

Title IX and Sex Discrimination Policy

2023 - 2024

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I. Introduction and The University's Commitment

The University of the South stands firmly for the principle that its employees, students, and participants of university-sponsored programs and activities have a right to be free from discrimination based on race, color, sex, religion, national origin, age, disability, sexual orientation, gender identity, veteran status, pregnancy and childbirth, and genetic information. As required by Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, the Americans with Disabilities Act of 1990 and the ADA Amendments Act of 2008, Title VII of the Civil Rights Act of 1964 and Title IX of the Education Amendments of 1972, the University does not discriminate on the basis of sex or other protected categories in the education programs or activities which it operates. This requirement of non-discrimination extends to admission to and employment in those programs or activities.¹ The University is committed to sustaining a community in which the dignity of every individual is respected. Key to this value are efforts to nurture an environment of civility and mutual respect and to foster a culture of reporting concerns so that the University can respond promptly and equitably whenever an incident occurs. All employees, students, and participants of university-sponsored programs and activities have the right to be free from harassment and retaliation.

Inquiries regarding the application of Title IX may be addressed to:

1. The University's Title IX Coordinator, Dr. Sylvia Gray, at:
EQB Annex, Office 104-A
(931) 598-1420
Email: titleix@sewanee.edu
2. The Tennessee regional Office for Civil Rights of the United States Department of Education
Office for Civil Rights, at:
Atlanta Office
U.S. Department of Education
61 Forsyth Street S.W., Suite 19T10
Atlanta, GA 30303-8927
Telephone: (404) 974-9406
Facsimile: (404) 974-9471
Email: OCR.Atlanta@ed.gov
3. The Assistant Secretary for Civil Rights of the U.S. Department of Education at:
U.S. Department of Education
Office for Civil Rights
400 Maryland Avenue, SW
Washington, D.C. 20202-1100
Telephone: 1-800-421-3481
Email: OCR@ed.gov

Note: The University reserves the right to revise this Policy at any time and post to the [Title IX web page](#) and the Provost's policies and procedures [web page](#). Inquiries involving other forms of discrimination outside the scope of this Policy may be referred to eo@sewanee.edu or [\[this web page\]](#). Contact Dr. Sylvia Gray who is also the Senior Director of Equity & Equal Opportunity.

¹ The University also complies with federal requirements under the Clery Act, Violence Against Women's Act (VAWA), Campus SAVE Act, Family Education Rights and Privacy Act (FERPA), and the NCAA Board of Governors Policy on Campus Sexual Violence.

Related Commitments

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

Scope

WHAT conduct is covered by this Policy?²

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

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

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

WHO is subject to this Policy?

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

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

Conference), faculty and staff (i.e. invited speakers, lecturers, guests, visitors, contracted workers, etc.) or non-affiliates working on the University campus or in University programs are covered under this Policy.

Consistent with the undergraduate student Code of Conduct and other related policies, the University reserves the right to address student behavior, whether graduate or undergraduate, occurring from the time of admission until the actual awarding of a degree or other separation from the institution. More specifically, each student is responsible for their conduct from the time of their admission to the University through the actual awarding of a degree, even though the conduct may occur before classes begin or after classes end, as well as during the academic year and during periods between terms of actual enrollment. For entering students, a student's violation of the Code of Conduct or other university policies occurring prior to the opening of residence halls for the admitted semester may be addressed through re-evaluation of the offer of admission. After the opening of residence halls for the admitted semester, a student's behavior will be addressed in accordance with the process published in the EQB Guide for Living in Community and other related policies as appropriate. For graduating students, violations of policy just prior to, during or after final exams will likely result in the inability to participate in Commencement exercises and stipulations that must be met to receive a diploma at a later date.

WHERE must sex discrimination occur in order to be covered by this Policy?

The University views sex discrimination as deeply inconsistent with a community of caring and trust and is likely to have continuing negative effects within the University community. In accordance with regulations issued by the United States Department of Education, this Policy applies to on-campus³ conduct or to off-campus conduct that occurs both in the United States and in the course of a University program or activity. Off-campus conduct that may constitute sex discrimination, but which does not occur in the course of a University program or activity, or does not occur in the United States, may be addressed through the the student conduct processes in the EQB Guide where a student is accused of misconduct, or through applicable staff or faculty disciplinary procedures where a staff or faculty member is accused of misconduct. For example, if students, faculty or staff are off-campus attending a concert, and the activity is not a University program or activity, and a student complains that another student, a faculty member or staff member sexually assaulted the student, the misconduct may be reviewed under Title IX, but may be addressed under the EQB procedures if the accused person is a student, under the HR Staff Handbook if the accused is a staff member, or under the Personnel Procedures applicable to faculty members if the accused person is a faculty member.

WHEN does this Policy apply?

This Policy applies anytime students, employees, or participants are participating or are attempting to participate in a University education program or activity in the United States at the time of the incident.

³ The Domain of the University of the South

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

Sex Discrimination is a broad term that encompasses several forms of prohibited conduct. Sex discrimination includes all forms of discrimination based on sex such as issues of equity or discriminatory decision-making, non-consensual sexual contact, non-consensual sexual intercourse, sexual exploitation, sexual harassment, dating violence, domestic violence, and stalking.

Sexual Harassment offenses include, but are not limited to, the following:

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

1. An employee of the University conditioning the provision of an aid, benefit, or service of the University on an individual's participation in unwelcome sexual conduct ("quid pro quo" sexual harassment);
2. 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 University's education program or activity ("hostile environment" sexual harassment);
3. or Sexual Assault, Dating violence, Domestic violence, or Stalking (**see definitions below**).

I. Sexual Assault⁴ means an offense classified as a forcible or non forcible sex offense under the uniform crime reporting system of the Federal Bureau of Investigation

1. **Sex Offenses, Forcible** - Any sexual act directed against another person, without the consent of the victim including instances where the victim is incapable of giving consent.

a) Including the following specific offenses

- (1) **Forcible Rape.** (Except Statutory Rape) The carnal knowledge of a person, forcibly and/or against that person's will or not forcibly or against the person's will in instances where the victim is incapable of giving consent because of their temporary or permanent mental or physical incapacity.
- (2) **Forcible Sodomy.** Oral or anal sexual intercourse with another person, forcibly and/or against that person's will or not forcibly or against the person's will in instances where the victim is incapable of giving consent because of their youth or because of their temporary or permanent mental or physical incapacity.
- (3) **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, forcibly and/or against that person's will or not forcibly or against the person's will in instances where the victim is incapable of

⁴The Campus SaVE Act defines sexual assault, which unlike domestic violence, dating violence, or stalking was previously included as a Clery-reportable crime, as "an offense classified as a forcible or non-forcible sex offense" under the FBI's uniform crime reporting system.

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

- (4) **Forcible Fondling** - The touching of the private body parts of another person for the purpose of sexual gratification, forcibly and/or against that person's will or not forcibly or against the person's will in instances where the victim is incapable of giving consent because of their youth or because of their temporary or permanent mental or physical incapacity.

2. **Sex Offenses, Non Forcible.** Unlawful, non forcible sexual intercourse.

a) Including the following specific offenses:

- (1) **Incest.** Non-Forcible sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.

- (2) **Statutory Rape.** Non-Forcible sexual intercourse with a person who is under the statutory age of consent.

II. **Dating Violence** means violence committed by a person:

1. who is or has been in a social relationship of a romantic or intimate nature with the victim; and
2. 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.

III. **Domestic Violence** means felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim under the family or domestic violence laws of the jurisdiction receiving grant funding and, in the case of victim services, includes the use or attempted use of physical abuse or sexual abuse, or a pattern of any other coercive behavior committed, enabled, or solicited to gain or maintain power and control over a victim, including verbal, psychological, economic, or technological abuse that may or may not constitute criminal behavior, by a person who is a current or former spouse or intimate partner of the victim, or person similarly situated to a spouse of the victim; is cohabitating or has cohabitated with the victim as a spouse or intimate partner, shares a child in common with the victim; or commits acts against a youth or adult against an adult or youth victim who is protected from those acts under the family or domestic violence laws of the jurisdiction.

IV. **Stalking** means engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for their safety or the safety of others; or suffer substantial emotional distress. Stalking may also be defined as any behavior that

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

1. **Course of Conduct** means two or more acts, including, but not limited to, acts in which the individual directly, indirectly, or through third parties, by any action, method, device, or means follows, monitors, observes, surveils, threatens, or communicates to or about, a person, or interferes with a person's property.
2. **Substantial Emotional Distress** means significant mental suffering or anguish that may, but does not necessarily require, medical or other professional treatment or counseling and may be determined by a reasonable person standard as defined in this Policy.

B. Other Prohibited Conduct Under this Policy

1. Non-consensual sexual assault:

I. **The University considers the following to be non-consensual sexual assault:**

1. **Non-consensual sexual contact (touching)** is any intentional sexual touching, however slight, with any object, by any person upon any person, that is without consent. Sexual contact includes intentional contact with the breasts, 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/of/by breasts, buttocks, groin, genitals, mouth, or other orifice.
2. **Non-consensual sexual intercourse** is any sexual intercourse, however slight, with any object, by any person upon any person, 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.

II. **The University also considers the following behaviors as prohibited conduct under this policy where these behaviors occur in conjunction with sexual harassment and sex discrimination:**

1. All forms of Sexual Violence are also prohibited under this Policy. Sexual Violence includes any kind of sexual activity or act (including online) that was unwanted or involves any of the following: Abuse, Force, Coercion, Exploitation, and Complicity. The definitions for these terms are found below.

Other Definitions Related to this Policy

Actual Knowledge means verbal or written notice to the University's Title IX Coordinator or any official who has the authority to institute corrective measures on behalf of the University. **Officials with Authority (OWA)** are persons with authority to institute corrective measures or persons required to report sexual harassment, sex discrimination, or prohibited conduct of a sexual nature that may fall under this Policy. Officials With Authority to institute corrective measures are limited to the Title IX Coordinator, The Dean of Students, The Dean of the School of Theology, The Dean of the College, the

Dean/Director of Graduate Programs, Human Resources Leadership, University President, Provost, and the Sewanee Police Department. Actual knowledge (or notice) results whenever the Title IX Coordinator or any OWA come into knowledge of and/or

1. Witnesses sexual harassment, sex discrimination, or prohibited conduct under this Policy;
2. Hears about allegations of sexual harassment, sex discrimination, or prohibited conduct of a sexual nature which may fall under this Policy;
3. Receives a written or verbal complaint about sexual harassment, sex discrimination, or prohibited conduct of a sexual nature which may fall under this Policy; or
4. Any other means.

Other responsible employees are mandated to report under the [University Mandated Reporter Policy](#). Please see the [Clery Act Website](#) for information on federal reporting obligations for certain employees who are Campus Security Authorities (CSAs) under the Clery Act.

Appeal is not a new hearing, but a review of a decision by an Appeals Officer. The right to file an appeal applies when there is a dismissal of a formal complaint or any allegations therein or after a determination regarding responsibility.

Bystander means individuals who witness emergencies, criminal events or situations that could lead to criminal events and by their presence may have the opportunity to provide assistance, do nothing, or contribute to the negative behavior. Pro-social Bystanders are individuals whose behaviors intervene in ways that may impact the outcome positively. **Active Bystander intervention**⁵ means safe and positive options that may be carried out by an individual or individuals to prevent harm or intervene when there is a risk of dating violence, domestic violence, sexual assault, or stalking. Bystander intervention 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.

Calendar Day means a timespan of 24 hours, measured from one midnight to the next (12 am - 12 pm). Note that all aspects of this policy occur in central standard time unless otherwise specified. .

Coercion is unreasonable pressure for sexual activity. When someone is clear that they do not want sex, that they want to stop, or that they do not want to go past a certain point of sexual interaction, continued pressure beyond that point can be coercive. In evaluating coercion, the University will consider:

- frequency of the application of pressure;
- intensity of the pressure;
- isolation of the person being pressured; and
- duration of the pressure.

⁵ Forms of Active Bystander Intervention include: ABC's which stand for Assess for safety; Be in a group; Care for the harmed party or the four D's which stand for Directly call out the behavior; Distract perpetrator from behavior; Delegate someone else to intervene; Delay involvement if it is not safe.

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

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

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

- Consent to any one form of sexual activity cannot automatically imply consent to any other forms of sexual activity.
- Previous relationships or prior consent cannot imply consent to future sexual acts.
- In order to give effective consent, one must be of legal age and not physically or mentally incapacitated.
- Consent can also be withdrawn at any time. It is the responsibility of the person withdrawing consent to communicate, through clear words or actions, that the person no longer wishes to engage in sexual activity.

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

Important Information about Consent

- The person desiring to initiate sexual activity is responsible for obtaining effective consent.
- In order to obtain consent, permission must be given prior to or simultaneously with the sexual activity in question.
- Effective consent should never be assumed. Lack of protest or resistance does not constitute effective consent; force can not be used to gain consent. "No" means no, but nothing (silence, passivity, inertia) also may mean no. A verbal "No," even if it sounds indecisive or insincere, should always be treated as a denial of effective consent.
- If there is confusion as to whether effective consent is present (e.g., words, gestures, or other indications of hesitation or reluctance or behavior that could reasonably imply one party has changed their mind about engaging in a particular activity), the parties should stop the sexual activity immediately and verbally communicate with each other to resolve the ambiguity.

- A prior sexual relationship or prior sexual activity, even with the same individual, does not constitute consent to subsequent sexual activity. Past consent does not imply future consent.
- Although effective consent is generally evaluated on the basis of an objective standard (“*What would a reasonable person have concluded?*”), it may be evaluated on the basis of a subjective standard (“*What did this specific person conclude?*”) in the context of certain long-term relationships where the evidence shows that the parties have an established pattern of communicating consent that deviates from the objective standard.

Education Program or Activity includes locations, events, or circumstances over which the University exercised substantial control over both the Respondent and the context in which the Sexual Harassment occurs, and also includes any building owned or controlled by a student organization that is officially recognized by the University.

Evidence Standard and Relevant Evidence. The University uses a preponderance of the evidence standard to determine responsibility. Preponderance of the evidence exists when there is sufficient evidence to establish that it is more likely than not that the accused party violated a policy. This standard is lower than the “beyond a reasonable doubt” burden of proof for a finding of guilt under criminal law. **Relevant Evidence** includes information where reasonable inferences can be drawn from the evidence that sheds light on a contested or inconsistent matter.

- **Preservation of Evidence.** Sewanee recognizes that a complainant may need time to decide whether to report an incident of Sexual Assault or Sexual Violence to the police and/or Sewanee. The purpose of this section is to provide information on preserving evidence while deciding to file a report. Sewanee encourages individuals to as soon as possible after experiencing Sexual Assault or Sexual Violence, take steps to preserve evidence such as:
 - Have a forensic sexual assault nurse examination (SANE Exam) performed as soon as possible after the incident, but no later than 72-96 hours after the incident
 - When possible, prior to having a forensic SANE Exam performed, avoid: changing clothing, bathing, showering, using a douche, using the bathroom, brushing one’s teeth, drinking liquids, washing one’s hands or face, or combing one’s hair;
 - Preserve any clothing, sheets, or other materials (items containing bodily fluids should be stored in cardboard boxes or paper bags);
 - Preserve or capture electronic communications such as text messages, e-mails, social media posts or exchanges (e.g., Snapchat, Facebook, Twitter);
 - Preserve or capture video, audio (e.g., voice mail messages), or photographs, including those stored on smartphones or other devices; and
 - Preserve any other physical, documentary, and/or electronic data that might be helpful to an investigator.

Force is the use of physical violence and/or behavior that a reasonable person would consider to be a threat of harm. Force also includes intimidation (implied threats), and/or coercion. Examples of force include, but are not limited to:

- Physical violence such as unwanted physical contact including, but not limited to, hitting, pushing, kicking, and/or restraining.
- Threats include any words or actions that would compel a reasonable person to engage in sexual activity that they would not otherwise have engaged in.

- Intimidation is an implied threat that menaces or causes reasonable fear in another individual.
- Coercion is unreasonable pressure for sexual activity. When someone makes it clear that they do not want sex, that they want to stop, or that they do not want to go past a certain point of sexual interaction, continued pressure beyond that point can be coercive. In evaluating coercion, the University will consider:
 - frequency of the application of pressure;
 - intensity of the pressure;
 - isolation of the person being pressured; and
 - duration of the pressure.

NOTE: Because passivity is not to be considered consent, there is no requirement that a party resists the sexual advance or request, but resistance is a clear demonstration of non-consent. The absence of resistance does not demonstrate the absence of force.

Incapacitation is a state where someone cannot make reasonable decisions because they lack the capacity to give knowing consent (e.g., to understand the "who, what, when, where, why or how" of their sexual interaction). Causing or attempting to cause the incapacitation of another person in order to gain a sexual advantage over such other person is prohibited under this Policy. Consumption of alcohol or drugs alone is insufficient to establish incapacitation. The question of incapacitation is determined on a case-by-case basis. It will include an analysis of whether the responding party knew, or should have known, that the complainant was incapacitated, or if the responding party played a role in creating the circumstance of incapacity.

Sexual activity with someone whom one knows to be—or based on the circumstances should reasonably know to be—mentally or physically incapacitated constitutes a violation of this Policy.

This Policy also covers a person whose incapacity results from a disability, sleep or unconsciousness, involuntary physical restraint, or from the taking of drugs if the responding party knew, or should have known, of the incapacitating condition or was the cause thereof. Possession, use and/or distribution of substances, including but not limited to Rohypnol, Ketamine, GHB, Burundanga, etc., is prohibited, and administering one of these drugs to another individual is a violation of this Policy and amnesty will not be granted to the individual providing the drug.

The University urges individuals to exercise extreme caution before engaging in sexual activity when either or both parties have been consuming alcohol or using other drugs. The use of alcohol or other drugs can lower inhibitions and create confusion as to whether effective consent is present. If there is any doubt about the level or extent of one's own, or the other party's, impairment, the safest course of action is to forgo or cease any sexual activity. Being impaired by alcohol or other drugs is no defense under this Policy.

Intoxication is a state induced by the use of alcohol or other drugs that interferes with the person's ability to use reasonable care. The University regards intoxication as irresponsible behavior both because of its effects on an individual's ability to exercise sound judgment and because of its potential threats to health and safety. Not only do students incur serious risks for themselves and others when they drink to excess, but also they make themselves legally liable to prosecution, as well as morally responsible, when they contribute to irresponsible consumption by others and dire consequences ensue.

Live Hearing is a type of resolution process by which a Hearing Panel listens to the testimony of the involved parties and the witnesses, who wish to participate in the hearing process, in order to determine if there has been a violation of this University Policy. A Live Hearing may, at the University's discretion, occur virtually through the use of technology that may allow all participants to simultaneously see and/or hear each other. A Live Hearing will typically allow for the involved parties and their advisors to hear in real time the testimony of each party so that they may cross-examine all participants who have agreed to provide testimony. Live hearings may also include other support staff or designated officials such as the Process Facilitator, Information Technology staff, the Title IX Coordinator, and/or the Investigator where necessary. The support staff do not participate in the adjudication process regarding a determination of responsibility.

Reasonable Person means a standard under similar circumstances and with similar identities to an involved party. This standard is used to evaluate the actions of an involved party to determine if they may bear responsibility for causing harm to others.

Remedies are designed to restore or preserve equal access to Sewanee's Education Program or Activity. Remedies may include, but are not limited to the same individualized services as Supportive Measures; however, Remedies need not be non-disciplinary or non-punitive and need not avoid burdening the respondent.

Responsible Employee means any individual who is employed by Sewanee and not deemed to be a Confidential Employee. Responsible Employees are required by Sewanee to report Sexual Harassment to the Title IX Coordinator promptly upon receiving a report of Sexual Harassment.

Retaliation. Retaliation is defined as "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 purposes of interfering with any right or privilege secured by the Title IX statute or regulations.

No one, including the University or other person may intimidate, threaten, coerce, or discriminate against any 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 under this Policy.

An action is generally deemed retaliatory if it would deter a reasonable person in the same circumstances from assisting or participating in any way in the investigation or resolution of a good faith allegation of an incident of sexual misconduct or other prohibited conduct under this Policy. Retaliation is prohibited even where there is ultimately a finding of "no responsibility" on the underlying sexual misconduct charges. Retaliation may be committed by the respondent or the complainant or by any other individual or group. Such conduct violations will result in disciplinary action.

Retaliation should be reported promptly to the Title IX Coordinator. Reported concerns of retaliation under this policy are typically reviewed and investigated by the Title IX Office. The outcome of

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

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

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

Report of Sexual Harassment under Title IX and Other Prohibited Conduct vs a Formal Complaint: A sexual harassment report is a report made, asserting a violation under this Policy. A report is usually, but not always, made by an individual affected by the specific behavior. A report of sex discrimination triggers some response on behalf of the University, but does not trigger a formal investigation and resolution process. **A Formal complaint**⁶ means a document filed and signed by a complainant, or signed by the Title IX Coordinator. The formal complaint must allege sexual harassment, sex discrimination, or other prohibited behavior under this Policy, against a respondent and request that the University investigate the allegation. A formal complaint is required even if an informal option is desired.⁷ At the time of filing a formal complaint, a complainant must be participating in or attempting to participate in an education program or activity of the University.

In limited circumstances, if a complainant does not sign a formal complaint, the Title IX Coordinator may sign a formal complaint. In determining whether to sign a formal complaint, the Title IX Coordinator will consider factors that include but are not limited to:

- Whether there have been other reports of Sexual Harassment or other relevant misconduct concerning the same Respondent whether or not the incidents occurred while the Respondent was a Sewanee student or employee;
- Whether the Respondent threatened further Sexual Harassment or other misconduct against the Complainant or others;
- Whether the alleged Sexual Harassment was committed by multiple perpetrators;

⁶ A Formal Complaint may be subject to prior University Title IX policies depending upon the date that the alleged incident occurred.

⁷ If a formal complaint is already on file, another formal complaint is not needed to switch a process from an investigation to an informal resolution

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

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

Sexual Exploitation is when an individual takes non-consensual or abusive sexual advantage of another for their own advantage or benefit, or to benefit or advantage anyone other than the one being exploited. Examples of sexual exploitation include, but are not limited to: causing or attempting to cause the incapacitation of another person in order to gain a sexual advantage over such other person; invasion of sexual privacy; prostituting another student; non-consensual video or audio-recording of sexual activity; going beyond the boundaries of consent (such as letting your friends hide in the closet to watch you having consensual sex); engaging in voyeurism; knowingly transmitting an STI or HIV to another student; exposing one's genitals in non-consensual circumstances; inducing another to expose their genitals; sexually-based stalking and/or bullying may also be forms of sexual exploitation.

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.

Roles of Persons Involved in a Title IX Process⁸

Advisor is a required part of the Sexual Harassment/Title IX process for complainants and respondents. Both complainants and respondents can choose any person to be their advisor - a parent, a mentor, a peer, an attorney, etc. The role of the advisor is to conduct cross-examination of the opposing party (parties must never personally question each other) and witnesses at a live hearing. If a party does not have their own advisor of choice at the live hearing, the University will provide an advisor (at no fee or charge), for the purpose of conducting cross-examination at the live hearing. The advisor provided by the University may be, but does not need to be, an attorney. The role of the advisor at the live hearing is to conduct cross-examination on behalf of a party. The advisor is not to represent a party, but only to relay the party's cross-examination questions that the party wishes to have asked of the other party and witnesses. Advisors may not raise objections or make statements or arguments during the live hearing.

Advisors are required to adhere to specific ground rules during the Grievance Process⁹:

1. The Title IX and Sex Discrimination advisor (referred hereafter with the term advisor) may attend any interview or meeting connected with the grievance process that the party whom they are advising is invited to attend. The advisor may not actively participate or intervene in

⁸ Complainants and Respondents may have no other individuals participate in the investigation or hearing processes other than their advisor.

⁹ Advisors must sign a [Release of Information Waiver](#) as part of their participation in the grievance process.

interviews or meetings. An advisor may not speak for or answer on behalf of the involved party, witness, or other individual at any point during the grievance process, including the investigation and live hearing (see the section on Considerations Regarding Disability Accommodations).

2. During meetings, interviews, and hearings, the advisor may talk with the individual (quietly in person or in a private space or private online room) or pass notes in a non-disruptive manner. In addition, while advisors may provide guidance and assistance throughout the process, all written submissions must be authored by the involved party.
3. An advisor's role is limited to cross-examination of the opposing party in a live hearing.
 - a. The Decision Maker Chair reserves the right to ensure that only relevant cross-examination and other questions are asked and must determine the relevance of each cross-examination question before a party or witness answers.
4. An advisor may be present during the investigative process, but must be present during a live hearing, whether virtually or physically, in order to have an opportunity to conduct cross-examination.
5. An advisor may be removed from at any point in the grievance procedure, including the live hearing and replaced if they fail to follow the guidelines of the University Sex Discrimination/Title IX Policy and process.
6. A party's advisor may appear and conduct cross-examination even when the party whom they are advising does not appear.

Complainant means an individual who is alleged to be the victim of conduct that could constitute sex discrimination including 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 University.

Confidential resources are persons required to keep all information disclosed to them confidential within the legal and ethical bounds of their profession. At the University, these individuals include: University Wellness Center licensed professional staff and the ordained University Chaplains. Information disclosed during public awareness events such as Take Back the Night, Posse Plus Retreats, Sewanee Monologues and specially designated IRB-approved projects researching the area of sexual violence or trauma, are considered confidential.

Decision Maker is the University official(s) responsible for receiving and resolving investigative reports, which can include convening a hearing panel of other decision makers and conducting a live hearing, if necessary. One decision maker typically serves as the Chair of the hearing "decision maker chair" while other decision makers serve as hearing panelists. Any decision maker may appoint a qualified designee in their place where appropriate.

Hearing Panel. The hearing panel is a trained group of employees called Hearing Panelists that determine whether a preponderance of evidence exists to find that an individual is responsible for a violation of University policy(ies). The hearing panel recommends an appropriate sanction (see evidence standard definition) when there is a finding of responsibility. The hearing panel includes the decision maker chair and may include at least two other panelists as decision makers.

Mandatory Reporters. A Mandatory Reporter is a University employee who is obligated to ensure a report is made of alleged sexual misconduct to the University, usually by contacting the Title IX

Coordinator or by reporting online to ReportSexualMisconduct.sewanee.edu. Mandatory Reporters include but are not limited to faculty, staff, student life staff (excluding the University Wellness Center staff), residential life student staff members, orientation leaders, FYP mentors, SOP/PRE Mentors, SOP Ambassadors, Sewanee Police Department personnel, coaching staff, supervisors of student employees, domestic and international program leaders, any visiting faculty involved in a summer program, Title IX and deputy Title IX Coordinators, the Vice-Chancellor, and the University Cabinet (please see the mandatory reporter policy for more information). A mandatory reporter who receives a report must report all known details that are received about the alleged misconduct, including the date, time, and location of the alleged misconduct, and the names of the person(s) who provided the report, the individual who experienced the alleged misconduct, the individual(s) accused of committing the alleged misconduct, and any other person involved in the alleged misconduct. The mandated reporter policy can be found [here](#).

Participant. An individual who is not a student or employee participating or attempting to participate in a University education program or activity which the university owns, operates or has significant control.

Police and Police Investigator. The Sewanee Police department, including a trained criminal investigator, is available for individuals who wish to make a criminal complaint that may result in a criminal investigation.

Process Facilitator. The University designates a single process facilitator for each report who assists the complainant and respondent. The facilitator is present during a hearing and may also do the following:

- Be available throughout the resolution process;
- Explain available resources for support and/or reporting;
- Explain potential sanctions;
- Provide clarity about the University’s investigation and resolution/hearing processes;
- Interface with support persons for participants;
- Assist with support measures in the residence hall, dining hall, curricular and co-curricular experiences;
- Provide information about the appeal process and coordinate the filing of an appeal and response.

If students want information shared with anyone other than their advisor, the student must sign a “[Release of Information Waiver](#).”

Reporter is the person filing a report about conduct that may constitute sex discrimination under this Policy. The reporter may be, but is not required to be, the victim of the conduct.

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

Student¹⁰ is consistent with the undergraduate Student Code of Conduct and other related policies where the University reserves the right to address student behavior, whether graduate or undergraduate, occurring from the time of admission until the actual awarding of a degree or other separation from the institution. More specifically, each student is responsible for their conduct from the time of their admission to the University through the actual awarding of a degree, even though the conduct may occur before classes begin or after classes end, as well as during the academic year and during periods between terms of actual enrollment. For entering students, a student's violation of the Code of Conduct or other university policies occurring prior to the opening of residence halls for the admitted semester may be addressed through re-evaluation of the offer of admission. After the opening of residence halls for the admitted semester, a student's behavior will be addressed in accordance with the process published in the EQB Guide for Living in Community and other related policies as appropriate. For graduating students, violations of policy just prior to, during or after final exams will likely result in the inability to participate in Commencement exercises and stipulations that must be met to receive a diploma at a later date.

Title IX Coordinator. The University official designated to oversee Title IX compliance, which includes the sex discrimination response and investigation processes. The Title IX Coordinator may, on rare occasions, serve as an investigator.

University Investigator. A University Investigator gathers relevant information about an alleged incident that may be a violation of this Policy. Investigators prepare a comprehensive report of information received during the investigation.

III. Reporting Title IX Sexual Harassment including Sex Discrimination

University Responsibility

All forms of discrimination that are prohibited by Title IX and this Policy should be reported to the Title IX Coordinator, especially by those who are designated as mandatory reporters. The University strongly encourages individuals who have knowledge of, who have witnessed, or who have experienced sex discrimination, including sexual harassment, firsthand to report what occurred - both in order to get the support they need and to enable the University to respond appropriately. Once the University has actual notice of an allegation of sexual harassment, it is required to respond promptly in a manner that is not deliberately indifferent. The University must: (1) take immediate and appropriate steps to investigate or otherwise determine what occurred; and (2) take prompt and effective action to (a) end any harassment that occurred; (b) remedy its effects; and (c) prevent its recurrence.

Although there is no time limit for the filing of a report of sex discrimination including sexual harassment, the University's ability to respond effectively may be compromised by the passage of time between the occurrence of an incident and the filing of a report. At the time of filing a formal complaint (signed complaint), the complainant must be participating in or attempting to participate in a University education program or activity to trigger the University's obligation to conduct a formal investigation.

¹⁰ This Policy statement also extends to graduate students in that the University reserves the right to address student behavior occurring from the time of admission until the actual awarding of a degree or other separation from the institution.

Reporting Options

Any person may report sex discrimination, including sexual harassment (whether or not the person reporting is the person alleged to be the victim of conduct that could constitute sex discrimination or sexual harassment), in person, by mail, by telephone, or by electronic mail, using the contact information listed for the Title IX Coordinator, or by filing a report using the online reporting system at “ReportSexualMisconduct.sewanee.edu.” Such a report may be made at any time (including during non-business hours).

The Title IX Coordinator at the University of the South is Dr. Sylvia Gray. Dr. Gray is charged with monitoring compliance with this Policy according to the Title IX law and regulations. Dr. Gray is also responsible for oversight of Title IX investigations. Questions regarding Title IX, as well as concerns and reports of non-compliance, may be directed to the Title IX Coordinator using the information below:

Reporting Online. ReportSexualMisconduct.sewanee.edu

Dr. Sylvia Gray	EQB Annex, Office 104-A
University of the South	P: 931-598-1420
735 University Avenue	E: titleix@sewanee.edu
Sewanee, TN 37383	Pronouns: She/Her

Anyone who wishes to make a report of an alleged violation of this Policy has the following options:

1. Report to the University and/or;
2. Report to the Sewanee Police Department for on-campus conduct, or to the appropriate police agency with jurisdiction for off-campus conduct and/or;
3. Report to the US Department of Education Office for Civil Rights

Reporting to the University

University reports can be submitted electronically at ReportSexualMisconduct.sewanee.edu (preferred), or by postal mail, email, telephone, or in person (see contact information above). In person reports can be made to the Title IX Coordinator. Students studying abroad or away can report to the program leader or the Title IX Coordinator. In addition, all electronic submissions of reports are sent directly to the Title IX Coordinator and copied to the Sewanee Police Department. Electronic reports are also copied to the Dean of Students Office for undergraduate students, or the Director of the graduate program for graduate students or the Dean of Students of the School of Theology for Theology students. Faculty and Staff reports are submitted to the Title IX Coordinator and may be copied to Human Resources, the office of the Provost, and the office of General Counsel.

The University supports two types of reports—anonymous and identifiable.

1. **Anonymous Reports.** Reporters (other than University employees mandated to report) may submit a report of alleged sexual harassment *anonymously* online by omitting their name and contact information. In the case of anonymous reporting, the University will not be able to contact reporters to obtain further information about the incident or to offer options or support measures. In addition, the University’s ability to respond to the report will be limited to the information provided. The University nevertheless encourages reporting of sexual harassment and sex discrimination, even anonymous reporting, and will make such use of the reported information as circumstances allow.

2. **Identifiable Reports.** The University preliminarily will gather and review information on all identifiable reports of sex discrimination, including sexual harassment. Representatives from the Dean of Students office, Title IX Office, and/or the Sewanee Police Department will promptly reach out to the reporter (or the person reporting on behalf of the individual involved, if the reporter is not the individual directly affected by the conduct) to advise them as to their options. The appropriate University official(s) will obtain additional information about the reported incident, if available, and offer support, assistance and, where appropriate, interim or emergency measures to address any immediate concerns for the safety of involved persons and/or the University community.

Where a complainant or respondent requests an investigation of a violation of this Policy, the investigation will follow the steps under the heading of “Grievance Process for Formal Complaints of Sexual Harassment.”

Requests for Confidentiality

If the reporter or other involved party requests confidentiality—e.g., requests that the information contained in the report be maintained confidentially, that no investigation be conducted, and/or that no disciplinary action be taken—the individual with whom this information has been shared will consult with the Title IX Coordinator for further evaluation as to whether that request can be honored.

1. The University will attempt to honor a request of confidentiality if it can do so without compromising the safety of the reporter, complainant, respondent, third parties identified in the report, or the broader University community. In order to make this determination, the University will weigh the request for confidentiality against the University’s obligation to provide a safe, nondiscriminatory environment for the entire University community.
2. When evaluating a request for confidentiality, the University will consider a range of factors to determine whether the alleged respondent will commit additional acts of sexual harassment or other misconduct. The presence of one or more of these factors could lead the University to determine that it must investigate the incident and, if appropriate, pursue disciplinary action against the alleged respondent. Factors include but are not limited to:
 - whether there have been other sexual harassment reports about the same alleged respondent;
 - whether the alleged respondent has a history of arrests or prior records indicating a history of engaging in sexual misconduct;
 - whether the alleged respondent threatened further sexual harassment or other misconduct against the complainant or others;
 - whether the sexual harassment was committed by multiple respondents;
 - whether the sexual harassment was perpetrated with a weapon;
 - whether the complainant is a minor (under the age of legal consent);
 - whether the University possesses other means to obtain relevant evidence of the alleged sexual harassment (e.g., security cameras or personnel, physical evidence);
 - whether the report reveals a pattern of perpetration (e.g., via illicit use of drugs or alcohol) at a given location or by a particular group; and/or
 - whether there is any other evidence suggesting predatory behavior by the alleged respondent(s).
3. If the University honors a request for confidentiality the party should understand that the University’s ability to meaningfully investigate the incident and pursue disciplinary action may be severely compromised. The University may nevertheless take steps to limit the effects of the alleged sexual harassment and prevent its recurrence without undermining the request for confidentiality by, for example,

increasing monitoring, supervision and/or security at locations or activities where the sexual harassment was alleged to have occurred; and/or providing training and education for students and employees. Additionally the University can offer support measures as appropriate.

4. If the University cannot honor a request for confidentiality, the University will share the reported information only with (1) those individuals who are responsible for handling the University's response, and (2) those individuals with whom the University must share information in order to conduct an effective investigation and/or implement an effective response so as to address any threat to the safety of the University community. In any case, the University will inform the requesting party in advance how the University intends to proceed, with whom the reported information will be shared, and whether and to what extent the reporter's identity can be protected.

Amnesty Policy for Reporting Incidents of Sexual Harassment to the University

Alcohol and other drug violations disclosed in a report of sexual harassment. Sometimes reporters or witnesses are hesitant to report to University officials or participate in report processes because they fear that they themselves may be charged with policy violations, such as drug or alcohol use at the time of the incident. It is in the best interest of this community that individuals feel safe to come forward to share what they know. To encourage reporting, the University offers all students reasonable amnesty from being charged for alcohol or drug policy violations related to the sexual harassment incident. For more information, see the [Good Samaritan and Medical Amnesty Policy in the EQB Guide](#).

Reporting to the Police. Sexual harassment and some forms of sex discrimination may constitute a criminal offense as well as a violation of this Policy. Incidents that occur on campus fall within the jurisdiction of the Sewanee Police Department. Individuals who have been harmed are urged to report sexual violence immediately to the police, in addition to the University. The police have legal power to issue search warrants to collect forensic evidence, and are also able to assist in obtaining a court order of protection. Individuals may contact the police in any of the following ways: (1) they can go to the Sewanee Police Department on 111 Alabama Avenue and speak with an officer; (2) they can dial 911 for immediate emergency assistance or report directly to the Sewanee Police Department, by calling 1111; (3) if they seek medical attention, they may ask a staff member or medical personnel to call the police on their behalf; or, (4) they can utilize the LiveSafe Application when downloaded on a mobile device. If requested, the Dean of Students' staff can arrange and/or attend a meeting between undergraduate students and the police for purposes of filing a report.

Criminal investigations are separate and independent from University investigations. When a report is filed, the University will attempt to coordinate its investigation with that of the police to the extent possible. The University may delay its investigation temporarily while a law enforcement agency is gathering evidence so as not to interfere with their investigation, but the University will not wait for the conclusion of a criminal investigation or criminal proceedings before commencing (or completing) its own investigation. It is also important to remember that the definition of sexual harassment under this Policy and the related definitions under criminal statutes are not identical in all respects, and that the burden of proof for a finding of responsibility under University policy—a "preponderance of the evidence"—is lower than the burden of proof for a finding of guilt under criminal law—"beyond a reasonable doubt." For these reasons, the outcome of any criminal investigation will not determine the outcome of any proceedings under this Policy or *vice versa*.

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

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

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

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

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

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

Telephone: 1-800-669-4000
Fax 615-736-2107
Email: info@eeoc.gov
Web: <https://www.eeoc.gov/>

Note: Federal laws prohibit the taking of retaliatory measures against any individual who files a complaint in good faith.

Note on False Reports. The University will not tolerate intentional false reporting of incidents. It is a violation of the Honor Code for undergraduate students, expectations for graduate students, and professional conduct of faculty and staff to make an intentionally false report of any policy violation; it may also violate state criminal statutes and civil defamation laws. Students, faculty and staff will be subject to disciplinary action if they are found to have knowingly filed a false report, made false statements, or submitted false information to the University.

IV. Requesting Support Measures

Support measures are designed to restore or preserve equal access to Sewanee's Education Programs or Activities without unreasonably burdening the other party, including measures designed to protect the safety of all parties or Sewanee's educational environment, or deter sexual harassment, sex discrimination, or other prohibited conduct under this Policy. Support measures that may be implemented after consultation may include, but are not limited to, 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, support for pregnancy, and other similar measures.

Individuals seeking support measures should speak with the Title IX Coordinator who will evaluate and, if warranted, coordinate appropriate measures. University officials may need to take protective measures to ensure a safe and nondiscriminatory environment even when the involved parties do not specifically request the measures. Students studying away or abroad should request support from the program official or The University of the South's Title IX Coordinator prior to departure or upon their return to campus.

The specific support measures implemented and the process for implementing those measures will vary depending on the nature of a report or the facts of each case. The Title IX Coordinator and/or appropriate official will consider, among other factors: the specific needs of the complainant or respondent; the severity and pervasiveness of the allegations; any continuing effects on the complainant or respondent; the age of those involved if they are a minor; and whether the complainant and respondent share the same residence hall, class, organization, athletic team, on-campus job location, etc.

When a complainant and respondent are students who are members of the same residence hall, class, organization, athletic team, on-campus job, or similar, then a dean of students, director, supervisor, or coach, in consultation with the Title IX Coordinator or designee, will consider ways to permit both students to continue participation. However when such compromise is not possible, the Title IX Coordinator has the discretion to determine how best to provide supportive measures to both students.

No-Contact and Protective Orders.

A no-contact order is issued by the University and directs parties (generally the complainant and respondent(s)) to refrain from having in-person or electronic contact with each other, directly or through proxies. A University-issued no-contact order is enforceable through the University's conduct processes. The no-contact order is not the same as an order of protection/protective order, which must be obtained through the court system and is enforceable by law enforcement and the court.

If an involved individual represents an ongoing threat to the health or safety of another involved party of sexual harassment, it may be possible for the individual who feels threatened to obtain a court-ordered emergency or preliminary protective order. These orders are temporary, and they may be issued if the judge believes that there is an *immediate* threat to health or safety. Later, after a full hearing, the court may agree to issue a "permanent" protective order in appropriate cases. Protective orders are separate and distinct from University-issued no-contact orders. Protective orders may be obtained only from a court of law, and their violation may result in criminal charges. An individual who wishes to seek a protective order should contact the Sewanee Police Department. No-contact orders may be obtained through the Title IX Coordinator. No-contact orders, if deemed appropriate by the Title IX Coordinator and are enforceable through the Title IX Policy and other University policy(ies) such as the EQB Guide for Living in Community (i.e Code of Conduct) for students, the Staff Handbook and the Personnel Procedures for Faculty.

Reporting Violations of Support Measures to the University.

All individuals are encouraged to report concerns about the failure of another individual to abide by the provisions of a support measure. Failure to abide by restrictions imposed by a support measure may result in disciplinary action independent of the outcome of a grievance process for sex discrimination.

V. Expectations and Rights of Complainants and Respondents

Expect To Have The Right To:

- Notify proper law enforcement authorities, including on-campus and local police
- Be assisted by campus authorities in notifying law enforcement
- Decline to notify law enforcement authorities of an incident described under this Policy
- Receive support options without an investigative process (see section on Requesting Support Measures)
- Have your report heard in accordance with University policy and procedures.

- Receive information about your options and about the Title IX/Sex Discrimination process.
- Have opportunities to ask questions pertaining to the Title IX/Sex Discrimination investigation and resolution process at any time.
- Be informed of and have access to campus services, including confidential resources and support measures.
- To know, and where applicable, challenge for good cause who will serve in any role of the investigative and resolution processes.
- Have one advisor of your choice present during all investigative meetings and the hearing process under this Policy.
- Choose not to actively participate in the investigation process or withdraw from participation in an investigation at any time with the understanding that the investigation and resolution process may or may not move forward to completion without your participation.
- Have ten calendar days (10) to review and respond to investigative reports and appeal documents.
- Have ten calendar days (10) prior to the start of a hearing to review the final investigative report and prepare for a hearing.
- Submit questions for consideration for any of the parties involved in the investigative or hearing process prior to the hearing and during the hearing.
- Review and have an opportunity to respond to all information presented in an investigation and hearing as allowed by this Policy.
- Be informed in writing of the outcome/resolution, any sanctions imposed, and the rationale for the outcome, where permissible.

Differences in University and Criminal or Civil Court Processes

The University provides a fair, respectful, prompt, and reasonable process. The University's disciplinary processes do not and are not intended to provide all of the process and protections of criminal or civil lawsuits. Conduct violations that are also violations of federal or Tennessee law may be referred to the appropriate legal authorities for investigation and adjudication. Additionally, an individual who asserts that they may have been harmed by another may have the right to bring a civil, personal lawsuit against the alleged wrongdoer. The University's process is not a court process and thus rules of law, evidence, and procedure used in court proceedings do not necessarily apply.

The aforementioned list of expectations is not exhaustive. Please review this Policy or see the [Title IX website](#) for more information. You may also contact your process facilitator or the Title IX Coordinator for additional questions.

VI. Resolving a Non-Title IX Sexual Harassment/Sex Discrimination Formal Complaint

Reports of sexual harassment/sex discrimination that do not fall under Title IX (i.e. sexual assault, dating violence, domestic violence, or stalking) should still be filed with the Title IX Coordinator and will follow the same process as Title IX complaints for prohibited conduct under this Policy. If the complaint does not fall under this Policy, it will be promptly directed to the appropriate University official for review and resolution.

VII. Grievance Process and Resolving Title IX Formal Complaints¹¹

The sections that follow outline the process for resolving a formal complaint of sexual harassment and sex discrimination under this Policy. The steps begin by describing who may file a report along with what occurs following the submission of a report and end with the Hearing Process and Procedures. Throughout these processes, any University official with responsibility under this Policy may delegate their responsibility to another University official. This act of delegation is done to avoid an actual or apparent conflict of interest, to ensure a fundamentally fair process, or to ensure that the process is completed in a timely manner. Any investigation may be delegated to an external investigator by the Title IX Coordinator in consultation with other appropriate University leadership when necessary to ensure an impartial and/or timely investigation. Submission of a formal written complaint may result in a resolution process which typically includes the following:

- **Submission of a report**
 - Who May File a Sexual Harassment Report
 - Notice of options, resources, and individual or mutual support measures (where applicable)
 - Multiple Reports Filed
 - Multiple Respondents
- **Preliminary Information Review**
 - Review of Options and Resources
 - Initiation and Review of a Formal Complaint
 - Emergency Removal and Administrative Leave
 - Informal Resolution Process
- **Initiation of the Investigative Process**
 - Confidentiality within Investigations
 - Timeframe for resolving a Grievance
 - Notice of Allegation(s) and Investigation
 - Dismissal of a Formal Complaint during an investigation or hearing process
- **Investigation Procedures**
 - Compiling the Investigative Report
 - Review and Response Period
 - Final Investigative Report
- **Hearing Process and Procedures**
 - Hearing Panel
 - Outcomes

Submission of a Report

Who May File a Report. As noted in the “Reporting Sex Discrimination including Sexual Harassment” section above, anyone with knowledge of sexual harassment is encouraged, and some University officials are mandated, to report the harassment or sex discrimination.

Notice of options, resources, and individual or mutual support measures (where applicable). There is no deadline for reporting sex discrimination, including sexual harassment, under this Policy. Although delayed reporting may compromise the ability of the University to investigate and remedy the sex discrimination in

¹¹ Reasonable deviations from these procedures by the University will not invalidate a decision or proceeding unless significant prejudice to an involved party is caused by such deviation.

question. Under Title IX, reports of sexual harassment (discussed below) must be in the form of a formal complaint - a statement (often electronic) signed by the Complainant setting out the facts alleged and requesting a formal or informal process before an investigation or informal resolution process may commence.

Multiple Reports Filed. If a second or multiple reports are filed against a respondent, or if additional reports arising from the same set of facts or circumstances are filed against other respondents, before the initial report is resolved, the Title IX Coordinator in consultation with other University officials shall have the discretion to determine how to proceed with investigation of the complaints. The reports may proceed with separate investigations and hearings, or may be consolidated.

Multiple Respondents. In the event that a report involves more than one respondent, the Title IX Coordinator in consultation with other University officials shall have the discretion to determine how to proceed with investigation of the complaints against multiple respondents.

Preliminary Information Review

Review of Options and Resources. Preliminary information reviews can be used for determining the need for support measures, an investigation (which is a formal process), an informal process, and/or an emergency or administrative removal. Following the submission of a report of sexual harassment/sex discrimination or other prohibited behavior under this Policy, the Title IX Coordinator and/or designee will meet with the complainant to review available resources and options (see section on Requesting Support Measures). A preliminary information review provides an opportunity for the complainant to share concerns about their experience to the Title IX Coordinator and/or a designee. The complainant will be informed of their options for resolution and support and may request other support measures even if they do not wish to pursue an investigation. (See section on Requesting Support Measures). Additional preliminary information, including written statements, allegations, and/or other information about the incident may also be discussed.

Initiation and Review of a Formal Complaint. Where the complainant wishes to move forward with an investigation, the Title IX Coordinator must have the complainant provide a formal complaint (i.e. a signed request using the designated form).

The Title IX Coordinator will determine if the allegations in the complaint, if proven, would constitute sexual harassment or other prohibited behavior under this Policy. Any other alleged violations of University policy, for students or employees (i.e. Human Resource or Faculty Policies, Honor Code and/or EQB Guide) will be addressed additionally as appropriate.

Dismissal of a Formal Complaint during a preliminary review: The Title IX Coordinator must dismiss the formal complaint if the allegations or conduct:

1. Would not constitute sexual harassment/sex discrimination, or other prohibited behavior under this Policy, even if proven
2. Did not occur in the University's education program or activity
3. Did not occur against a person in the United States.

Dismissal of a formal complaint does not preclude action under other provisions of Sewanee's policies and procedures. When a formal complaint is dismissed during a preliminary review, the Title IX Coordinator will provide written notice to the complainant and respondent about the dismissal of a complaint or any allegations

therein. When the Title IX Coordinator dismisses a complaint, the complainant or respondent may appeal the dismissal of the formal complaint (see next section on Appeal Process for Dismissal of a Formal Complaint). At the conclusion of an appeal time frame regardless of if an appeal is filed, the Title IX Coordinator will forward the formal complaint to the Dean of Students Office for students or the appropriate office for employee respondents¹² for review and resolution. This review will determine whether the matter will be pursued under the Sewanee's Code of Conduct, the appropriate employee Handbook, or other impacted policies or processes at the University.

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

Appeal Process for Dismissal of a Formal Complaint and Emergency Removal. In the event of an emergency removal (see below) or dismissal of a formal complaint, either party may appeal. See the section on Appeals at the end of this policy for those procedures.

Emergency Removal and Administrative Leave. The University may initiate removal of a respondent from the education program or activity on an emergency basis. Where the respondent is a student, this process is an Emergency Removal. Where the respondent is a faculty or staff member, this process is an emergency administrative leave. In doing so, the University will conduct an individualized safety and risk analysis, determine whether an immediate threat is present to the physical health or safety of any individual arising from the allegations of sexual harassment that justifies removal, and provide the respondent with notice and an opportunity to challenge the decision immediately following the removal. This provision may not be construed to modify any rights under the Individuals with Disabilities Education Act, Section 504 of the Rehabilitation Act of 1973, or the Americans with Disabilities Act.¹³

Informal Resolution Process. Where both parties agree, an informal process may be pursued to resolve a complaint. In order to pursue an informal process, a formal complaint (signed complaint) must be filed. Complaints involving a student and employee are not eligible for an informal process. The Title IX Coordinator and/or a designee may facilitate an informal resolution process at any time prior to reaching a determination of responsibility. Title IX Coordinator and/or designee will obtain the parties' voluntary, written consent to the informal resolution process. An informal resolution process includes but is not limited to mediation that does not involve a full investigation and adjudication, provided that the Title IX Coordinator and/or designee notifies the parties in writing of:

- the allegations,
- the requirements of the informal resolution process including the circumstances under which it precludes the parties from resuming a formal complaint arising from the same allegations,

¹² Human Resources for staff and/or the Dean of the College for Faculty, Dean or Director for graduate student programs, and the Provost for participants. A designee may always be selected for any processes where appropriate.

¹³ See the end of this Policy for information on support for students or employees in need of accommodations for disabilities.

- provided, however, that at any time prior to agreeing to a resolution, any party has the right to withdraw from the informal resolution process and resume the grievance process with respect to the formal complaint, and
- any consequences resulting from participating in the informal resolution process, including the records that will be maintained or could be shared.

Initiation of the Investigative Process

Confidentiality within Investigations. Throughout the process of investigation and resolution of a report of sexual harassment/sex discrimination, reasonable efforts will be made to maintain individuals' confidentiality by the University. At different times in the process, however, it may be important to discuss the alleged incident with witnesses and/or others who have information that is pertinent to the case, or on a need-to-know basis. While the University recognizes that involved parties need to seek support and talk to potential witnesses about the incident in order to gather evidence, it is also important to use discretion in discussing the incident or the identities of others involved in the process. In a small community, public discussion of incidents can be very hurtful and deter others from reporting. Additionally, sharing information about the conduct of involved parties with others who are not necessary to the investigation or resolution may form the basis for a finding of retaliation. Complainants and Respondents have the right to discuss their experiences with others while seeking support. However, all parties involved in an investigation or resolution process are urged to maintain the confidentiality of others' involvement throughout the investigative process and after the resolution of a grievance process that was subject to this Policy.

Timeframe for resolving a Grievance. The University will promptly respond to any complaint under this Policy with the intent to complete the grievance process within three months of the filing of a formal complaint; however, temporary delays may extend the resolution of the process. The Title IX Coordinator may determine the need for an extension or delay or the parties may request extensions or delays, in writing, to the Title IX Coordinator, stating with specificity the reason for the request. The Title IX Coordinator and/or their designee, at their discretion, may grant limited extension of timeframes for good cause by providing written notice to the complainant and respondent of the delay or extension and the reason for the action. Good cause may include, but is not limited to, such considerations as the unavailability of a party, advisor or witness, certain concurrent law enforcement investigations, or the need for language assistance or accommodation for disabilities¹⁴, or other reasonable good causes determined by the Title IX Coordinator and/or their designee.

Notice of Allegation and Investigation. Once a formal complaint is filed the complainant and respondent will be notified of the allegations and that an investigation will commence. The University does not compel any party to participate in an investigation or hearing process. However, the University may continue with an investigation or hearing even where a party decides not to participate or where a complaint has not been dismissed. Once an investigation is initiated and before the respondent is interviewed, the involved parties will be notified, in writing, of the commencement of an investigation. Such notice will:

1. identify the complainant and the respondent;
2. state the conduct alleged that may constitute sexual harassment
3. specify the date, location and nature of the violation(s) to the extent known;
4. include a statement that the respondent is presumed not responsible for the alleged conduct and that determination regarding responsibility is made at the conclusion of the grievance process
5. identify the investigator;
6. identify the Title IX Coordinator;

¹⁴ See the end of this Policy for information on support for students or employees in need of accommodations for disabilities.

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

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

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

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

Investigation Procedures

Compiling the Investigative Report. Once a formal complaint is accepted, the Title IX Coordinator or designee will request that the involved parties schedule separate intake meetings within seven (7) calendar days of the receipt of a notice of investigation. The purpose of the intake meeting is to provide a written statement, all evidence, any names of witnesses, and to review the associated policies and expectations of the investigative process. The intake meeting is also an opportunity for involved parties to understand their rights and to allow them time to ask questions, prior to the start of the first investigative interview. Once the intake meeting of the complainant and respondent is complete, the assigned Deputy Coordinator/investigator or designee may move forward with investigating the allegations within the formal complaint. The investigator will commence a prompt, thorough, fair, impartial, and reliable investigation.

All participation of involved parties and witnesses in a grievance process under this Policy, is optional. The investigator will not delay an investigation due to the lack of participation of any involved party or witness or due to a delay in the submission of requested evidence. Once the investigator sets a deadline for any portion of the investigative process, the involved parties and witnesses are expected to adhere to that deadline in order to ensure a timely and impartial investigation. The investigator will meet separately with both the complainant and respondent as well as any identified witnesses. The investigator will ensure that the complainant and the respondent have submitted written personal statements or that the investigator has a document, typically from the involved party(ies), indicating that they declined to provide a written statement, prior to the start of the first investigative interview. The investigator will review each statement with the individual submitting it and share it with the other party. The investigator will request relevant documents, media, and any other form of physical evidence to conduct the investigation. As determined by the investigator, only those identified witnesses who have direct knowledge of the event will be interviewed or asked to provide a written statement. If any witness names are provided from either involved party within the deadlines provided, then the investigator will conduct an intake process for all

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

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

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

A Review and Response Statement is not required. The purpose of such statements is to allow the parties an opportunity to address any perceived factual errors or omissions in the investigator's report. The review and response statement should be a separate bulleted document that identifies the page number, paragraph, and perceived factual error or omission of the individual submitting their review and response statement. Investigators will not change the language or nature of the opposing party's statements or the statements of witnesses. Review and response statements will be added to the final report.

No additional evidence or witness names may be disclosed once the review and response period begins and after it ends. Both parties will be notified of when the review and response period begins and ends as well as the approval of any request for an extension of time to respond.

Final Investigative Report. After the complainant and respondent have reviewed the investigative draft report and submitted responses if any, the investigator produces the final investigative report. The final investigative report will set out the facts, will summarize the information obtained through the investigation, and will include documentation submitted in the course of the investigation. Once it is final, the investigative report is submitted to the decision maker chair for resolution. The decision maker chair will submit the report to their designated hearing panelists. The investigator simultaneously provides instructions to access and download an electronic copy of the final investigative report for the complainant, respondent and advisors. Involved parties must download an electronic copy of the final investigative report by the deadline provided. Involved parties may also request a PDF copy of the final report prior to the deadline provided.

¹⁵ Requests to review the case file prior to the completion of an investigation report may be made to the investigator.

Once the final investigative report has been submitted to the decision maker chair for resolution and to the complainant, respondent, and any advisors, the investigation is deemed closed. The complainant, respondent, and any advisors will have ten (10) calendar days to review the final investigative report before a hearing occurs.

Additional Evidence. No additional information or evidence will be considered by the involved parties except in extraordinary circumstances where it is established by the Title IX Coordinator that the information or evidence is relevant to the resolution process and could not have been discovered or obtained through reasonable diligence in the course of the investigation. In such rare cases, the involved parties may submit the relevant information or evidence to the Title IX Coordinator within 24 hours following receipt of the final investigative report. If new evidence or information is deemed relevant, the Title IX Coordinator will notify the involved parties, advisors, and decision makers that the current process will stop and the investigation will return to the review and response process. The investigator will provide an electronic file for the involved parties to access, review, and respond to the new evidence/information. The investigative process will move forward from that point according to the Policy.

End of Final Investigation Review. At the conclusion of the ten (10) day review of the final investigative report and any additional evidence, the involved parties, any advisors, and witnesses will receive a hearing notice that outlines the identity of the hearing panelists,¹⁶ a hearing date, time, the list of witnesses who are asked to be present for the hearing, the date range to schedule a pre-hearing intake, and any additional information related to preparing for the hearing. The hearing panel may review evidence related to the allegations that was reviewed by the parties, regardless of whether the evidence was incorporated into the final investigative report; however, certain evidence such as past sexual history or privileged information, may or may not be considered unless such information has been waived by the involved party and is determined to be relevant by the investigator, Title IX Coordinator, decision maker chair, or designee.

Types of Evidence that may or may not be considered

Investigator's Record. Only the investigator's report, interviews, audio, and other information collected by the investigator will serve as the official evidence and record for the investigation and resolution process.

Past sexual history. The past sexual history or sexual character of a party will not be deemed relevant in the investigation or hearing unless such information is determined to be relevant by the investigator, Title IX Coordinator, decision maker chair, or designee.

Privileged Information: Sewanee will not require, allow, rely upon, or otherwise use questions or evidence that constitute, or seek disclosure of, information protected under a legally recognized privilege, unless the person holding the privilege has waived the privilege.

- **Medical and Mental Health Records:** The University may not access, consider, disclose, or otherwise use a party's records that are made or maintained by a healthcare professional acting in their professional capacity, and which are made or maintained in connection with the provision of treatment to the party, unless the University obtains that party's voluntary written consent to do so for the resolution process.

¹⁶ Although the Chair and Hearing Panelists are all decision makers, in order to distinguish between the Chair of a hearing and other hearing panelists, the Chair is referred to as the "Decision Maker Chair" while other decision makers are referred to as hearing panelists in this Policy.

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

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

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

Hearing Process and Procedures

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

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

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

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

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

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

Hearing Panel Process and Procedures

- **The Day Prior to the Hearing**

- **Pre-Hearing Intake:** The pre-hearing intake is only for the complainant, respondent and their respective advisors. During the pre-hearing intake, parties and their Advisors may meet with the Title IX Coordinator and support staff separately to review the expectations of the hearing process. The pre-hearing intake is also an opportunity to review written questions previously submitted and/or to submit, in writing, any questions involved parties wish to ask during the live hearing so that the decision-maker chair can be prepared to respond to the relevancy of said questions during the live hearing. This intake does not preclude the advisor from asking additional questions live during the hearing.
- **Pre-Hearing Submission of Questions:** The decision maker chair may request that the parties submit questions, in writing, prior to the hearing. This submission does not preclude the advisor from asking additional questions during the live hearing. The decision-maker may allow for the submission of questions prior to the hearing regardless of whether a pre-hearing intake occurs.
- **Pre-hearing conference:** The decision maker chair reserves the right to hold a pre-hearing conference with the intake process, especially in complex cases involving multiple Complainants, Respondents and/or a significant number of witnesses. The decision-maker may discuss any preliminary relevancy determinations regarding submitted questions and/or discuss alternative ways in which to ask questions; however, the decision-maker will make any final relevancy determinations in real-time, orally, during the live hearing. This conference does not preclude the advisor from asking additional questions live during the hearing.

- **Before the Hearing**

- The involved parties (complainant and respondent) are provided at least ten (10) calendar days to review the final written report and evidence prior to appearing before a hearing panel.
- Hearings are audio recorded. Although hearings are also typically video recorded, only an audio recording will be made available to either involved party by request in the event of an appeal. The hearing panel deliberations are not recorded.
- Each party and witnesses are placed in separate physical or virtual private waiting rooms prior to the hearing. There are no recording devices or additional persons allowed in the waiting rooms beyond those who are participating in the hearing according to this Policy. For the purpose of confidentiality, all involved parties, advisors, and witnesses will be asked to confirm that neither they nor anyone else is or will record the hearing nor will anyone else be present during the course of the hearing process.
- Each involved party will be able to hear in real time the testimony of the other party and any witnesses who may be present for the hearing. Witnesses will not be present for or hear the testimony of the involved parties or other witnesses where a witness is not an advisor.

- **During the Hearing**

- The decision maker chair will commence the hearing by providing a statement of expectations on how the hearing will be conducted. The decision maker will also receive the verbal agreement of each person in attendance to participate in and adhere to the parameters of the hearing process and procedures.
- The complainant is the first party to meet with the hearing panel, followed by the respondent and then the witnesses. After hearing from the witnesses, the hearing panel may recall either involved party or witnesses in any order for follow-up questions or cross-examination.
- Each party commences by sharing an opening oral statement, followed by questions from the decision maker chair and hearing panelists. Involved parties may state that they do not have an opening oral statement if they do not wish to provide one.
- After each party and each witness responds to all questions from the decision maker chair and hearing panelists, each party's advisor may ask the other party and any witness all relevant questions and follow up questions including those challenging credibility.
- The advisor will state each question for cross examination to the decision maker chair prior to the party or witness's response. Before a complainant, respondent, or witness answers a cross-examination question by an advisor, the decision maker chair must first determine whether the question is relevant and explain any decision to exclude a question as not relevant. The decision maker chair shall also have the responsibility to ensure that relevant and material questions are worded in a manner that is not intended to harass or intimidate the party to whom the question is posed.
- When there are no further questions, the party/witness then returns to their physical waiting area or follows the virtual parameters provided by the support staff to return to their virtual waiting room.
- After the complainant, respondent and any witnesses are questioned, if necessary, the decision maker chair and hearing panel may recall the complainant, respondent, or any witness for further questioning.
- When there are no further questions from the decision maker chair and hearing panel, the involved parties, or the advisors, the hearing will move forward with closing oral statements. Involved parties may state that they do not have a closing oral statement if they do not wish to provide one.
- When closing statements have been made, the hearing will conclude and the involved parties, advisors and witnesses will be dismissed individually where hearings are in person. When hearings are virtual, the support staff notify each participant when they are dismissed from the hearing.

- **After the Hearing**

- The decision maker chair and hearing panel then meet in private to deliberate. Deliberations are not recorded.
- The decision maker chair and hearing panel carefully evaluate and determine responsibility based on a preponderance of evidence (i.e. what more likely than not occurred).
- If the respondent is to be found responsible, then the decision maker chair and hearing panel will also consider appropriate sanctions.

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

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

- Identification of the allegations potentially constituting sexual harassment under Title IX (see definition of sexual harassment) or any other form of sex discrimination;
- A description of the procedural steps taken from
 - the receipt of the formal complaint through the determination,
 - including any notifications to the parties,
 - interviews with parties and witnesses, methods used to gather other evidence,
 - and hearings held;
- Findings of fact supporting the determination;
- Conclusions regarding the application of the University’s policy to the facts;
- A statement of, and rationale for, the result as to each allegation,
 - including a determination regarding responsibility,
 - any disciplinary sanctions the University imposes on the respondent,
 - and whether remedies designed to restore or preserve equal access to the University’s education program or activity will be provided by the University to the complainant; and
- The University’s procedures and permissible bases for the complainant and respondent to appeal.

VIII. Sanctions for Title IX Sexual Harassment Including Sex Discrimination

The range of sanctions under this Policy includes but is not limited to educational sanctions, probation, suspension, expulsion, termination, or a combination of sanctions proportionate to the violation. Determinations of responsibility will be maintained in the student conduct record for students and with the personnel record for employees. All records submitted to the Title IX Office, including but not limited to formal complaints, grievance processes, sex discrimination, sexual misconduct, or other prohibited behavior of a sexual nature are maintained with the Title IX office for a minimum period of seven years. The documentation of all records are private and confidential to the extent possible under law. Student records of the grievance process are disciplinary records under the Family Education Rights and Privacy Act (FERPA)¹⁸. Employee records of the grievance process will be included in the employee’s official employment record within the Human Resources Office and with the Dean of the applicable Program, School, or College.

¹⁸ Under the NCAA Board of Governors Policy on Campus Sexual Violence [Policy Here], student athletes must complete an annual disclosure related to their conduct that resulted in discipline through a Title IX proceeding or in a criminal conviction for sexual, interpersonal or other acts of violence.

When deciding on an appropriate sanction, the decision maker chair and the hearing panel may consider any student or employee record of past incidents of misconduct, at the University or elsewhere, including violations of the EQB Guide to Living in Community (i.e. the Code of Conduct), as well as the number, timing, nature, and severity of such past incident(s). The panel may also consider, as part of their deliberations, whether a given sanction will (a) bring an end to the policy violation in question, (b) reasonably prevent the recurrence of a similar violation, and (c) remedy the effects of the violation on the complainant and the University community. For more information on student sanctions and details about probation, suspension, and expulsion, visit the [sanctions page](#) on the Dean of Students website or the faculty or Human Resources Handbooks for employees.

The University may trespass participants such as visitors and guests who have been alleged to have engaged in prohibited conduct without any rights to resolution under this Policy. Members of the University community who host guests may also be held accountable for a guest's misconduct pursuant to applicable University policies.

IX. Appeals

The University will notify the other party that an appeal is filed within five (5) calendar days of receipt of the appeal. The other party has the opportunity to provide a written statement in response to the appeal within five (5) calendar days of notification of the filing of an appeal.

Appeals may be pursued when:

1. a formal complaint is dismissed
2. an emergency removal or administrative leave has been imposed
3. a determination regarding responsibility has been made

Decision Makers for Appeals

The decision maker(s) for appeals are not the same person(s) who may dismiss formal complaints, make a determination regarding responsibility for an alleged violation of the Policy, or make a determination regarding an emergency removal or administrative leave.

Appeals for a Dismissal of a Formal Complaint

If an individual wishes to appeal a decision of the dismissal of a formal complaint, such an appeal must be submitted in writing to the appropriate appellate officer or their designee within five (5) calendar days of the date of a notice of dismissal. The Title IX Coordinator will notify the involved parties in writing as to the name and contact information of this individual. The appellate officer or their designee may decide the appeal directly or appoint a board to assist in the review of the appeal. The appellate officer or chair of the appeal board shall notify the parties, in writing, of the final action on the appeal within five (5) calendar days of receipt of the appeal materials. Where there is a need to extend the 5-day review period of the appeal, the parties will be notified in writing. A five day (5) appeal period will occur regardless of if there is a submission of an appeal from the involved party.

Appeals of Emergency Removal or Administrative Leave

If an individual wishes to appeal a decision of emergency removal or administrative leave, such an appeal must be submitted in writing to the appropriate appellate officer or their designee within five (5) calendar days of the date of a notice of removal. The Title IX Coordinator will notify the involved parties in writing as to the name and contact information of this individual. The appellate officer or their designee may decide the appeal directly or

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

Appeal from a Determination Regarding Responsibility

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

1. Procedural irregularity that affected the outcome of the matter;
2. New evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made, that could affect the outcome of the matter; and
3. The Title IX Coordinator, investigator(s), or decision maker(s) had a conflict of interest or bias for or against complainants or respondents generally or the individual complainant or respondent that affected the outcome of the matter.

If an individual wishes to appeal a decision, such an appeal must be submitted in writing to the Title IX Coordinator or designee within five (5) calendar days of the date of the outcome letter. A five day (5) appeal period will occur regardless of if there is a submission of an appeal from either involved party. If there is an appeal, it will be shared with the other party. The other party will have five (5) calendar days to submit their response in writing to the Title IX Coordinator. The Title IX Coordinator or designee will collect all appeal documents and forward the appeal, any response from the other party, and the hearing record to the chair of the appellate board¹⁹. The Title IX Coordinator will notify the involved parties in writing as to the name and contact information of this individual. The Title IX Coordinator or designee will notify both parties of the submission of the appeal to the appellate board.

Process for Reviewing and Making a Decision on an Appeal

Involved parties are afforded a single appeal. Reviewing an appeal includes an examination of the full investigation and hearing record, the outcome, sanctions, the written appeal, and any response to the appeal. The appellate board may choose to affirm the decision, to affirm the decision but change the sanction, to refer the case back to the decision maker chair and hearing panel for further consideration, or to reverse the decision.

The chair of the appellate board shall provide written notice to the Title IX Coordinator of the final decision on the appeal within ten (10) calendar days of receipt of the appeal materials from the Title IX Coordinator or designee. Where there is a need to extend the 10-day review period of the appeal, the Title IX Coordinator, will provide notice of the need for an extension to the involved parties and their advisors. The notice of extension will include the new expected date of the appeal outcome. Once the appeal is decided, the Title IX Coordinator will notify the involved parties and their advisors of the final decision of the appeal board. Again, once an appeal is submitted and concluded, the decision is final.

¹⁹ An appeal board typically has no more than three hearing panelists (A hearing chair and two appeal panelists).

X. Support and Other Resources

Students and Employees with Disabilities

- **Accommodation Requests:** Participants in need of disability related accommodations and/or interpretation services during the investigation or hearing must contact the Title IX Coordinator with said requests five (5) days prior to the first investigative interview or scheduled hearing.
 - Students seeking accommodations for disabilities under this Policy should contact Student Accessibility Services by phone at (931) 598-1229 or email at sas@sewanee.edu.
 - Faculty or Staff employees seeking accommodations for disabilities under this Policy should contact the ADA Office by phone at (931) 598-1896 or email ada@sewanee.edu to be put in contact with the Director of ADA. See the ADA web page [[HERE](#)]. Faculty or Staff may also contact the Human Resources Office at 931-598-1382 or hr@sewanee.edu, as appropriate. See the HR web page [[HERE](#)].
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Confidential Resources for Reporting and Support:

- University Health Services is open to all full-time, degree-seeking students Monday through Friday, during business hours of 8:00 am - 4:30 pm.
 - Counseling and Psychological services is open to all full-time, degree-seeking undergraduate students Monday through Friday, during business hours of 8:00 am - 4:30 pm.
 - School of Theology students seeking access to counseling and psychological care services can contact the Office of Community Life at the School of Theology. School of Letters students seeking access to counseling and psychological care services can contact University Healthy Services for appropriate referrals.
 - Any ordained clergy when information is disclosed to the clergyperson in their **professional** capacity (931-598-1274, [All Saints' Chapel](#)).
 - Haven of Hope (Domestic Shelter/Advocacy Center) 931.728.1133
 - The RAINN Hotline (Rape, Abuse & Incest National Network) 800.656.4673 or chat hotline at online.rainn.org
 - Chattanooga Rape Crisis Center 423.755.2700.
 - Sexual Assault Center of Nashville 1.866.811.7473
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Parental Notification

The University reserves the right to notify parents/guardians of dependent students regarding any health or safety risk, change in student status, or conduct situation, particularly alcohol and other drug violations. The University may also notify parents/guardians of non-dependent students who are under age 21 of alcohol and/or drug Policy violations. The University may contact parents/guardians to inform them of situations in which there is a significant and articulable health and/or safety risk. The University also reserves the right to designate which University officials have a need to know about individual conduct reports pursuant to FERPA

Other Resources for Reporting and Support:

- Southern Tennessee Regional Health System (Sewanee Hospital 931.598.5691 or Winchester Hospital 931.967.8200). While reporting to a healthcare professional is confidential, the medical staff is obligated to notify law enforcement when injuries are life threatening or if injuries result from the use of a weapon (T.C.A. § 38-1-101)

- Any University mandated reporter such as faculty, staff, lay persons working in the Chaplain's office, or student leaders such as proctors, FYP mentors, PRE/SOP leaders, or orientation leaders.
- Call 911 (emergency) or the Sewanee Police Department at 1111 (non-emergency) for support from law enforcement.
- Extension 1111 can also be used to be routed to a professional staff member who can contact the Dean-On-Call after normal business hours.
- For other emergency, virtual, online, peer and professional support options, that are both in and outside of Sewanee, please refer to the [Title IX website](#).
- For support related to pregnancy, please contact the Senior Director of Equity, Equal Opportunity, and Title IX at titleix@sewanee.edu

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

Title IX Coordinator, Dr. Sylvia Gray at
931-598-1420, titleix@sewanee.edu.
Dr. Gray is located in the EQB Annex, Office 104-A.

Please view the Flow Chart for the Title IX Policy and Process [here](#).

XI. Revision

The University reserves the right to revise this Policy at any time and post to the [Title IX web page](#) and the Provost's policies and procedures [web page](#).