordinator's contact information and inform that person that the Title IX Coordinator can coordinate specific actions to prevent sex discrimination and ensure the student's equal access to the College's education programs or activities. Students wishing to request reasonable modifications for Pregnancy or Related conditions may contact the Title IX Coordinator. The Title IX Coordinator will work with the student and campus partners to provide reasonable modifications to policies, practices, or procedures if requested.

Depending on the student's individual circumstances, these reasonable modifications may include, but are not limited to: breaks during class to express breast milk, breastfeed, or attend to health needs associated with Pregnancy or Related Conditions, including eating, drinking, or using the restroom; intermittent absences to attend medical appointments; changes in schedule or course sequence; extensions of time for coursework and rescheduling of tests and examinations; allowing a student to sit or stand, or carry or keep water nearby; counseling; changes in physical space or supplies; elevator access; or other changes to policies, practices, or procedures.

The College will allow a student who is pregnant or has related conditions to voluntarily take a leave of absence from an education program or activity to cover the period of time deemed medically necessary by the student's licensed healthcare provider. The College will also ensure that a student who is pregnant or has related conditions can access a lactation space that is clean, shielded from view, free from intrusion of others, and may be used by a student expressing breast milk or breastfeeding as needed.

The College will not require a student who is pregnant or has related conditions to provide certification from a healthcare provider or any other person that the student is physically able to participate in the College's education programs or activities, unless:

- The certified level of physical ability or health is necessary for participation in the program or activity;
- The College requires such certification of all students participating in the program or activity; and
- The information obtained is not used as a basis for prohibited discrimination.

Complaint Process

A "Complaint" is an oral or written request to the College that objectively can be understood as a request for the College to investigate and make a determination about alleged discrimination under Title IX.

The following people have a right to make a Complaint of sex discrimination, including Complaints of Sex-Based Harassment, requesting that South College investigate and make a determination about alleged discrimination under Title IX:

- A “Complainant,” which includes:
 - a student or employee of South College who is alleged to have been subjected to conduct that could constitute sex discrimination under Title IX; or
 - a person other than a student or employee of South College who is alleged to have been subjected to conduct that could constitute sex discrimination under Title IX at a time when that individual was participating or attempting to participate in South College’s education program or activity;
- A parent, guardian, or other authorized legal representative with the legal right to act on behalf of a Complainant; or
- South College’s Title IX Coordinator

Note that a person is entitled to make a Complaint of Sex-Based Harassment only if they themselves are alleged to have been subjected to the Sex-Based Harassment, if they have a legal right to act on behalf of such person, or if the Title IX Coordinator initiates a Complaint consistent with the requirements of this Policy.

With respect to Complaints of sex discrimination other than Sex-Based Harassment, in addition to the people listed above, the following persons have a right to make a Complaint:

- Any student or employee South College; or
- Any person other than a student or employee who was participating or attempting to participate in South College education program or activity at the time of the alleged sex discrimination.

Consolidation of Complaints

South College may consolidate Complaints of sex discrimination against more than one Respondent, or by more than one Complainant against one or more Respondents, or by one party against another party, when the allegations of sex discrimination arise out of the same facts or circumstances. When more than one Complainant or more than one Respondent is involved, references below to a party, Complainant, or Respondent include the plural, as applicable.

South College Response to a Complaint

Upon initiation of a Complaint, South College will send written notice to any parties of the allegations. In the written notice, South College will include notice of the College’s grievance process, including any informal resolution process, the identities of the parties involved in the incident, if known, the conduct allegedly constituting sex discrimination, and the date and location of the alleged incident, if known. The written notice will include a statement that the Respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility is made at the conclusion of the grievance process, that retaliation is prohibited, and that the parties are entitled to an equal opportunity to access the relevant and not otherwise impermissible evidence. The written notice will also inform the parties that they may have an advisor of their choice, who may be, but is not required to be, an attorney, and may inspect and review evidence. The written notice will also inform the parties of any provision in South College’s

code of conduct that prohibits knowingly making false statements or knowingly submitting false information during the grievance process.

If, in the course of an investigation, South College decides to investigate additional allegations of sex discrimination by the Respondent toward the Complainant that are not included in the notice provided or that are included in a Complaint that is consolidated, the College will notify the parties of the additional allegations.

Informal Resolution Process

In some cases, the parties may feel that a situation can be remedied without going through the formal investigation and hearing process. If the parties both give voluntary, informed, written consent to attempt informal resolution, the Title IX Coordinator and appropriate Deputy Title IX Coordinator will work with the Complainant and Respondent to determine a resolution to the Complaint. A Complainant may also request to go through the Informal Resolution Process after a formal investigation has been completed. South College will allow an informal Complaint to proceed only if the potential remedies to the alleged misconduct do not involve the possibility of serious disciplinary action (e.g. suspension or dismissal). Informal resolution process is not available if the allegations relate to an employee engaged in Sex-Based Harassment of a student or when such a process would conflict with Federal, State, or local law.

Before the initiation of an informal resolution process, South College will explain in writing to the parties:

- The allegations;
- The requirements of the informal resolution process;
- That all Complainants and Respondents will be treated equitably;
- That any party has the right to withdraw from the informal resolution process and initiate or resume grievance procedures at any time before agreeing to a resolution;
- That if the parties agree to a resolution at the end of the informal resolution process, they cannot initiate or resume grievance procedures arising from the same allegations;
- The potential terms that may be requested or offered in an informal resolution agreement, including notice that an informal resolution agreement is binding only on the parties; and
- What information South College will maintain and whether and how South College could disclose such information for use in Title IX grievance procedures if such procedures are initiated or resumed.

The informal resolution process is a voluntary, remedies-based process designed to provide parties with an option to resolve disputes with other students in a forum that is separate and distinct from the College's formal grievance processes under the Title IX Sex Discrimination policy. The purpose of the informal resolution process is to address the conduct which has been reported by the Complainant, and place the parties in a position to pursue their academic and non-academic interests in a safe, respectful, and productive educational and working environment. Under this process, there will be no disciplinary action taken against a Respondent, and the resolution will not appear on the Respondent's disciplinary record.

The College will not require as a condition of enrollment or continuing enrollment, or employment or continuing employment, or enjoyment of any other right, waiver of the right to an investigation

and adjudication of Complaints of Title IX sex discrimination. Similarly, the College will not require, encourage, or discourage the parties from participating in the informal resolution process.

At any time, either party may elect to transition the proceedings to the formal grievance procedures.

Conflict of Interest

All individuals who have responsibilities in administering the grievance process under this policy must be free of any conflict of interest or bias for or against Complainants or Respondents generally or an individual Complainant or Respondent and will be trained as provided by federal regulations. Parties will be notified at the appropriate junctures of the identities of the individuals serving as Title IX Coordinator, investigators, Title IX Conduct Committee members, and Appeal Panel members. A party who has concerns that one or more of the individuals performing one of the aforementioned roles has conflicting interest or is biased must report those concerns to the Title IX Coordinator within 48 hours of being notified of their identities and include a brief explanation of the basis for the conflict or bias concern. The Title IX Coordinator will assess the allegations of conflict or bias to determine whether or not the identified individual(s) can fulfill their duties in an impartial way. If the Title IX Coordinator concludes that the facts and circumstances support the claim of conflict or bias, the pertinent individual(s) will not participate in the case. A party who has concerns that the Title IX Coordinator cannot conduct their role in a fair and unbiased manner may report those concerns by contacting the Associate Vice Chancellor of Academic and Student Affairs at swaddell@south.edu.

Formal Investigation

Once South College is aware of a reported incident of sex discrimination, the Title IX Coordinator will notify the parties in writing of the initiation of the investigation, and will assign an investigator to conduct an investigation of the Complaint, and to gather evidence to determine if the allegation(s) meet the definition of sex discrimination as outlined in this policy. The results of the investigation will be submitted to the Title IX Conduct Committee.

The burden of proof and the burden of gathering evidence sufficient to reach a determination regarding responsibility for a violation of this policy rest on South College and not on the parties.

Written Notice of Investigation

Following the receipt and review of the Complaint by the Title IX Coordinator, and it being determined that the matter properly falls under this Policy, the parties will be informed in writing of the initiation of the investigation. The written information shall include:

- The identities of the parties, if known.
- A concise summary of the alleged conduct at issue (including when and where it occurred, if known).
- Notice of the allegations potentially constituting Title IX sex discrimination.
- A statement that all Complainants and Respondents will be treated equitably.
- 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 informing the parties that they may have an advisor of their choice, who may be, but is not required to be, an attorney.

- A statement informing the parties that they may request to inspect and review evidence.
- A statement informing the parties that knowingly making false statements or knowingly submitting false information during the grievance process may constitute a violation of College/Institute policy.
- Information regarding the applicable grievance procedures, including the informal resolution process.
- If, during the investigation, additional information is disclosed that may also constitute prohibited conduct under this policy, the Respondent and Complainant will be informed in writing that such additional information will be included in the grievance process.

Investigation Guidelines

South College presumes that the Respondent is not responsible for the alleged sex discrimination until a determination is made at the conclusion of its grievance procedures. The following guidelines will govern an investigation:

- South College will provide for adequate, reliable, and impartial investigation of Complaints.
- Title IX investigations should be concluded within sixty (60) days of receipt of a report, unless there are extraordinary circumstance in which a longer period will be permitted. Both the Complainant(s) and the Respondent(s) will be notified in writing should an extension be required.
- South College will objectively evaluate all evidence that is relevant and not otherwise impermissible—including both inculpatory and exculpatory evidence. Relevant means related to the allegations of sex discrimination under investigation as part of the grievance procedures. Credibility determinations will not be based on a person’s status as a Complainant, Respondent, or Witness. The following types of evidence, and questions seeking that evidence, are impermissible (*i.e.*, will not be accessed or considered, except by South College to determine whether one of the exceptions listed below applies; will not be disclosed; and will not otherwise be used), regardless of whether they are relevant:
 - Evidence that is protected under a privilege 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;
 - 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 South College obtains that party’s or Witness’s voluntary, written consent for use in its grievance procedures; and
 - 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 Sex-Based Harassment. The fact of prior consensual sexual conduct between the Complainant and Respondent does not by itself demonstrate or imply the complainant’s consent to the alleged Sex-Based Harassment or preclude determination that Sex-Based Harassment occurred.

- South College will provide both Complainants and Respondents written notice of the date, time, location, participants, and purpose of all hearings, investigative interviews, or other meetings, with sufficient time for the party to prepare to participate.
- Both parties will be given the opportunity to inspect and review any evidence obtained in the investigation that directly pertains to the allegations. Each party will have 10 days to submit a written response to the Title IX Coordinator, which will be considered prior to the completion of the investigative report.
- The final investigative report will be provided to both parties and the party's advisor for their review and written response at least 10 days prior to the hearing.
- If the investigation results indicate that the Complaint should not proceed to a review by the Title IX Conduct Committee, for the reasons set forth below, both parties (Complainant and Respondent) will be informed in writing within (14) business days of the decision that the Complaint was dismissed without further proceedings and the reasons therefor. Should the Complainant wish to appeal this decision, he/she should follow the Appeal Process listed in the last section of this policy.
- South College must dismiss a Complaint if the conduct alleged in the Complaint would not constitute sex discrimination even if proven, did not occur in the College's educational program or activity, or did not occur against a person in the United States. Before dismissing the Complaint, South College will make reasonable effort to clarify the allegations with the Complainant.
- South College may dismiss a Complaint or any allegations therein, if at any time during the investigation or hearing:
 - the College is unable to identify the Respondent after taking reasonable steps to do so;
 - a Complainant notifies the Title IX Coordinator in writing that the Complainant would like to withdraw the Complaint or any allegations therein, and South College determines that, without the Complainant's withdrawn allegations, the conduct that remains alleged in the Complaint, if any, would not constitute sex discrimination under Title IX even if proven;
 - the Respondent is not participating in the College's education program or activity and is not employed by South College; or
 - specific circumstances prevent the College from gathering evidence sufficient to reach a determination as to the Complaint or allegations therein.

In the case of such a dismissal, South College will inform both parties in writing within (14) business days of the decision and the reasons therefor. Should the Complainant wish to appeal this decision, he/she should follow the Appeal Process listed in the last section of this policy.

If the Complaint is dismissed, South College will at a minimum:

- Offer Supportive Measures to the Complainant as appropriate;
- If the Respondent has been notified of the allegations, offer Supportive Measures to the Respondent as appropriate; and
- Take other prompt and effective steps, as appropriate, through the Title IX Coordinator to ensure that sex discrimination does not continue or recur within South College's education program or activity.

- If the investigation results indicate that a Complaint should proceed to a review by the Title IX Conduct Committee, both parties (Complainant and Respondent) will be informed within (14) business days of the decision. The formal hearing (which may be live or via video conferencing technology, at South College’s discretion) by the Title IX Conduct Committee will then occur within (14) business days of the notification. The final investigative report will be provided to both parties and the party’s advisor for their review and written response.
- South College will take reasonable steps to prevent and address the parties’ and their advisors’ unauthorized disclosure of information and evidence obtained solely through these grievance procedures.

While not required, each party may choose an advisor (attorney or otherwise) at his/her own expense to assist during the investigation and hearing process. If a party does not have an advisor present at the hearing, the South College will provide, free of charge, an advisor of the school’s choice who may be, but is not required to be, an attorney in order to conduct cross-examination on behalf of that party.

While the advisor may be present, they cannot verbally participate in the investigation process but will be permitted to participate in the hearing. All statements and testimony must come solely from the parties and their Witnesses. If the desired advisor is an employee of the institution, the Title IX Coordinator may determine that there is a conflict of interest and require that an alternative advisor be used.

At least (3) business days prior to the hearing, both the Complainant and the Respondent will schedule a pre-hearing consultation with the Title IX Coordinator and/or appropriate Deputy Title IX Coordinator to discuss the issues and facts that will likely be presented at the hearing, submit written questions for the opposing party, provide any Witness or advisor information, ask procedural questions, submit a written statement, and submit evidence to be presented during the hearing if desired.

The following guidelines will govern the Title IX Conduct Committee:

- The Title IX Conduct Committee will be composed of a minimum of three trained South College officials.
- The Title IX Conduct Committee will be unbiased, charged with reviewing all evidence objectively, and will not make credibility determinations based on an individual’s status as a Complainant, Respondent, or Witness.
- The parties will receive the names of the Committee Members in advance of the hearing and will have (2) business days to object to the membership based on alleged bias or conflict of interest. The Title IX Coordinator and appropriate Deputy Title IX Coordinator will jointly decide the merits of the objection and will replace a Committee Member if necessary.
- An audiovisual recording or transcript of the hearing will be available to the parties for inspection and review.
- The decision of the Committee will be based on a preponderance of evidence standard (i.e. “more likely than not”).

- The Title IX Coordinator and/or appropriate Deputy Title IX Coordinator will deliver the investigation report and be present throughout the hearing but will not act as a Committee Member and is not a decisionmaker at the hearing.
- The Chair of the Committee will be selected by the Committee Membership. The Chair will ask questions submitted by the parties and may rephrase or omit them based on professional judgement. All Committee Members may ask questions, the Chair may rephrase or filter if necessary.
- South College will provide a process that enables the decisionmaker to question parties and Witnesses to adequately assess a party's or Witness's credibility to the extent credibility is both in dispute and relevant to evaluating one or more allegations of Sex-Based Harassment.
- The parties, through their advisor if requested, may also be allowed to ask relevant questions at the discretion of the Chair and after evaluation and approval by the Chair. If a question is deemed not relevant, the Chair will explain the decision to exclude a question as not relevant. Questions that are unclear or harassing of the party or Witness being questioned will not be permitted. The Chair will give a party an opportunity to clarify or revise a question that the Chair determines is unclear or harassing. If the party sufficiently clarifies or revises the question, the question will be asked.
 - Each party's advisor may ask the other party and any Witnesses all relevant questions and follow-up questions, including those challenging credibility. Such cross-examination must be conducted directly, orally, and in real time by the party's advisor of choice and never by a party personally.
 - Questions are relevant when they seek evidence that may aid in showing whether the alleged sex discrimination occurred, and evidence is relevant when it may aid the Committee in determining whether the alleged sex discrimination occurred.
 - Questions and evidence about the Complainant's sexual predisposition or prior sexual behavior are not relevant unless offered to prove that someone other than the Respondent committed the conduct alleged by the Complainant, or if the questions and evidence concern specific incidents of the Complainant's prior sexual behavior with respect to the Respondent and are offered to prove consent.
 - If a party or Witness does not submit to cross-examination or otherwise refuses to respond to questions at the hearing, the Committee must not rely on any statement of that party or Witness in reaching a determination regarding responsibility, but the Committee cannot draw any inferences regarding responsibility based solely on the absence or refusal to answer cross-examination or other questions.
- In all cases, whether the Respondent is present or not, the evidence in support of the allegations shall be presented and considered. Should the Respondent fail to appear for the hearing, a plea of "not in violation" shall be recorded for the respondent's behalf and the hearing will proceed.
- In all cases, the respondent shall not be deemed responsible for the alleged conduct until a determination regarding responsibility is made at the conclusion of the grievance process. No discipline will be imposed on a Respondent unless there is a determination at the conclusion of the Title IX grievance procedures that the Respondent engaged in prohibited sex discrimination.
- Either the Complainant or Respondent may request to participate in the proceedings via video conferencing. Participation via telephonic conferencing alone is not allowed. At the

request of either party in a live hearing, the Committee will provide for the entire hearing to occur with the parties located in separate rooms with technology enabling the parties to see and hear each other in real time.

- South College will create an audio or audiovisual recording or transcript of any hearing and make it available to the parties for inspection and review.
- The Complainant and the Respondent have the right to hear all evidence, present evidence, testify, and have their advisors question Witnesses. All initial questions for Witnesses must be submitted by the Complainant and Respondent prior to the hearing; the Title IX Conduct Committee Members determine if the questions are appropriate and control the questioning.
- After the hearing, the Committee will determine by majority vote whether a violation of the Title IX policy has occurred and will notify both parties of the decision reached on each allegation, and the supporting rationale for each, in writing within (14) business days. The determination will include:
 - A description of the alleged sex discrimination;
 - Information about the policies and procedures used to evaluate the allegations;
 - The Committee's evaluation of the relevant and not otherwise impermissible evidence and determination whether Sex-Based Harassment occurred;
 - When the Committee finds that sex discrimination occurred, any disciplinary sanctions South College will impose on the Respondent, whether remedies other than the imposition of disciplinary sanctions will be provided to the Complainant, and, to the extent appropriate, other students identified to be experiencing the effects of the sex discrimination; and
 - The procedures and permissible bases for the Complainant and Respondent to appeal.
- If it is determined that a violation has occurred, both parties will have (3) business days from the time they receive the Committee's written decision to submit a written impact statement if they choose. An impact statement allows the parties to express what penalty they feel is deserved and what impact that might have on them.
- Within (14) business days of receiving the impact statement(s), the Committee will simultaneously notify all parties in writing of the Committee's findings, remedies provided, and sanctions imposed, if any, and information about how to file an appeal.
- The determination regarding responsibility becomes final either on the date that South College provides the parties with the written determination of the result of any appeal, or, if no party appeals, the date on which an appeal would no longer be considered timely.

Extensions for Good Cause

The timeframes and deadlines listed in this Policy may, for good cause, be extended or otherwise modified by South College. Good cause may include considerations such as the absence of a party, a party's advisor, or a Witness; concurrent law enforcement activity; or the need for language assistance or accommodation of disabilities.

Remedies to Complainants

Following a determination that a violation of this Title IX policy has occurred, remedies may be provided to Complainant and any other people South College identifies as having had equal access

to South College's education program or activity limited by sex discrimination. Available remedies may include the same services listed above as Supportive Measures.

Sanctions for Sex discrimination

The following sanction(s) may be imposed upon any individual student found to be in violation of this policy. Following a determination that a violation of this Title IX policy has occurred:

- Issuance of a formal, written warning and reprimand (status of probation may be imposed)
- Issuance of a suspension or a required leave of absence for a period of time, contingent upon the student meeting specified conditions
- Dismissal from the college without possibility of re-admission
- Any other appropriate prompt and effective steps to ensure that sex discrimination does not continue or recur within South College's education program or activity.

In cases of third parties and employee sanctions, South College will take prompt and effective action to stop the discrimination and prevent its recurrence upon notice of the discrimination. The sanctions taken by South College will differ depending on the level of control that the College has over the Third Party. For employees, the following sanction(s) may be imposed upon any individual employee found to be in violation of the South College Employee Handbook/Title IX rules:

- Issuance of a verbal warning
- Requirement of training
- Issuance of a suspension (with or without pay), contingent upon the employee meeting specified conditions for returning
- Issuance of a written warning with formal counseling (status of probation may be imposed)
- Termination of employment
- South College will not discipline a party, Witness, or others participating in the Title IX grievance procedures for making a false statement or for engaging in consensual sexual conduct based solely on the determination whether sex discrimination occurred.

Appeal Process

Should the Complainant and/or Respondent wish to appeal a dismissal of a Complaint, the decision of the investigation, or the decision of the Title IX Conduct Committee, an appeal must be submitted within (7) business days of delivery of the decision. The appeal must be in writing and submitted to the Vice Chancellor of Institutional Advancement and Effectiveness at [contact info]. The appeal may be filed on the following bases: a procedural irregularity that would change the outcome;; if new evidence that was not available at the time of the determination that could affect the outcome, or if the Title IX coordinator, investigator(s), or Title IX Conduct Committee members had a conflict of interest or bias against the Complainant or Respondent that affected the outcome. An appeal received that does not address one of these areas will be dismissed without further consideration.

A complete review of the appeal will be made by the Vice Chancellor within (14) business days after receipt of the appeal and additional information. In the event an extension is needed for this review, the individual making the appeal will be notified. A written decision will be issued to the Respondent, Complainant, and the Title IX Coordinator and/or Chair of the Title IX Conduct Committee.

If a party appeals a dismissal or determination whether Sex-Based Harassment occurred, South College will:

- Notify the parties in writing of any appeal, including notice of the allegations, if notice was not previously provided to the Respondent;
- Implement appeal procedures equally for the parties;
- Ensure that the decisionmaker for the appeal did not take part in an investigation of the allegations or dismissal of the Complaint;
- Ensure that the decisionmaker for the appeal has been trained consistent with the Title IX regulations;²⁷
- Communicate to the parties in writing that South College will provide the parties a reasonable and equal opportunity to make a statement in support of, or challenging, the outcome; and
- Notify the parties in writing of the result of the appeal and the rationale for the result.

Any additional procedures or bases for appeal South College offers will be equally available to all parties.

South College's other Title IX Obligations

Training

The College will either provide appropriate training, or ensure appropriate training is provided by a qualified third party, to all College employees upon hiring and annually thereafter on College's obligation to address ex discrimination in its education programs or activities, the scope of conduct that constitutes sex discrimination, including Sex-Based Harassment, and their applicable notification and mandatory reporting requirements.

In addition to the annual training described above, all individuals involved in handling Title IX matters on behalf of South College, including the Title IX Coordinator and Title IX Deputies, investigators, Title IX Conduct Committee members, Appeal Panel members, and any individual who facilitates the informal resolution process will, at a minimum, receive all required and applicable training on issues including, but not limited to, definitions of and related to sex discrimination, how to conduct an investigation and grievance process, determinations of relevance, how to facilitate informal resolutions, and how to identify conflicts of interest and bias. The Title IX Coordinator, and any designees, will also receive training on the specific responsibilities of the Title IX Coordinator and the College's recordkeeping system.

The College will ensure that Title IX Conduct Committee members receive training on any technology to be used at a hearing and on issues of relevance of questions and evidence, including questions and evidence about the irrelevancy of Complainant's sexual predisposition or prior sexual behavior. The College will ensure that investigators receive training on issues of relevance in order to create an investigative report that fairly summarizes relevant evidence. These training materials are publicly available on the College's website and will be made available for in-person review upon request. In addition, College officials with responsibilities under this policy will receive training related to intersectionality.

Recordkeeping

South College will maintain for a period of seven years records of:

- Each sex discrimination investigation including any determination regarding responsibility and any audio or audiovisual recording or transcript of the hearing, any disciplinary sanctions imposed on the Respondent, and any remedies provided to the Complainant designed to restore or preserve equal access to the College's education program or activity.
- Any appeal and the result therefrom.
- Any informal resolution and the result therefrom.
- All materials used to train Title IX Coordinators, investigators, decisionmakers, and any person who facilitates an informal resolution process. A College must make these training materials publicly available on its website, or if the College does not maintain a website the College must make these materials available upon request for inspection by members of the public.

For each South College response required under Title IX, South College will create, and maintain for a period of seven years, records of any actions, including any Supportive Measures, taken in response to a report or Complaint of sex discrimination. In each instance, the College will document the basis for its conclusion that its response was not deliberately indifferent, and document that it has taken measures designed to restore or preserve equal access to the College's education program or activity. If the College does not provide a Complainant with Supportive Measures, then the College will document the reasons why such a response was not clearly unreasonable in light of the known circumstances. The documentation of certain bases or measures does not limit the College in the future from providing additional explanations or detailing additional measures taken.

Modification and Review of Policy

The College reserves the right to modify this policy to take into account applicable legal requirements or extraordinary circumstances. At regular intervals, the College will review this policy to determine whether modifications should be made.