



## **Sexual Harassment (Title IX) Policy**

South College is committed to fostering an environment that is free from all forms of sex discrimination, including sexual harassment, as defined in 34 CFR §106 (et seq.) and explained below. The institution takes steps to increase awareness of sexual harassment, to thoroughly investigate reports of sexual harassment, 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.

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. Sexual 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.

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.

Sexual 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 sexual 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).

Sexual 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 sexual 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 sexual harassment, but arise out of the same facts or circumstances as a report or complaint of sex discrimination, or a report or formal complaint of sexual harassment, 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 the Sexual Harassment 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 sexual 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 Actual Knowledge*

Actual knowledge means notice of sexual harassment or allegations of sexual harassment to the College/Institute's Title IX Coordinator or to another designated South College official.

### *Definition of Complainant*

An individual who is alleged to be the victim of conduct that could constitute sexual harassment.

### *Definition of Respondent*

An individual who has been reported to be the perpetrator of conduct that could constitute sexual harassment.

#### *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 Sexual 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 formal complaint or where no formal 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/Institute's educational environment, or deter sexual 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/Institute 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/Institute 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 Sexual Harassment*

Sexual Harassment means prohibited conduct on the basis of sex that satisfies one or more of the following:

- a. An employee of the recipient conditioning the provision of an aid, benefit, or service of the recipient on an individual's participation in unwelcome sexual conduct;
- b. Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the recipient'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.

## **The Title IX Grievance Process**

### *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 [Sexual Harassment \(Title IX\) Incident Form](#) as soon as possible following the alleged incident of sexual harassment. All applicants, employees, students, and third parties can access the Sexual Harassment (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](mailto: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](mailto: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](mailto:pfay@south.edu), 971-295-9525

**Deputy Title IX Coordinator for the Asheville Campus**

Dr. Katie Thomas, Dean of Academic and Student Services  
140 Sweeten Creek Road, Asheville, NC 28803  
[kthomas@south.edu](mailto:kthomas@south.edu), 828-398-2560

**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](mailto:jjohnke@south.edu), 470-322-1211

**Deputy Title IX Coordinator for the Dallas Campus**

Dr. Chris McCracken, Dean of Academic and Student Services  
1505 Lyndon B. Johnson Freeway, Dallas, TX 75234  
[cmccracken@south.edu](mailto:cmccracken@south.edu), 469-896-8275

**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](mailto:lpatton@south.edu), 317-819-7912

**Deputy Title IX Coordinator for the Marietta Campus**

Ms. Marta Leonida, Dean of Academic and Student Services  
1850 Parkway Place, Marietta, GA 30067  
[mleonida@south.edu](mailto:mleonida@south.edu), 470-934-2656

**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](mailto:jcarroll2@south.edu), 629-802-3175

**Deputy Title IX Coordinator for Online**

Mrs. Anne Petrella, Campus President  
3904 Lonas Drive, Knoxville, TN 37909  
[apetrella@south.edu](mailto:apetrella@south.edu), 865-288-8782

**Deputy Title IX Coordinator for the Orlando Campus**

Dr. Laudine Bentham, Dean of Academic and Student Services

6649 Westwood Blvd Suite 100, Orlando, FL 32821  
[cbentham@south.edu](mailto:cbentham@south.edu), 407-447-6995

**Deputy Title IX Coordinator for the Pittsburgh Campus**

Ms. Peggy Brinton, Dean of Academic and Student Services  
3000 Westinghouse Dr., Suite 200, Cranberry Township, PA 16066  
[mbrinton@south.edu](mailto:mbrinton@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](mailto: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 are required to respond to any complaint of sexual harassment promptly, reasonably, and equitably including referring the complainant to the Title IX Coordinator to make a formal report, 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 Sexual Harassment (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 sexual harassment 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 Institutional Effectiveness & 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)

*Confidentiality*

South College encourages complainants of sexual harassment to talk to somebody about what happened so that complainants 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.

### 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 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 formal complaint of sexual harassment, 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 Sexual Harassment*

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 formal complaint), and explain to the complainant the process for filing a formal 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 sexual harassment, 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 sexual harassment 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.

### *Formal Complaint Process*

“Formal complaint” means a document filed by a complainant or signed by the Title IX Coordinator alleging sexual harassment against a respondent and requesting that the recipient investigate the allegation of sexual harassment. At the time of filing a formal complaint, a complainant must be participating in or attempting to participate in the education program or activity of the recipient with which the formal complaint is filed. A formal complaint may be filed with the Title IX Coordinator in person, by mail, or by electronic mail, by using the contact information required to be listed for the Title IX Coordinator. As used here, the phrase “document filed by a complainant” means a document or electronic submission (such as by email) that contains the complainant’s physical or digital signature, or otherwise indicates that the complainant is the person filing the formal complaint.

South College will send written notice to both parties (complainant and respondent) of the allegations upon receipt of a formal complaint. 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 sexual harassment, 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. 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, 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.

### *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 sexually harassing a student.

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 Sexual Harassment 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 formal complaints of Title IX sexual harassment. Similarly, the College will not require, encourage, or discourage the parties from participating in the informal resolution process. The College will not offer the informal resolution process unless a formal complaint is filed.

At any time, either party may elect to transition the proceedings to the Formal Complaint Process.

#### *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 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.

#### *Formal Investigation*

Once South College is aware of a reported incident of sexual misconduct, 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 sexual harassment 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.

#### *Notice of Investigation*

Following the receipt and review of the formal complaint by the Title IX Coordinator, and it being determined that the matter properly falls under this Title IX/Sexual Harassment 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 Sexual Harassment.

- 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*

The following guidelines will govern an investigation:

- Title IX investigations should be concluded within (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 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 formal complaint if the conduct alleged in the formal complaint would not constitute sexual harassment even if proved, did not occur in the College's educational program or activity, or did not occur against a person in the United States.
- South College may dismiss a formal complaint or any allegations therein, if 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; the respondent is no longer enrolled or employed by South College; or specific circumstances prevent the recipient from gathering evidence sufficient to reach a determination as to the formal complaint or allegations therein. In the case of such a

dismissal, South College will inform both parties in writing within (14) business day 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 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, live hearing 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.

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 live 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, s/he cannot verbally participate in the investigation process but will be permitted to participate in the live 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.
- The parties, through their advisor if requested, may also be allowed to ask relevant questions at the discretion of the Chair. If a question is deemed not relevant, the Chair will explain the decision to exclude a question as not relevant.
  - 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 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 of witness does not submit to cross-examination at the live 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.
- 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, the Committee will provide for the entire live hearing to occur with the parties located in separate rooms with technology enabling the parties to see and hear each other in real time.
- 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.
- 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.

#### *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. Available remedies may include the same services listed above as Supportive Measures.

#### *Sanctions for Sexual Harassment*

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

In cases of third parties and employee sanctions, South College will take prompt and effective action to stop the harassment and prevent its recurrence upon notice of the harassment. 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

#### *Appeal Process*

Should the complainant and/or respondent wish to appeal 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. The appeal may be filed on the following bases: to determine whether the investigation or hearing was conducted fairly and in conformity of the procedures, 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.

### **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 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. Such training will cover the definition of Title IX Sexual Harassment, the scope of the College's education program or activity, how to conduct an investigation and grievance process including hearings, appeals, and informal resolution processes under this policy, as applicable, and how to serve impartially, including by avoiding prejudgment of the facts at issue, conflicts of interest, and bias.

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 sexual harassment 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 recipient'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 recipient must make these training materials publicly available on its website, or if the recipient does not maintain a website the recipient 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 formal complaint of sexual harassment. 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.