



# **Southern University at New Orleans New Orleans, LA**

## **GENDER-BASED Sexual Misconduct (Title IX) Policy**

SUNO Gender Based Sexual Misconduct Policy  
Revised March 2016

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## I. Introduction

Title IX of the Education Amendments of 1972, 20 U.S.C. §§ 1681 *et seq.*, and its implementing regulations, 34 C.F.R. Part 106, prohibit discrimination on the basis of sex in education programs or activities operated by recipients of federal financial assistance. Sexual harassment of students, which includes acts of sexual violence, is a form of sex discrimination prohibited by Title IX. These behaviors are clear impediments to creating an educational atmosphere which is free from discrimination. As a result, an institution receiving federal funds must promulgate strategies and policies which demonstrate its ability to uphold the law and comply with applicable regulations. When the Complainant or Respondent is a student, the violation falls under the provisions of Title IX.

This Southern University at New Orleans (SUNO) campus policy utilizes the term “gender-based sexual misconduct” to encompass all behaviors that involve gender-based violations of an individual’s rights specifically manifested by sexual behavior and actions. Accordingly, this term is inclusive of conduct considered to constitute sexual harassment, non-consensual sexual contact or intercourse (of which sexual violence would be included), sexual exploitation, stalking, intimate partner violence, and other forms of inappropriate behavior that are linked with the sex/gender of the Complainant and/or Respondent. These behaviors, when deemed to have occurred, deprives an individual of their rights, and/or access to an education or employment which constitutes a violation of this policy.

Members of the SUNO campus community which includes students, faculty, administrators, guests, and visitors have the right to be free from sexual misconduct of any type. Therefore, SUNO is firmly committed to maintaining a climate of respect and safety for everyone. All members of the SUNO campus community are expected to conduct themselves in a manner that does not infringe upon the rights of others. As a result, this campus has a zero tolerance policy for gender-based sexual misconduct. When an allegation of sexual misconduct is brought to the attention of the appropriate Campus Representative, and a Respondent is found to have violated this policy, serious sanctions will be used to reasonably ensure that such actions cease and are never repeated. In addition, SUNO’s response will provide individuals who bring forth complaints with reasonable remedies that will insure full participation in their educational and/or employment activities. Nothing in this policy shall abridge academic freedom or SUNO’s educational mission.

The Title IX Coordinator shall receive notice of all reports of sexual misconduct received by any individual deemed a “Responsible Employee” under this policy. No employee (other than law enforcement) is authorized to investigate or resolve reports of sexual misconduct without the involvement of the Title IX Coordinator.

### **SUNO Title IX Coordinator**

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## **II. Notice of Nondiscrimination**

In compliance with Title IX of the Education Amendments of 1972, Title VI and VII of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, and other federal, state, and local laws, Southern University at New Orleans forbids discriminating or harassing conduct that is based on an individual's race, color, religion, sex, ethnicity, national origin or ancestry, age, physical or mental disability, sexual orientation, gender identity, gender expression, genetic information, veteran or military status, membership in Uniformed Services, and all other categories protected by applicable state and federal laws. This commitment applies but is not limited to decisions made with respect to hiring and promotion, the administration educational programs and policies, scholarship and loan programs, and athletic or other College administered programs. Discriminatory acts of any kind are strictly forbidden.

Any member of the Southern University at New Orleans community has the right to raise concerns or make a complaint regarding discrimination without fear of retaliation. Any and all inquiries regarding the application of this statement and related policies may be referred to: Yolanda Mims, Title IX Coordinator, at (504) 286 – 5357 or Evelyn Masters, Deputy Title IX Coordinator, at (504) 286 – 5118. Complaints may also be made via email at ymims@suno.edu, or emasters@suno.edu.

As set forth in our policies, individuals may also file complaints with administrative agencies such as the U.S. Department of Education, Office for Civil Rights. The contact information for the local office of OCR is (214) 661-9600 is at Office for Civil Rights, Dallas Office, U.S. Department of Education, 1999 Bryan Street, Suite 1620, Dallas, TX 75201-6810. The email address for OCR is OCR.Dallas@ed.gov.

## **III. Jurisdiction**

All students, faculty, staff, administrators, affiliates and others participating in SUNO programs and activities are subject to this policy. SUNO has jurisdiction over, and will respond to allegations of sexual misconduct occurring on campus premises, at SUNO affiliated activities

and/or where the misconduct involves students, faculty, staff, administrators, guests and visitors of this campus.

Reports of incidents of sexual misconduct committed by a student, faculty or staff at a location other than the SUNO campus and which affects the SUNO campus community are covered by this policy. Discipline for violations of this policy may include, but are not limited to, termination, expulsion and/or other appropriate institutional sanctions; and affiliates and program participants may be removed from SUNO programs and/or prevented from returning to campus.

#### **IV. Overview of Policy Expectations With Respect to Physical Sexual Misconduct**

In order for individuals to engage in sexual activity of any type with each other, there must be clear, knowing and voluntary consent prior to and during sexual activity. Consent is sexual permission. Consent must be a clear and sober “YES”. Non-verbal consent is not as clear as discussing what is or isn’t sexually permissible. Consent to some form of sexual activity cannot be automatically taken as consent to any other form of sexual activity. Silence—without actions demonstrating permission—cannot be assumed to show consent. Consent can also be withdrawn at any point during sexual activity. Additionally, there is a difference between seduction and coercion. Coercing someone into sexual activity violates this policy in the same way as physically forcing someone into sex. Coercion happens when someone is pressured unreasonably for sex.

Because alcohol or other drug use can place the capacity to consent into question, sober sex is less likely to raise such questions. When alcohol or other drugs are being used, a person will be considered unable to give valid consent if he/she cannot fully understand the details of a sexual interaction (who, what, when, where, why, how or how long) because he/she lacks the capacity to reasonably understand the situation. Individuals who consent to sex must be able to understand what they are doing. Anything but a clear, knowing and voluntary “YES” to any sexual activity is equivalent to a “No”.

#### **V. Overview of Policy Expectations With Respect to Consensual Relationships**

There are inherent risks in any romantic or sexual relationship between individuals in unequal positions of power (such as professor and student or supervisor and student employee). These relationships may be less consensual than perceived by the individual whose position confers power. The relationship also may be viewed in different ways by each of the parties, particularly in retrospect. Furthermore, circumstances may change, and conduct that was previously welcomed may become unwelcome. Even when both parties have consented at the outset to romantic or sexual involvement, this past consent may not remove grounds for a later charge of violation.

For the personal protection of members of this campus community, relationships in which power differentials are inherent (faculty-student, staff-student, or administrator-student, etc.) are generally discouraged. Consensual romantic or sexual relationships in which one party maintains a direct supervisory or evaluative role over the other party are unethical. Therefore, persons with direct supervisory or evaluative responsibilities who are involved in such relationships must bring those relationships to the timely attention of their supervisor, and will likely result in the necessity to remove the individual/employee from the supervisory or evaluative responsibility, or shift them out of being supervised or evaluated by someone with whom they have established a consensual relationship. While no relationships are prohibited by

this policy, failure to self-report such relationships to a supervisor as required can result in disciplinary action for an employee.

## VI. Definitions

**Allegation:** A statement by a Complainant that he/she believes an act of sexual misconduct has occurred.

**Bullying:** Typically is portrayed as aggressive behavior or intentional harm that is carried out repeatedly over time and occurs within an interpersonal relationship characterized by an imbalance of power. It often includes comments about race, color, national origin, sex, sexual orientation or disability and frequently involves an imbalance of power, aggression, and a negative repeated behavior.

**Coercion (Louisiana Board of Regents definition):** The use of express or implied threats, intimidation, or physical force which places an individual in fear of immediate harm or physical injury or causes a person to engage in unwelcome sexual activity. Coercion also includes administering a drug, intoxicant, or similar substance with the intent to impair that person's ability to consent prior to engaging in sexual activity.

**Complaint:** A formal grievance, either orally or in writing, of the belief that sexual misconduct has occurred.

**Complainant:** A person who believe they experienced sexual misconduct.

**Confidential Advisor:** Designated individuals who have been trained to aid a student involved in a sexual misconduct complaint resolution process serving as a confidential resource. As suggested by the term "confidential advisor," confidential communications with the advisor will be kept confidential in all circumstances except where the institution or advisor may be required to disclose the communications under state and federal laws. The University describes the duties of the Confidential Advisor to include:

- To inform both the complainant and respondent of the following:
  - The rights of the complainant and respondent under SUNO policies.
  - The complainant's reporting options, including the option to notify the Title IX Coordinator, the option to notify local law enforcement, and any other reporting options.
  - If reasonably known, the potential consequences of the reporting options.
  - The process of investigation, adjudication, and disciplinary proceedings of SUNO.
  - The limited jurisdiction, scope, and available sanctions of SUNO student disciplinary procedures, and that this process should not be considered a substitute for the criminal justice process.
  - Potential reasonable accommodations that SUNO may provide to complainant.
  - The name and location of the nearest medical facility where complainant may have a rape kit administered by an individual trained in sexual assault forensic medical

examination and evidence collection, and information on transportation options for a visit to such facility.

- To advise both the complainant and respondent of, and provide written information regarding, both the complainant and respondent's rights and SUNO's responsibilities regarding orders of protection, no-contact orders, restraining orders, or similar lawful orders issued by SUNO.

**Confidential Resource:** A resource that exists, on- campus and off-campus, to provide a safe space for individuals to discuss their options related to the sexual misconduct reporting and investigation protocol, learn about the resources available to them, and to discuss concerns before making any decisions on how to proceed. Individuals who consult with confidential resources are advised that their discussions are not considered reports of sexual misconduct and that without additional action by the individual, the discussions will not result in any action by the University to resolve their concerns. Unless there is imminent risk of serious harm, confidential resources cannot share any information without the consent of the individual sharing the information.

**Consent:** Consent must be clear, unambiguous, and a voluntary agreement between participants to engage in specific sexual activity. Consent is active, not passive, and is given by a clear and sober "YES". Consent shall also be defined as follows:

- **Louisiana Board of Regents definition:** Consent to engage in sexual activity must exist from beginning to end of each instance of sexual activity. Consent is demonstrated through mutually understandable words and/or actions that clearly indicate a willingness to engage in a specific sexual activity. Silence alone, without actions evidencing permission, does not demonstrate Consent. Consent must be knowing and voluntary. To give Consent, a person must be of legal age. Assent does not constitute Consent if obtained through coercion or from an individual whom the alleged offender knows or reasonably should know is incapacitated. The responsibility of obtaining Consent rests with the person initiating sexual activity. Use of alcohol or drugs does not diminish one's responsibility to obtain Consent. Consent to engage in sexual activity may be withdrawn by any person at any time. Once withdrawal of Consent has been expressed, the sexual activity must cease. Consent is automatically withdrawn by a person who is no longer capable of giving Consent. A current or previous consensual dating or sexual relationship between the persons involved does not itself imply Consent or preclude a finding of responsibility.

**Cyber-Bullying:** Cyber-bullying occurs when an individual is tormented, threatened, harassed, humiliated, embarrassed or otherwise targeted by another person using the Internet, interactive and digital technologies, or mobile phones. Those who are electronically engaged can be cyber-bullied at any time or location, making the effect of cyber-bullying ubiquitous and acute. Harassment, hazing and stalking often are used to encompass cyber-stalking or cyber-bullying

activities. The severity of the act and state law dictate what is criminal. Examples include flaming, harassment, hazing or stalking. The difference should be assessed through the: 1) kind of threat (e.g. name-calling, threat of harm, bomb, etc.); 2) frequency of threat (how often it occurs); and 3) source and nature of threats. Generally speaking, bullying is an on-going behavior. Hazing is often done once or twice during orientations or initiations, but may be more acute.

**Dating Violence (Clery Act definition):** Violence, including but not limited to sexual or physical abuse or the threat of such abuse, committed by a person who is or has been in a social relationship of a romantic or intimate nature with the Alleged Victim. The existence of such a relationship will be determined based on a consideration of the length and type of relationship and the frequency of interaction.

**Dating Violence (Louisiana State Law definition):** "Dating violence" includes but is not limited to physical or sexual abuse and any offense against the person as defined in the Criminal Code of Louisiana, except negligent injury and defamation, committed by one dating partner against the other. La. RS § 46.2151(C) For purposes of this Section, "dating partner" means any person 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:

- The length of the relationship,
- The type of relationship, and
- The frequency of interaction between the persons involved in the relationship.

**Domestic Abuse (Louisiana State Law definition):** Includes but is not limited to physical or sexual abuse and any offense against the person as defined in the Criminal Code of Louisiana, except negligent injury and defamation, committed by one family or household member against another. La. RS 46:2132(3)

**Domestic Violence (Clery Act definition):** Violence, including but not limited to sexual or physical abuse or the threat of such abuse, committed by a current or former spouse or intimate partner or any other person from whom the Alleged Victim is protected under federal or Louisiana law. Felony or misdemeanor crime 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 cohabiting with, or has cohabited 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 in which the crime of violence occurred; 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 in which the crime of violence occurred.

**Family Violence (Louisiana State Law definition):** means any assault, battery, or other physical abuse which occurs between family or household members, who reside together or who formerly resided together. La. RS § 46.2121.1(2)

**Force:** The use of physical violence and/or imposing on someone physically to gain sexual access. Force also includes threats, intimidation (implied threats) and coercion that overcomes resistance or produces consent. There is no requirement that a person has to resist the sexual advance or request, but resistance is a clear demonstration of non-consent. The presence of force is not demonstrated by the absence of resistance. Sexual activity that is forced is by definition non-consensual, but non-consensual sexual activity is not by definition forced.

**Gender-Based Harassment:** Acts of verbal, nonverbal, or physical aggression, intimidation, stalking, or hostility based on gender or gender-stereotyping constitute gender-based harassment. Gender-based harassment can occur if students are harassed either for exhibiting what is perceived as a stereotypical characteristic for their sex, or for failing to conform to stereotypical notions of masculinity or femininity. In order to constitute harassment, the conduct must be such that it has the effect of unreasonably interfering with an individual's academic performance or creating an intimidating, hostile, demeaning, or offensive academic or living environment.

**Gender Discrimination:** Unequal or disadvantageous treatment of an individual or group of individuals based on gender. Sexual harassment is a form of illegal gender discrimination.

**Incapacitation (Louisiana Board of Regents definition):** An individual is considered to be incapacitated if, by reason of mental or physical condition, the individual is manifestly unable to make a knowing and deliberate choice to engage in sexual activity. Being drunk or intoxicated can lead to Incapacitation; however, someone who is drunk or intoxicated is not necessarily incapacitated, as Incapacitation is a state beyond drunkenness or intoxication. Individuals who are asleep, unresponsive or unconscious are incapacitated. Other indicators that an individual may be Incapacitated include, but are not limited to, inability to communicate coherently, inability to dress/undress without assistance, inability to walk without assistance, slurred speech, loss of coordination, vomiting, or inability to perform other physical or cognitive tasks without assistance.

**Intimate Partner Violence (IPV):** Physical, sexual, or psychological harm by a current or former partner or spouse. This type of violence can occur in heterosexual or same-sex relationships, whether co-habiting or not, and does not require sexual intimacy. IPV can vary in frequency and severity, can occur on a continuum, and can include acts of physical violence,

sexual violence, threats of physical or sexual violence, or psychological or emotional violence. Psychological or emotional violence is a broad term that results in trauma to a victim caused by acts, threats of acts, or coercive tactics, and can include acts of humiliation, intimidation, isolation, stalking, and harassment.

**Intimidate:** To make timid, fill with fear; to overcome or cow, as through the force of personality or a superior display of strength which can control an individual's actions.

**Investigator:** The Title IX Coordinator, or his/her designee, is officially responsible for administrative investigations of all reports and/or allegations pertaining to a violation of this Gender-Based Sexual Misconduct Policy filed by students and employees.

**Rape:** Is forced sexual intercourse that is perpetrated against the will of the complainant or when he/she is unable to or incapable of giving consent (i.e. unconscious, asleep or under the influence of alcohol or drugs) and may involve physical violence, coercion, or the threat of harm to the Complainant. Rape is complete at the point of penetration no matter how slight that penetration.

**Report:** An informal notification that an incident of sexual misconduct may have occurred.

**Reporter:** A person who has information or who has reported that sexual misconduct may have been committed by a university student, employee or participant in a university program.

**Reproductive Coercion:** Explicit male behaviors to promote pregnancy (unwanted by a woman). Reproductive coercion can include "birth control sabotage" (e.g. interference with contraception) and/or "pregnancy coercion", such, as telling a woman not to use contraception and threatening to leave her if she doesn't get pregnant.

**Retaliation (Louisiana Board of Regents definition):** Acts or attempted acts for the purpose of interfering with any report, investigation, or proceeding under this policy, or as retribution or revenge against anyone who has reported sexual misconduct or relationship violence or who has participated (or is expected to participate) in any manner in an investigation, or proceeding under this policy. Prohibited retaliatory acts include, but are not limited to, intimidation, threats, coercion, or discrimination. Title IX prohibits Retaliation. For purposes of this policy, an attempt requires a substantial step towards committing a violation.

**Respondent:** The person whose actions are alleged to have violated this policy.

**Responsible Employee:** The Department of Education's Office of Civil Rights defines a responsible employee has an individual, (a) who has the authority to take action to redress sexual harassment/misconduct, (b) who has been given the duty of reporting incidents of sexual

harassment/misconduct or any other misconduct by students to the Title IX coordinator or other appropriate designee; or (c) who a student reasonably believes has this authority or duty.

**Sexual Assault:** Is engaging, or attempting to engage an individual in one or more of the following sexual actions with or directed against another person:

- Sexual penetration without the consent of the other person;
- Sexually explicit touching through the use of coercion or where the person is incapable of giving consent because of his/her temporary or permanent mental or physical incapacity; and/or
- Sexual penetration through the use of coercion or where the person is incapable of giving consent because of his/her temporary or permanent mental or physical incapacity.

Other definitions of sexual assault include:

- **Clery Act definition:** an offense that meets the definition of rape, fondling, incest, or statutory rape as used in the FBI's Uniform Crime Reporting program.
- **Louisiana State Law definition:**
  - **Non-Consensual Sexual Intercourse:** Having or attempting to have sexual intercourse, cunnilingus, or fellatio without Consent. Sexual intercourse is defined as anal or vaginal penetration by a penis, tongue, finger, or inanimate object.
  - **Non-Consensual Sexual Contact:** Any intentional sexual touching or attempted sexual touching, without Consent.

**Sexual Contact:** The deliberate touching of a person's intimate parts (including genitalia, groin, breast or buttocks, or clothing covering any of those areas), or using force to cause a person to touch his or her own or another person's intimate parts.

**Sexual Intercourse:** Means penetration (anal, oral or vaginal) by a penis, tongue, finger, or an inanimate object.

**Sexual Misconduct:** A sexual act or contact of a sexual nature that occurs, regardless of personal relationship, without the consent of the other person(s), or that occurs when the person(s) is unable to give consent or whose consent is coerced or obtained in a fraudulent manner. As defined by the Louisiana Board of Regents, Sexual Misconduct includes, but is not limited to, sexual assault, sexual abuse, violence of a sexual nature, sexual harassment, non-consensual sexual intercourse, sexual exploitation, video voyeurism, contact of a sexual nature with an object, or the obtaining, posting or disclosure of intimate descriptions, photos, or videos without the express consent of the persons depicted therein, as well as dating violence, domestic violence and stalking. Some examples of misconduct include:

- Pressure for a date or a romantic or intimate relationship;

- Unwelcome touching, kissing, hugging, or massaging;
- Pressure for or forced sexual activity;
- Unnecessary and unwelcome references to various parts of the body;
- Belittling remarks about a person's gender or belittling remarks about a person's sexual orientation based in gender-stereotyping;
- Inappropriate sexual innuendos or humor;
- Videotaping and photographing someone or people without consent;
- Obscene gestures of a sexual or gender-based nature;
- Offensive sexual graffiti, pictures, or posters;
- Sexually explicit profanity; and/or
- Use of e-mail, the Internet, or other forms of digital media to facilitate any of the above referenced behaviors.

Other examples of sexual misconduct may include the following:

- **Sexual Harassment (Louisiana Board of Regents definition)**  
Unwelcome conduct of a sexual nature when 1) submission to such conduct is made either explicitly or implicitly a term or condition of a person's employment or education; 2) submission to or rejection of such conduct by a person is used as the basis for a decision affecting that person's employment or education; or 3) such conduct has the purpose or effect of unreasonably interfering with a person's employment or education, or creating an intimidating, hostile, or offensive employment or educational environment, and has no legitimate relationship to the subject matter of a course or academic research. Sexual Harassment also includes non-sexual harassment or discrimination of a person because of the person's sex and/or gender, including harassment based on the person's nonconformity with gender stereotypes.
- **Non-Consensual Sexual Contact [or attempts to commit same]**  
Any intentional sexual touching, however slight, with any object by a man or woman upon a man or woman that is without consent and/or by force. Sexual contact includes intentional contact with the breast, buttocks, groin or genitals, or touching another with any of these body parts, or making another touch you or themselves with or on any of these body parts; any intentional bodily contact in a sexual manner, though not involving contact with or by breast, buttocks, groin, genitals, mouth or other orifice.
- **Non-Consensual Sexual Intercourse [or attempts to commit same]**  
Any sexual intercourse, however slight, with any object, by a man or woman upon a man or woman that is without consent and/or by force. Intercourse includes vaginal penetration by a penis, object, tongue or finger; anal penetration by a penis, object, tongue or finger and oral copulation (mouth to genital contact or genital to mouth contact), no matter how slight the penetration or contact.

- **Sexual Exploitation (Louisiana Board of Regents definition)**

An act attempted or committed by a person for sexual gratification, financial gain, or other advancement through the abuse or exploitation of another person's sexuality. Examples of sexual exploitation include, but are not limited to, non-consensual observation of individuals who are undressed or engaging in sexual acts, non-consensual audio or videotaping of sexual activity, prostituting another person, allowing others to observe a personal consensual sexual act without the knowledge or consent of all involved parties, and knowingly exposing an individual to a sexually transmitted infection without that individual's knowledge.

**Sexual Oriented Criminal Offense:** Any sexual assault offense as defined in La. R.S. 44:51 and any sexual abuse offense as defined in R.S. 14:403.

**Standard of Proof:** The Department of Education's Office of Civil Rights has interpreted Title IX to require institutions to evaluate evidence of alleged sexual misconduct under a "preponderance of the evidence" standard and that is the standard adopted by this policy. A preponderance of the evidence means that the information shows that it is "more likely than not" that the respondent violated this policy. In the context of a judicial hearing hereunder, the respondent will be found to be responsible for the alleged sexual misconduct if it concludes, by a unanimous vote, that such sexual misconduct more likely than not occurred based upon careful review of all information presented.

**Stalking:** Behavior where a person follows, places under surveillance, or contacts, another person without the consent of the other person for the purpose of harassing and intimidating the other person. The term "contact" means to make or attempt to make any communication, including, but not limited to, communication in person, by telephone, by mail, by broadcast, by computer or computer network, or by any other electronic device. "Harassing and intimidating" refers to communication directed at a person that causes emotional distress because of a reasonable fear for the person's safety or safety of others, and which serves no legitimate purpose. It does not require that an overt threat of death or bodily injury be made. Other definitions of stalking include:

- **Clery Act definition:** (1) Intentional and repeated following OR harassing that would cause a reasonable person to feel alarmed OR that would cause a reasonable person to suffer emotional distress; OR (2) Intentional and repeated uninvited presence at another person's: home, work place, school, or any other place which would cause a reasonable person to be alarmed OR would cause a reasonable person to suffer emotional distress as a result of verbal or behaviorally implied threats of death, bodily injury, sexual assault, kidnapping or any other statutory criminal act to the victim OR any member of the victim's family OR any person with whom the victim is acquainted. 34 CFR 668.46(a)(ii).

- **Louisiana State Law definition:** Stalking is the intentional and repeated following or harassing of another person that would cause a reasonable person to feel alarmed or to suffer emotional distress. Stalking shall include but not be limited to the intentional and repeated uninvited presence of the perpetrator at another person's home, workplace, school, or any place which would cause a reasonable person to be alarmed, or to suffer emotional distress as a result of verbal or behaviorally implied threats of death, bodily injury, sexual assault, kidnapping, or any other statutory criminal act to himself or any member of his family or any person with whom he is acquainted. La. RS § 14:40.2(A) "Harassing" means the repeated pattern of verbal communications or nonverbal behavior without invitation which includes but is not limited to making telephone calls, transmitting electronic mail, sending messages via a third party, or sending letters or pictures. "Pattern of conduct" means a series of acts over a period of time, however short, evidencing intent to inflict a continuity of emotional distress upon the person. Constitutionally protected activity is not included within the meaning of pattern of conduct. La. RS § 14:40.2(C)

**Student:** Any person currently or previously enrolled at the SUNO campus pursuing undergraduate, graduate or professional studies, whether full-time or part-time, and a person who is registered for a future semester.

**Title IX Coordinator:** The Title IX Coordinator is responsible for implementing and monitoring Title IX compliance efforts on behalf of SUNO. The Title IX Coordinator's role is to oversee SUNO's compliance with Title IX regulation and will:

- Serve as a resource for students wishing to report any acts of sexual misconduct or gender-based discrimination, i.e. violations of Title IX.
- Provide oversight for all Title IX activities and identify patterns, issues or problems regarding sexual misconduct complaints.
- Review and support the informational initiatives enabling students, staff, administrators and faculty to fully understand sexual violence and sexual harassment as forms of sexual discrimination and further educate the SUNO campus community about all related policies and procedures.
- Conduct all initial investigations of sexual misconduct complaints and issue written copy of findings.

**University Judicial Committee (Hearing Board):** This is an administrative body which, among other things, conducts hearings under this policy. It is comprised of students, faculty and staff.

**University Judicial Process:** Encompasses a series of actions and procedures administered by the SUNO Vice-Chancellor of Student Affairs which are designed to safeguard a student's right to due process. This process does not include the observance and/or application of state and/or federal rules of civil procedures.

**University Official:** Any person employed by SUNO, performing administrative or professional responsibilities.

## **VII. Institutional Requirements**

### **A. Campus Climate Survey**

SUNO will administer a campus climate survey annually to its students in accordance with Louisiana State Law and other applicable laws to adequately assess perceptions and behaviors of Sexual Misconduct on the campus.

### **B. Education and Prevention Programs**

SUNO is committed to offering educational programs to promote awareness and prevention of sexual misconduct. Educational programs will include an overview of the University's policies and procedures and information and education on topics that include, but are not limited to:

- i. Awareness Programs:** These programs seek to increase knowledge on sexual misconduct, sexual violence prevention, general safety, and the reduction of Sexual Misconduct.
- ii. Bystander Intervention:** Consists of providing safe and positive options to prevent harm or intervene when there is a risk of Sexual Misconduct. This also includes recognizing situations of potential harm, understanding institutional structures and cultural conditions that facilitate violence, overcoming barriers to intervening, identifying safe and effective intervention options, and taking action to intervene.
- iii. Ongoing Prevention and Awareness Campaigns:** Consists of programming, initiatives, and strategies that seek to increase understanding of topics relevant to, and skills for addressing Sexual Misconduct.
- iv. Prevention Programs:** These programs consist of strategies informed by research or assessed for value, effectiveness, or outcome that are intended to stop Sexual Misconduct through the promotion of positive and healthy behaviors that foster healthy, mutually respectful relationships and sexuality, encourage safe bystander intervention, and seek to change behavior and social norms in healthy and safe directions.
- v. Risk Reduction:** Consists of providing options that are designed to decrease perpetration and bystander inaction and to increase empowerment for victims to

promote safety and to help individuals and communities address conditions that facilitate violence.

As a part of SUNO's commitment to provide an education environment that is free from sexual misconduct, this Policy will be disseminated widely to the campus community via email communication, publications, websites, new student and employee orientations, and other appropriate channels of communication. The following campus units will aid in ensuring proper dissemination of relevant information to the campus community:

- Office of Vice-Chancellor of Student Affairs
- Office of Human Resources
- Residence Life and Housing
- Student Health Center
- University Counseling Center
- Office of Disability Services
- Office of Academic Affairs
- Office of Public Relations

### **C. Coordination with Law Enforcement**

SUNO will comply with SUNOPD (and other outside agencies) requests for cooperation and such cooperation may require SUNO to temporarily suspend its investigation while SUNOPD is in the process of gathering evidence. SUNO also works closely, when necessary, with outside agencies such as the New Orleans Police Department for assistance. SUNO will promptly resume its investigation as soon as notified by SUNOPD that it has completed the evidence gathering process. SUNO may provide up to 10 calendar days to allow for the criminal investigation prior to resuming the Title IX aspect of the investigation.

### **D. Sexual Assault Response Team/Title IX Compliance Team**

The Sexual Assault Response Team (SART), or Title IX Compliance Team is intended to coordinate campus and community resources to effectively respond to sexual assault incidents, collect evidence with sensitivity to the complainant and respondent, provide due process to the respondent, and provide the best possible care, when necessary, to involved parties. The SART is not an investigative or adjudicative body, but may be used in consultation by the Title IX Coordinator during investigations to ensure policies and procedures are being adhered to.

The SART includes representatives from a broad range of campus and community organizations concerned with the needs of sexual assault victims, including participation from the health care, counseling, housing and law



enforcement. The SART is coordinated by the Title IX Coordinator. The SART is comprised of the following areas:

- Title IX Coordinator
- Southern University at New Orleans Police Department
- Office of Vice-Chancellor of Student Affairs
- Office of Human Resources
- Residence Life and Housing
- Student Health Center
- University Counseling Center
- Office of Disability Services
- Office of Academic Affairs
- Department of Athletes

Representatives from the Sexual Trauma Awareness & Response (STAR) Center and the New Orleans Police Department are also available to provide opportunities for community support. These units will provide support to campus procedures but are not active members of the SART.

## **VIII. Freedom of Speech**

SUNO supports an individual's right to freedom of speech as guaranteed by the First Amendment to the United States Constitution. The intent of this Policy is to protect all members of the SUNO campus community as well as any guest, visitor or other interested party, not to regulate protected speech. SUNO will ensure that its policies and procedures relative to sexual misconduct do not infringe on any form of speech or conduct that is protected by the First Amendment.

## **IX. Reporting Sexual Misconduct**

### **A. Right to Refuse**

A complainant can choose whether or not to report an incident of sexual misconduct. SUNO allows complainants to file both informal and formal complaints against the respondent. If the complainant chooses to file an informal complaint, the complainant will be notified of the right to end the informal process at any time and the right to pursue a formal complaint and/or take legal action.

### **B. Filing a Formal Complaint**

Any member of the SUNO campus community, guest, visitor or other interested party may make a report of an alleged violation of this policy. Formal complaints must be in writing and it is suggested for the preservation of evidence that they be submitted within

one hundred and twenty (120) calendar days following the date of the alleged incident of sexual misconduct. Formal complaints submitted after 120 calendar days will still be investigated. While SUNO is firmly committed to protecting all members of the campus community from sexual misconduct, failure to file a timely complaint may adversely affect the ability of SUNO to take appropriate actions under this policy.

Formal complaints must be submitted in person or a complainant or reporter can call to make arrangements for a representative to meet with them at another location. Individuals that are unable to file a written complaint and would like to make a verbal complaint can call a designated reporting location, but in order for a complaint to be official it must be in writing.

### **C. Responsible Employee**

A Responsible Employee must promptly notify the Title IX Coordinator of any report of sexual misconduct brought to their attention, including campus law enforcement. The Title IX Coordinator works collaboratively with the reporting entity, making every effort to operate with discretion and maintain privacy of the individuals involved. Responsible Employees for SUNO are as follows:

- Members of the Board of Supervisors
- President-Chancellor
- Vice Presidents and Vice Chancellors
- Assistant/Associate Vice Presidents and Assistant/Associate Vice Chancellors
- Title IX Coordinators/Deputy Coordinators
- Campus Police
- Human Resources Directors and Staff
- Residential Life and Housing Directors and Staff (including RAs)
- Deans and Assistant/Associate Deans
- Departmental Directors, Assistant/Associate Directors, and Coordinators
- Athletics Administrators, Staff, Coaches, and Assistant Coaches
- Academic Department Chairs and Assistant/Associate Chairs
- Academic Faculty (full-time and part-time)
- Faculty/Staff Leading or Chaperoning Travel
- Faculty/Staff Advisers to Student Organizations

### **D. Confidentiality and Privacy**

An individual may make a request for confidentiality at any point during the investigation process. This type of request typically means that a complainant, reporter, or witness does not want his/her identity known to other individuals involved in the investigation or to other members of the campus community. SUNO is required to weigh requests for confidentiality within its commitment to provide a reasonably safe and non-discriminatory

environment. If at any point an individual requests privacy during an investigation, SUNO will make all reasonable attempts to comply with this request, but such requests limit SUNO's ability to investigate and properly adjudicate any allegations.

In all investigations, the identities of all involved parties will only be revealed to University Officials who need to know as an official part of the investigation. When a report or formal complaint is filed, all parties who are named in the investigation, will be notified of SUNO's expectation of confidentiality and privacy. SUNO will make all reasonable efforts to maintain the confidentiality and privacy of parties involved in sexual misconduct investigations and hearings. Breaches of confidentiality and privacy against involved parties may warrant a separate misconduct hearing.

In the event that a complainant requests confidentiality or asks that a formal complaint of sexual misconduct not be pursued, Title IX Coordinator will, generally before taking any further investigative steps, forward that information, along with all available information about the complaint, to the SART for review. The SART represents the interests of the University, law enforcement, survivors of sexual misconduct, persons accused of sexual misconduct, and/or other offices as deemed necessary and appropriate under the circumstances.

## **E. Confidential Resources**

If a person desires to keep an incident of sexual misconduct confidential, they should speak with individuals who have professional or legal obligations to keep communications confidential. When seeking advice and support, person should always consider whether they want to discuss their concerns with a confidential resource. Unless there is an imminent threat to health or safety or other basis for disclosure, confidentiality applies when persons seek services from the following on campus resources:

- **Student Development Counseling Center** – (504) 286-5360  
218 Bashful Adm Bldg  
6400 Press Drive  
New Orleans, LA 70126
- **Student Health Services** – (504) 286-5374  
210 University Conference Center  
6400 Press Drive  
New Orleans, LA 70126

Disclosures or reports made to any other entities except those listed above are NOT confidential. For example, incidents of sexual misconduct discussed with a supervisor, resident assistant, coach, staff, or faculty member, and those persons are "Responsible

Employees” and, as such, are obligated pursuant to this policy to report sexual misconduct to the Title IX Coordinator.

## **F. Reporting**

SUNO’s primary concern is with the health, safety, and well-being of its students and the University community. Members of the University community who have experienced any form of sexual misconduct are urged to seek immediate assistance. Complainants or reporters are encouraged to speak to any Responsible Employee to make reports of incidents. Notice to them is official notice to the University. These individuals will inform the Title IX Coordinator of the incident. Complainants have the right and can expect to have incidents of sexual misconduct taken seriously by the University when reported, and to have those incidents investigated and properly resolved through appropriate administrative procedures. Only people who need to know will be told and information will be shared only as necessary with investigators, SART members, hearing board members, administrators, witnesses and the respondent. In addition to Responsible Employees, individuals that seek to report incidents of sexual misconduct may also note the following:

- a. Direct assistance in reporting incidents of sexual misconduct by students, faculty, staff, and third parties can be obtained by contacting the following departments:

**SUNO Title IX Coordinator**

6400 Press Dr  
New Orleans, LA 70126  
Phone: 504-286-5357  
Email: [ymims@suno.edu](mailto:ymims@suno.edu)

**Office of Vice-Chancellor of Student Affairs**

6400 Press Dr  
New Orleans, LA 70126  
Phone: 504-286-5015  
Email: [dgrant@suno.edu](mailto:dgrant@suno.edu)

**Office of Human Resources**

6400 Press Dr  
New Orleans, LA 70126  
Phone: 504-286-5118  
Email: [emasters@suno.edu](mailto:emasters@suno.edu)

**Office of Student Conduct**

6400 Press Dr  
New Orleans, LA 70126  
Phone: 504-286-5388  
Email: [gbrooks@suno.edu](mailto:gbrooks@suno.edu)

**Office of Athletics**

6400 Press Dr  
New Orleans, LA 70126

Phone: 504-286-5103  
Email: pbentley@suno.edu

**Office of Residential Life and Housing**

6400 Press Dr  
New Orleans, LA 70126  
Phone: 504-286-5395

b. Sexual misconduct, particularly sexual violence, may be a crime. SUNO will assist complainants who wish to report sexual misconduct to the Southern University at New Orleans Police Department. Representatives of the Office of Vice-Chancellor of Student Affairs, the Office of Human Resources, and the Office of Athletics are available to assist students in reporting to SUNOPD. SUNOPD will also assist complainants in notifying other law enforcement authorities in other jurisdictions, as appropriate.

- Southern University at New Orleans Police Department (24 hours)  
Phone: (504) 286 - 5290  
Email: badams@suno.edu

c. Incidents of sexual misconduct may also be reported confidentially to the following Confidential Advisers:

- **Director, Student Development Counseling Center**

218 Bashful Adm Bldg  
6400 Press Drive  
New Orleans, LA 70126  
(504) 286-5360

- **Director, Student Health Services**

210 University Conference Center  
6400 Press Drive  
New Orleans, LA 70126  
(504) 286-5374

- **Director, Office of Disability Services**

114 University Conference Center  
6400 Press Drive  
New Orleans, LA 70126  
(504) 286-5357

A Confidential Advisor is not obligated to report incidents of sexual misconduct to the Title IX Coordinator or law enforcement in a way that identifies a complainant or respondent, unless otherwise required to do so by law. The Confidential Advisor shall, to the extent authorized under law, provide confidential services to students.

**G. Interim Measures**

- Any time after becoming aware of a complaint, the Title IX Coordinator may recommend that interim protections or remedies from the parties involved or witnesses be provided. Interim measures included, but are not limited to:
- Access to on-campus counseling services and assistance in setting up initial appointments
- Imposition of a campus “No-Contact” Directive
- Rescheduling of exams and assignments
- Providing alternative course completion options
- Change in class schedule, including the ability to drop a course without penalty or to transfer sections
- Change in work schedule or job assignment
- Change in student’s campus housing and dining options
- Assistance from University support staff in completing housing relocation
- Limiting access to certain University facilities or activities pending resolution of the matter
- Voluntary leave of absence
- Arranging for medical services
- Providing academic support services, such as tutoring
- Emergency (Interim) Suspension

## **H. The Complaint Process**

- Formal complaints are investigated by the Title IX Coordinator or a designee. Following an initial investigation, a preliminary meeting will be held with the respondent to review the complaint and other information gathered. The respondent will be provided with a written notification of the formal investigation or and a copy of the Sexual Misconduct Policy by the Title IX Coordinator or his/her designee.
- As a part of the investigation process, the disclosure of facts to all involved parties will be limited to what is reasonably necessary to conduct a fair and thorough investigation. All participants will be advised that maintaining confidentiality is essential to protect the integrity of the investigation.
- All involved parties may have an advisor present throughout the investigation and adjudication process.
- At any time during the investigation, the Title IX Coordinator may recommend that interim protections or remedies for any involved party.
- The investigation shall be completed as promptly as possible and in most cases, within sixty (60) business days of the date that the formal complaint was filed.

- After the completion of the investigation, the Title IX Coordinator will prepare a written report. The written report will include a statement of the allegations and issues, the positions of the involved parties, and a summary of the evidence.
- If the investigation involves allegations of student-on-student sexual misconduct, and the investigation results in a finding that this policy has been violated, the file will be forwarded to the Office of Vice-Chancellor of Student Affairs and the complaint will be adjudicated as outlined in the Student Code of Conduct and Student Judicial System and Procedures. The University Judicial Committee will make a determination of responsibility based on the Student Code of Conduct.
- If the investigation involves allegations of sexual misconduct where an employee is the respondent, and the investigation results yield a finding that this policy has been violated, the file will be forwarded to the Office of Human Resources where the procedures outlined in the Personnel Handbook will be followed. The determination of responsibility will be determined by the guidelines of the aforementioned Handbook.
- At the conclusion of the adjudication process, within 2 business days, the Office of Vice-Chancellor of Student Affairs or the Office of Human Resources will provide written notification to the Title IX Coordinator of what action, if any has been taken.
- The outcome of a sexual misconduct investigation and adjudication will become a part of the educational/personnel record of the respondent, and is protected from release under federal law (FERPA), and SUNO's confidentiality of records policies. Both the complainant and respondent will be informed by the Title IX Coordinator of the outcome and essential findings and sanctions of the Office of Vice-Chancellor of Student Affairs or the Office of Human Resources, in writing, without conditions or limitations.
- The outcome of sexual misconduct investigation may be appealed in accordance with the appeals guidelines of the Student Code of Conduct and Handbook of University Personnel. For an appeal to be valid it must be based on at least one of the following criteria:
  - There was a procedural error in the operation of the University judicial process that was substantial enough to have effectively denied the individual a fair hearing.
  - There is availability of new and significant evidence that was not available during the initial hearing process in spite of diligent efforts to collect such information.

- There was a lack of substantial information presented during the hearing process to support the decision on responsibility for a violation.

## **X. Other Information**

### **A. Formal Resolution Procedures for Complaints**

#### **1. Complaints Against Employee**

Sexual misconduct complaints filed by students against employees of SUNO will follow procedures outlined in the Personnel Handbook. A hard copy of this document can be obtained from the Office of Human Resources on the SUNO campus.

#### **2. Complaints Against Students**

- Sexual misconduct complaints filed by students against student will follow procedures outlined in the Student Code of Conduct and the Student Judicial System. In addition to the provisions referenced in both documents, note the following:
  - Complainants and respondents have the right to have an Advisor of his/her choice present during the University judicial process. An Advisor may provide support and advice but not actively participate in the hearing. Attorneys may act as Advisers, but may not argue a case or attempt to introduce legal procedures.
  - Hearings conducted by the University Judicial Committee will be closed to the public. SUNO reserves the right to review individuals attending hearings based on their involvement with the incident. All information presented during these proceedings is confidential and will only be released if subpoenaed or with the complainant's or respondent's permission.
  - Oral and/or written statements may be considered and will be weighed as deemed appropriate. Complainants and/or respondents are responsible for ensuring witnesses or documents are available at the time of a hearing.
  - Respondents will be afforded an opportunity to hear and respond to all information presented against them.



- The determination of responsibility for violating this policy, the Student Code of Conduct, any other University policies will be based on the standard of a preponderance of the evidence presented at the University judicial hearing.

## **B. Range of Sanctions**

### **1. Employee Sanctions**

Sexual misconduct complaints filed by students against employees of SUNO will follow procedures outlined in the Personnel Handbook. A hard copy of this document can be obtained from the Office of Human Resources on the SUNO campus.

### **2. Student Sanctions**

The following sanctions comprise a range of official actions that may be imposed for violation of this policy by individuals or groups based on the Student Code of Conduct. One or more sanctions may be imposed at the discretion of the University Judicial Committee in an effort to promote behavioral change. Sanctions attempt to teach alternative behaviors; increase personal and social skills; increase a student's awareness of obligations to others; demonstrate implications of actions; and explain the rationale behind regulations. This list does not limit the actions available and is not inclusive of all possible actions that could be taken as a result of a violation of this policy based on the Student Code of Conduct. Students found responsible for violations will receive a minimum disciplinary warning with expulsion being the maximum sanction.

- a. Disciplinary Warning:** This action is taken when the individual's conduct or involvement merits an official admonition that can be either verbal or written. The student is warned that further misconduct may result in more severe disciplinary action. A disciplinary warning is intended to promote reflection on the decisions and behavior leading up to a violation and promotes an increased awareness of SUNO's behavioral expectations.
- b. Disciplinary Probation:** An indication to a student that his/her behavior has resulted in a sanction extremely close to suspension. It is imposed for a definite period of time. Any further misconduct while on disciplinary probation will usually result in suspension from SUNO.
- c. Residence Hall Reassignment or Removal:** This action is an involuntary reassignment to another residence hall or removal from on-campus housing altogether for a designated period of time and may include restricted visitation privileges. Usually, a student is given forty-

eight (48) hours to remove all belongings from an assigned space and reimbursement of room charges will be based on SUNO's refund schedule for removals. This sanction is imposed to protect the welfare of a residence hall or floor community, and students having this sanction imposed should reflect on the behaviors necessary for an individual to be part of a residential community by respecting others, and developing critical thinking skills and mature decision-making skills.

- d. Restriction of Privileges:** This action consists of an effort to assist students in developing an awareness of the responsibilities that go along with privileges and increase an awareness of appropriate behavior and how decisions impact themselves and others. Under this sanction, students may be restricted from entering certain buildings, attending certain events or using specific programs due to their behavior. Residence hall students may have their visitation privileges restricted or revoked for a certain time period, or holding office in organizations or other privileges can also be included under this sanction as deemed appropriate by the Office of Vice-Chancellor of Student Affairs based on the incident.
- e. Suspension of Group Recognition:** This action consists of the withdrawal of all or part of the official recognition of a group for a stated period of time and will include conditions for reinstatement of recognition. This sanction is intended to assist groups in developing a stronger sense of the responsibilities that go along with the privileges of SUNO recognition and commitment to be a positive part of the campus community.
- f. Revocation of Group Recognition:** This action is permanent cancellation of the official SUNO recognition and privileges of a group found in violation of this policy.
- g. Restitution Fines:** A student or organization may be required to make payment to SUNO or to another specified person(s) or group(s) for damages incurred as a result of a violations of this policy. Restitution fines may be imposed by SUNO in addition to any other sanction to promote responsibility for actions and an awareness of the consequences of behavior.
- h. Restitution Service:** As part of the sanctioning process, students can be required to perform service to assist in developing increased awareness of the impact of their decisions and strengthen critical thinking abilities to

identify appropriate behavior. These services can include performing assigned duties, sponsoring programs, etc.

- i. **Educational Activity:** A student or organization may be required to complete an educational activity or project relating to a violation of this policy to assist in their developing increased awareness of the impact of their decisions, strengthen critical thinking abilities to identify appropriate behavior, and develop an increased sense of responsibility, integrity and civility.
- j. **Registration Hold:** A hold may be placed on a student's registration if the student has failed to complete a sanction or withdraws prior to official resolution of a complaint. Holds are intended to be temporary until the sanction is complete. Registration holds may also be used during periods of interim suspension, suspension or expulsion.
- k. **Disciplinary Suspension:** This action is an involuntary separation of a respondent from SUNO for a designated period of time after which he/she is eligible to return. The Office of Vice-Chancellor of Student Affairs may establish requirements for reinstatement, which must be fulfilled to his/her satisfaction. The respondent may not participate in any SUNO sponsored activity and may be barred from SUNO premises during the suspension period. Reimbursement of charges or fees for students removed from the campus due to sexual misconduct will follow the University's official refund schedule for withdrawals. This action is designed to protect members of the SUNO campus community and their property, promote critical thinking and mature decision-making skills, and promote self-reflection on behavior and the impact it has had on the respondent and others.
- l. **Disciplinary Expulsion:** The action entails involuntary and permanent separation from SUNO. The respondent will be barred from all campuses activities within the Southern University System and property following expulsion. Reimbursement of charges or fees for students removed from campus due to sexual misconduct will follow the official refund schedule for withdrawals.

## C. Special Complaint Process Provisions

- 1. **Attempted violations:** In most circumstances, SUNO will treat attempts to commit any of the violations listed in this policy as if those attempts had been completed.

- 2. Title IX Coordinator as Complainant:** If the complainant does not wish to file a formal complaint, then, as necessary, the Title IX Coordinator reserves the right to initiate a complaint, to serve as a complainant and to initiate the University Judicial Process without a formal complaint being made by the actual complainant.
- 3. Immunity for Complainants and Witnesses:** SUNO encourages the reporting of sexual misconduct violations and crimes. Sometimes, individuals are hesitant to report an incident to a Responsible Employee or to participate in the University Judicial Process because they fear that they themselves may be accused of policy violations, such as underage drinking at the time of the incident. It is in the best interests of this campus community that as many victims as possible choose to report to Responsible Employees, and that witnesses come forward to share what they know. To encourage reporting, SUNO pursues a policy of assisting victims of crimes and witnesses. Limited immunity is provided from specific policy violations related to the incident.
- 4. Bystander Engagement:** Welfare of members of the SUNO campus community is of paramount importance. At times, members of the campus community on and off campus may need assistance. SUNO encourages members to offer help and assistance to others in need. Sometimes, members are hesitant to offer assistance to others, for fear that they may get themselves in trouble (for example, as a student who is underage and has been drinking might hesitate to help take a sexual misconduct victim to the Southern University at New Orleans Police Department. SUNO will pursue a policy of limited immunity for members who offer help to others in need.
- 5. Parental Notification for Students:** SUNO's primary relationship is with the student and not the parent. It reserves the right to notify parents/guardians of dependent students regarding any health or safety risk, and alcohol and other drug violations. Additionally, the University will directly inform parents when requested to do so by a student, in a life-threatening situation or if a student has signed a permission form that allows such communication. SUNO also reserves the right to designate which University official may have a need to know about individual conduct complaints pursuant to the Family Educational Rights and Privacy Act (FERPA).
- 6. FERPA Waivers for students:** Southern University at New Orleans complies with the Family Educational Rights and Privacy Act of 1974. The act informs students of restrictions imposed by the federal government on the release and

disclosure of information relative to students' education records without the written consent of students.

- 7. Alternative Testimony Options:** For sexual misconduct complaints, and other complaints of a sensitive nature, whether the alleged victim is serving as the complainant or as a witness, alternative testimony options will be given, such as placing a privacy screen in the hearing room or allowing the alleged victim to testify outside the physical presence of the accused individual, such as in another room or by electronic means such as videoconferencing. While these options are intended to help make the alleged victim more comfortable, they are not intended to work to the disadvantage of the respondent.
  
- 8. Past Sexual History/Character:** The past sexual history or sexual character of a party will not be admissible by the other party in the investigation or University judicial process unless such information is determined to be highly relevant. All such information sought to be admitted will be presumed irrelevant, and any request to overcome this presumption by the parties must be included in the complaint/response or a subsequent written request, and must be reviewed in advance by the Title IX Coordinator. While previous conduct violations by the complainant or respondent are not generally admissible as information in determining responsibility for the present alleged violation, the Title IX Coordinator may supply previous complaint information to be considered in sanctioning or may consider it himself/herself only if:
  - The respondent was previously found to be responsible;
  - The previous incident was substantially similar to the present allegation; and/or
  - Information indicates a pattern of behavior and substantial conformity with that pattern by the respondent.

#### **D. False Reports**

SUNO will not tolerate intentional false reporting of incidents. It is a violation of SUNO university policies and Student Code of Conduct to make an intentionally false report of any policy violation and it may also violate Louisiana criminal statutes and civil defamation laws. Individuals that knowingly file false reports will be subject to disciplinary action as outlined in University policies.

#### **E. Support Services**

The following resources are available to complainants and respondents at SUNO for local advocacy, counseling, health and mental health services. Services offered on campus are:

- **Director, Student Development Counseling Center**  
218 Bashful Adm Bldg  
6400 Press Drive  
New Orleans, LA 70126  
(504) 286-5360
- **Director, Student Health Services**  
210 University Conference Center  
6400 Press Drive  
New Orleans, LA 70126  
(504) 286-5374
- **Director, Office of Disability Services**  
114 University Conference Center  
6400 Press Drive  
New Orleans, LA 70126  
(504) 286-5357

These support services are available complainants and respondents regardless of whether an incident is formally reported.

#### **F. Transfer Procedures**

If the respondent in a sexual misconduct investigation seeks to transfer to another institution during an investigation, the SUNO will withhold the student's transcript until the investigation or adjudication is complete and a final decision has been rendered. SUNO will inform the respondent of the institution's obligation to withhold the transcript during the investigation. If the student is found responsible for sexual misconduct and seeks to transfer to another institution, SUNO to communicate the violation, when it becomes aware of the student's attempt to transfer, with the institution(s) to which the student seeks to transfer.

#### **G. Retention of Records**

The Title IX Coordinator is responsible for maintaining records relating to sexual misconduct reports, investigations and resolutions. All written records associated with the resolution of a complaint pertaining to the formal investigation will be maintained in accordance with all pertinent SUNO policies and procedures.

#### **H. Amnesty**

While SUNO does not condone underage drinking or violation of any other policies, it considers reporting sexual assault and sexual misconduct to be of paramount importance. To encourage reporting and adjudication of sexual assault and misconduct,

SUNO will extend limited amnesty to students who have been the victim of sexual misconduct. SUNO will generally not seek to hold the student responsible for his/her own violations of the law (e.g. underage drinking), or of the SUNO policies and Student Code of Conduct in which he or she may have been involved during the period immediately surrounding the sexual misconduct.

## **I. Retaliation**

Retaliation against a reporter, complainant, respondent or any individual that assists SUNO an investigation of sexual misconduct is prohibited. There will be no retaliation against those who report or assist the SUNO campus in the investigation of a complaint. Retaliation against individuals involved in a sexual misconduct investigation may warrant a separate investigation may result in disciplinary action including, but not limited to, termination or expulsion.

## **APPENDIX A**

### **COMPLAINANT'S STATEMENT OF RIGHTS**

- The right to an investigation and appropriate resolution of all credible complaints of sexual misconduct made in good faith;
- The right to be treated with respect by University officials;
- The right of both the complainant and respondent to have the same opportunity to have others present (in support or advisory roles) during the University judicial process;
- The right not to be discouraged by University officials from reporting sexual misconduct offenses to both on-campus and off-campus authorities;
- The right to be informed of the outcome and any sanctions imposed as the result of a University judicial hearing involving a sexual misconduct offense, usually within forty-eight (48) hours of the end of that hearing;
- The right to be informed by University officials of options to notify proper law enforcement authorities, including on-campus and local police, if the student so chooses. This also includes the right not to report;
- The right to be notified of available counseling, mental health or student services both on campus and in the community;
- The right to notification of and options and assistance for changing academic and living situations after an alleged sexual misconduct incident if such changes are reasonably available. (No formal complaint, or investigation, campus or criminal, need occur before this option is available.)
- The right not to have irrelevant prior sexual history admitted as evidence in the University judicial process;
- The right to make an Impact Statement at the University judicial hearing and to have that statement considered in determining a sanction;
- The right to a campus no-contact order against another student who has engaged in or threatens to engage in stalking, threatening, harassing or other improper behavior that presents a danger to the welfare of the complaining student or others;
- The right to appeal the (finding and) sanctions imposed by the SUNO Office of Vice-Chancellor of Student Affairs, in accordance with the standards for appeal established by the institution;
- The right to review all documentary evidence available regarding the complaint, subject to the privacy limitations imposed by state and federal law, at least forty-eight (48) hours prior to the University judicial hearing;
- The right to be informed of the names of all witnesses who will be called to give testimony, usually within forty-eight (48) hours of the University judicial hearing, except in cases where a witness's identity will not be revealed to the respondent for compelling safety reasons (this does not include the name of the alleged complainant, which will always be revealed);
- The right to preservation of privacy, to the extent possible and allowed by law; • The right to a hearing closed to the public;
- The right to petition that any member of the Hearing Board be removed on the basis of demonstrated bias;
- The right to bring a victim advocate or adviser to all phases of the investigation and University judicial process;
- The right to give testimony in the University judicial hearing by means other than being in the same room with the respondent;
- The right to ask the investigator(s) to identify and question relevant witnesses, including expert witnesses;



- The right to be fully informed of the University judicial process rules and procedures, as well as the nature and extent of all alleged violations contained within the complaint;
- The right to have the University request the presence of student, faculty and staff witnesses, and the opportunity (if desired) to ask questions, directly or indirectly, of witnesses (including the respondent) and the right to challenge documentary evidence;
- The right to be present for all testimony given and evidence presented before the Hearing Board;
- The right to have complaints heard by the Hearing Board members and appeal officers who have received annual sexual misconduct training;
- The right to have a Hearing Board comprised of representatives of both genders;
- The right to have University policies and procedures followed without material deviation;
- The right to be informed in advance of any public release of information regarding the complaint if possible; and
- The right not to have released to the public any personally identifiable information, without his or her consent.

## **APPENDIX B**

### **RESPONDENT'S STATEMENT OF RIGHTS**

- The right to an investigation and appropriate resolution of all credible complaints of sexual misconduct made in good faith;
- The right to be treated with respect by University officials;
- The right to be informed of, and have access to, campus resources for medical, counseling and advisory services;
- The right to be fully informed of the nature, rules and procedures of the University judicial hearing process and to timely receive written notice of all alleged violations within the complaint, including the nature of the violation and possible sanctions;
- The right to a hearing on the complaint, including timely notice of the hearing date, and adequate time for preparation;
- The right not to have irrelevant prior sexual history admitted as evidence in the University judicial process;
- The right to make an Impact Statement during the University judicial process hearing and to have that statement considered in determining a sanction;
- The right to appeal the finding and sanction of the Hearing Board, in accordance with the standards for appeal established by SUNO;
- The right to review all documentary evidence available regarding the complaint, subject to the privacy limitations imposed by state and federal law, usually within forty-eight (48) hours prior to the University judicial process hearing;
- The right to be informed of the names of all witnesses who will be called to give testimony, usually within forty-eight (48) hours of the University judicial process hearing, except in cases where a witness's identity will not be revealed to the Respondent for compelling safety reasons (this does not include the name of the Complainant/victim, which will always be revealed);
- The right to a hearing closed to the public;
- The right to petition that any member of the Hearing Board be removed on the basis of bias;
- The right to have the Hearing Board request the presence of student, faculty and staff witnesses, and the opportunity to ask questions, directly or indirectly, of witnesses and the right to challenge documentary evidence;
- The right to have complaints heard and/or appealed by individuals who have received annual sexual misconduct adjudication training;
- The right to have SUNO policies and procedures followed without material deviation;
- The right to have an adviser or advocate accompany and assist in the University judicial process. This advisor can be anyone but the adviser may not take part directly in the hearing itself, though he/she may communicate with the Respondent as necessary;
- The right to a fundamentally fair hearing, as defined by SUNO policies and procedures;
- The right to an outcome based solely on evidence presented during the University judicial process hearing. Such evidence shall be credible, relevant, based in fact, and without prejudice;
- The right to written notice of the outcome and sanction of the Hearing Board;
- The right to have the Hearing Board comprised of representatives of both genders; and
- The right to be informed, in advance when possible, of any public release of information regarding the complaint.

## APPENDIX C

### FREQUENTLY ASKED QUESTIONS ABOUT THE GENDER-BASED/SEXUAL MISCONDUCT POLICY (TITLE IX)

Some of the most commonly asked questions regarding a Gender-Based/Sexual Misconduct Policy and procedures are summarized below:

- ❖ ***Does information about a complaint remain private?***  
The privacy of all parties to a complaint of sexual misconduct must be respected, except insofar as it interferes with SUNO's obligation to fully investigate allegations of sexual misconduct. Where privacy is not strictly kept, it will still be tightly controlled on a need-to-know basis. Dissemination of information and/or written materials to persons not involved in the complaint procedure is not permitted. Violations of the privacy of the Complainant/victim or the Respondent may lead to action by SUNO as it can be viewed as a form of retaliation if being done to malign or impinge a person's character.
- ❖ ***Will my parents be told?***  
No, not unless you tell them. Whether you are the Complainant/victim or the Respondent, SUNO's disciplinary relationship is with the student and not his/her parent(s). University officials will directly inform parents when requested to do so by a student, in a life-threatening situation or if a student has signed a permission form that allows such communication.
- ❖ ***Will the Respondent know my identity?***  
Yes, if you file a formal complaint. Sexual misconduct is a serious offense and the Respondent has a right to know the identity of the Complainant/victim. If there is a hearing, SUNO does provide options for questioning without confrontation, including using a room divider or using separate hearing rooms.
- ❖ ***Do I have to name the perpetrator?***  
Yes, if you want formal disciplinary action to be taken against the alleged perpetrator. Complainants should be aware that not identifying the perpetrator may limit the institution's ability to respond comprehensively but will result in an investigation based on the information provided.
- ❖ ***What do I do if I am accused of sexual misconduct?***  
DO NOT contact the complainant. You may contact the Title IX Coordinator who can explain SUNO's procedures for addressing sexual misconduct complaints. As a respondent, you will be contacted for an interview by the Title IX Coordinator or his/her designee. You may ask any question you have during this interview. You may also want to talk to a Confidential Advisor or seek other community assistance.
- ❖ ***Will I (as a Complainant/victim) have to pay for counseling/medical care?***  
Not typically, if SUNO provides these services already.
- ❖ ***What about legal advice?***  
Complainants/victims of criminal sexual misconduct need not retain a private attorney to pursue prosecution because representation will be handled by the Orleans Parish District Attorney's Office. You may want to retain an attorney if you are the Respondent or are

considering filing a civil action. Respondents may retain counsel at their own expense if they determine that they need legal advice about criminal prosecution and/or the University judicial process.

❖ ***What about changing residence hall rooms?***

If you want to move, you may request a room change. Room changes under these circumstances are considered emergencies. It is typical institutional policy that in emergency room changes, the student is moved to the first available and suitable room. If you want the respondent to move, and believe that you have been the victim of sexual misconduct, you must be willing to pursue a formal University complaint. No-Contact Directive can be imposed and temporary room changes for the accused student can usually be arranged quickly. Room changes can be accommodated if space is available.

❖ ***What should I do about preserving evidence of a sexual assault?***

Police are in the best position to secure evidence of a crime. Physical evidence of sexual misconduct must be collected from the Complainant/victim's person within one hundred and twenty (120) hours of the alleged incident, although evidence can often be obtained from towels, sheets, clothes, etc., for much longer periods of time. If you believe you have been a victim of a sexual misconduct, you should go to a hospital emergency room before washing yourself or your clothing.

If a Complainant/victim goes to the hospital, local police will be called, but the victim is not obligated to talk to the police or to pursue prosecution. Having the evidence collected in this manner will help to keep all options available to a victim, but will not obligate him or her to take any course of action. Collecting evidence can assist the authorities in pursuing criminal charges, should the Complainant/victim later decide to exercise it.

*For the Complainant/Victim:* The hospital staff will collect evidence, check for injuries, address pregnancy concerns and address the possibility of exposure to sexually transmitted infections. If you have changed clothing since the assault, bring the clothing you had on at the time of the assault with you to the hospital in a clean, sanitary container such as a clean paper grocery bag or wrapped in a clean sheet (plastic containers do not breathe, and may render evidence useless). If you have not changed clothes, bring a change of clothes with you to the hospital, if possible, as they will likely keep the clothes you are wearing as evidence. You can take a support person with you to the hospital, and the person can accompany you through the exam, if you want. Do not disturb the crime scene—leave all sheets, towels, etc. that may bear evidence for the police to collect.

❖ ***Will a Complainant/victim be sanctioned when reporting a sexual misconduct policy violation if he/she has illegally used drugs or alcohol?***

Usually not. The severity of the infraction will determine the nature of SUNO's response, but whenever possible the University will respond educationally rather than punitively to the illegal use of drugs and/or alcohol. The seriousness of sexual misconduct is a major concern and SUNO does not want any of the circumstances (e.g., drug or alcohol use) to inhibit the reporting of sexual misconduct.

❖ ***Will the use of drugs or alcohol affect the outcome of a sexual misconduct complaint?***

The use of alcohol and/or drugs by either party will not diminish the Respondent's responsibility. On the other hand, alcohol and/or drug use is likely to affect the Complainant/victim's memory and, therefore, may affect the outcome of the complaint. A

person bringing a complaint of sexual misconduct must either remember the alleged incident or have sufficient circumstantial evidence, physical evidence and/or witnesses to prove his/her complaint. If the Complainant/victim does not remember the circumstances of the alleged incident, it may not be possible to impose sanctions on the Respondent without further corroborating information. Use of alcohol and/or other drugs will never excuse a violation of the sexual misconduct policy.

❖ ***Will either party's prior use of drugs and/or alcohol be a factor when reporting sexual misconduct?***

Not unless there is a compelling reason to believe that prior use or abuse is relevant to the current complaint.

❖ ***What should I do if I am uncertain about what happened?***

If you believe that you have experienced sexual misconduct, but are unsure of whether it was a violation of SUNO's sexual misconduct policy, you should contact the SUNO Title IX Coordinator. The University provides advisers who can help you to define and clarify the event(s), and advise you of your options.