

SAINT AUGUSTINE'S UNIVERSITY SEXUAL MISCONDUCT POLICY



FALCONS FOR TITLE IX INFORMED. ENGAGED. EMPOWERED.

POLICY NUMBER: 110-01-HRC18

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For more information, visit st-aug.edu/title-ix.html



SAINT AUGUSTINE'S
UNIVERSITY

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I. INTRODUCTION

Title IX Notice of Non-Discrimination

In accordance with Title IX of the Education Amendments of 1972, Saint Augustine's University (SAU) does not discriminate on the basis of sex or gender in any of its programs or activities including, but not limited to, admissions, financial aid, academics, athletics, career services, counseling and medical services, and employment.

SAU is committed to providing a safe and welcoming environment for our students, visitors, faculty, and staff. Members of the SAU community have the right to be free from gender-based discrimination and sexual misconduct of any nature, including sexual harassment, stalking, sexual exploitation, or sexual violence.

To ensure compliance with Title IX, each University must designate a Title IX Coordinator to evaluate current policies and practices, coordinate efforts to effectively and efficiently respond to complaints of sex or gender discrimination, and ensure as much as possible that every SAU student and employee has equal education and employment opportunities. SAU's designated Title IX Coordinator is the Director of Human Relations Compliance.

For further information regarding Title IX, please contact Saint Augustine's Title IX Coordinator:

Jamila A. Ormond – Title IX Coordinator
Director of Human Relations Compliance
101A Hunter Building
919.516.4167
jaormond@st-aug.edu

Scope of the Policy

Title IX of the Education Amendments of 1972 (Title IX), and its implementing regulations (34 CFR Part 106), prohibit any individual from being excluded from participation in, denied the benefits of, or subjected to discrimination under any education program or activity on the basis of sex. This prohibition against discrimination also extends to employment in education programs and activities and to admission to such programs and activities.

This policy protects members of the University Community from unlawful discrimination based on sex or gender, and sexual misconduct that may limit an individual's ability to participate in SAU's education program or create a hostile educational or work environment. This policy applies to the conduct of all University students; faculty members; non-faculty employees; student employees; and third parties including but not limited to alumnae, consultants, contractors, local residents, program participants, vendors, visitors, or volunteers, regardless of gender or sexual orientation.

This policy covers any allegation of sexual misconduct and applies to conduct that occurs on University property and adjacent public property including, sidewalks, streets, and parking facilities. The University also recognizes that sexual misconduct may occur off-campus or electronically using email, social media or other electronic means. If conduct that occurs off-campus or electronically violates this policy, the University will evaluate the facts of each individual complaint to determine if the effects of the incident extend to the on-campus environment and will follow procedures within the policy as if the incident took place on campus. Additionally, the following three considerations should inform an individual's application of this policy:

1. University Prohibition on Consensual Relationships and Fraternization

Romantic, intimate or sexual relationships between students and faculty, staff, or any other type of University employee are strictly prohibited under this policy, regardless of whether such a relationship may violate the law. Therefore, violations of this prohibition by a faculty member, staff member, or any other type of University employee and a student may lead to disciplinary action against one or both parties.

While a romantic, intimate or sexual relationship between two consenting employees is a personal matter, and in and of itself is not sexual misconduct, such an interaction may be disruptive and hinder a productive and friendly work environment. To help prevent even the appearance of improper conduct, favoritism, abuse of authority or sexual harassment it is the policy of the University that supervisors are strictly prohibited from becoming romantically, intimately, or sexually involved with any employee over whom they have authority. This restriction may extend to every supervisor within two levels above an employee, regardless of unit or department. Any other consensual romantic, intimate or sexual relationship between two employees must be reported to the Human Resources Director as soon as possible. Where a relationship prohibited by this policy exists, the University shall take whatever action deemed necessary to resolve the situation. University employees are encouraged to bring any questions regarding consensual relationships and fraternization to Human Resources.

2. University Policy on Indemnification

Should any legal action arise from a violation of this policy, and the University and a member of the University Community are named as co-defendants, the University may refuse to defend and/or indemnify any co-defendant who is responsible for the violation. If a complaint is filed in court and legal action is taken against the University and/or an employee, the University may decline to provide that employee any indemnification for damages awarded against the employee.

The University's decision to defend or indemnify any employee will be based solely on University Counsel's determination as to whether the co-defendant acted in good faith and not in a manner that is harmful to the University's best interest. The University will not defend or indemnify any member of the University Community in any legal action or proceeding alleging conduct that violates this policy. Additionally, the University may also file a legal action against any employee to reimburse the University for any loss it may incur as a result of the individual's violation of this policy or any applicable law or regulation.

3. University Amnesty Statement

The University acknowledges that an individual under the influence of drugs or alcohol at the time of an incident may be reluctant to file a complaint, or provide a statement because the use of drugs or alcohol may be a violation of the University's substance abuse policy and/or North Carolina law. The University aims to remove any barriers to reporting an instance of sexual misconduct, or cooperating with an investigation. Any individual who reports gender discrimination or any form of sexual misconduct, either as a complainant or a third-party witness, will not be subject to disciplinary action by the University for their own personal consumption of drugs or alcohol, provided that any violation did not and does not place the health or safety of anyone else at risk. The University may, however, recommend appropriate educational or therapeutic remedies regarding the use or abuse of drugs or alcohol.

University's Responsibility

The University complies with all applicable nondiscrimination and equal opportunity titles and sections of the Civil Rights Act of 1964, Education Amendments of 1972, Rehabilitation Act of 1973, Americans with Disabilities Act of 1990, the Age Discrimination in Employment Act of 1967, Equal Pay Act of 1963, the Vietnam Era Veterans Readjustment Assistance Act of 1974, and the Genetic Information Nondiscrimination Act of 2008.

All members of the SAU faculty and staff including contract and temporary employees, working at the University, whether on campus or working at a satellite location, are expected to conduct themselves in a professional and respectable manner that does not discriminate or infringe upon the rights of others.

The University takes all allegations of sexual misconduct seriously and is committed to providing clear direction, information and educational resources, support, and interim measures to SAU community members, to prevent and address such conduct. In accordance with federal law, the University is responsible for investigating and responding appropriately to all alleged violations of this policy regardless of how they are reported or whether a formal complaint is filed. Upon learning of any violations of this policy, the University must use its best efforts to investigate all matters brought to the attention of the Title IX Coordinator or any other responsible employee. Appropriate steps will be taken to address substantiated policy violations to stop the discrimination, harassment, sexual misconduct, or retaliation, and prevent its recurrence.

II. PROHIBITED CONDUCT

Sexual Misconduct

Sexual misconduct is defined as any act of a sexual nature perpetrated against an individual without their informed, and voluntary consent. For the purposes of this policy Sexual Misconduct is a broad term used to encompass unwelcome, non-consensual sex or gender based conduct or behavior of a sexual nature, and may be a violation of federal and state criminal and/or civil law. The following forms and behaviors are prohibited at SAU (see Appendix D for Important Definitions):

- Gender Discrimination
- Sexual Harassment
- Sexual Intimidation
- Sexual Assault
- Sexual Exploitation
- Relationship Violence (including dating and domestic violence)
- Stalking or Cyberstalking

Sexual misconduct is not limited to the educational environment or workplace. It can extend beyond University property and may occur at any University sponsored program, activity or event, regardless of the location. Sexual misconduct can occur out of state or out of the country, at a conference or while studying abroad.

Sexual misconduct is strictly prohibited at SAU, and will be considered a violation of this policy. In addition to the corrective actions referenced in Appendix C, anyone found to have violated this policy may be subject to criminal penalties as outlined in the North Carolina General Statutes, Chapter 14 Article 7B.

Retaliation

Every member of the University Community has the right to file a complaint of sexual misconduct without fear of retaliation. It is both unlawful, and a violation of University policy to retaliate against anyone who raises an allegation of sexual misconduct, cooperates in an investigation, or opposes discriminatory practices. Retaliation may include intimidation, threats, coercion, or unfavorable educational or employment actions.

Any individual who engages in retaliation will be subject to prompt and appropriate disciplinary action as outlined in Appendix C. Any individual who feels that they have been subjected to retaliation should contact the Title IX Coordinator.

Providing False Information

A charge of sexual misconduct may have severe consequences. Submitting a complaint under this policy that is not made in good faith, or that contains false or misleading information is prohibited. Any complainant or witness who makes a report of sexual misconduct and is found to have intentionally given false information during an investigation may also be subject to disciplinary action. This provision does not apply to reports made in good faith, where the facts alleged in the complaint are not substantiated by an investigation.

III. REPORTING SEXUAL MISCONDUCT

Timeliness

The University will investigate all possible violations of this policy upon notification. There is no time limit for reporting an incident of sexual misconduct, however, students and employees are encouraged to report any alleged violation as soon as possible. Failure to timely report an incident or file a complaint with the Title IX Coordinator may adversely affect the University's ability to obtain information, conduct a thorough and impartial investigation or take any disciplinary action under this policy.

Confidentiality and Requests for Privacy

Anyone who experiences or witnesses sexual misconduct is encouraged to report the incident so they can get the support they need, and so the University can respond appropriately. Every effort will be made to respect and safeguard the privacy of all individuals involved in an allegation of sexual misconduct.

Individuals involved in investigations or disciplinary proceedings under this policy are expected to exercise discretion in sharing information to preserve the integrity of the process, protect privacy and avoid the appearance of retaliation. Discretion is important; however, complainants, witnesses and respondents are not restricted from discussing and sharing information with others who may assist them in presenting their case.

Employees on campus have different abilities to maintain confidentiality. Certain employees on campus are considered "responsible employees" and are required to report all the details of an incident to the Title IX Coordinator. Confidential resources at the University include, CAPS counselors, health professionals and the Chaplain. These individuals have a duty to keep reports confidential and do not report incidents to the Title IX Coordinator or anyone else. In very rare exceptions, confidential resources may have to share reported information to protect students, employees or other members of the University Community from an imminent threat of harm.

Once a formal complaint has been filed with the Title IX Coordinator, complete confidentiality cannot be guaranteed since requests for privacy must be balanced with the University's obligation to conduct a thorough investigation of the allegation, eliminate the conduct, address its effects, prevent its recurrence, and ensure the safety of the University Community.

Reporting to the Title IX Coordinator

The Title IX Coordinator manages the investigation and resolution of all complaints of sexual misconduct covered by this policy and will ensure consistent application of the policy. The Title IX Coordinator's responsibilities include overseeing the University's response to reports of sexual misconduct policy violations, and identifying and addressing any systemic problems revealed by reports of sexual misconduct.

Any member of the University Community who believes they have been subjected to a violation of this policy is encouraged to speak directly to the Title IX Coordinator to report the incident. Once a report of sexual misconduct is made, the Title IX Coordinator will assist individuals in seeking assistance from appropriate resources to ensure they receive the support they need. An initial assessment will be conducted to evaluate the nature of the report, the safety of the parties involved and the University Community, the complainant's preference for resolution, and the need for interim protective measures.

After the initial assessment is made, the Title IX Coordinator will: pursue voluntary resolution between the parties; initiate an investigation into the allegations; or take no further action if (1) the Complainant requests, and to do so does not prevent the University from protecting others from sexual misconduct, or (2) the conduct reported does not rise to the level of a policy violation.

Reporting to Other University Faculty and Staff

Reports of sexual misconduct may be made to another University faculty or staff member designated as a responsible employee. All responsible employees are obligated to report any known or suspected violation of the University's sexual misconduct policy to the Title IX Coordinator as soon as they learn of the violation, regardless of how the responsible employee learns of the violation.

Responsible employees are authorized to provide information to the complainant about resources and support available to them. Responsible employees should maintain a complainant's privacy as much as possible without neglecting their duty to report, and should only disclose information to those individuals with a need to know.

Reporting to Law Enforcement

Individuals may, but are not obligated to contact local law enforcement authorities directly to discuss an incident of sexual misconduct, without filing a formal complaint with the University or initiating a criminal case.

The University encourages individuals to report any incident of sexual assault, sexual violence or other criminal conduct to local law enforcement, however, filing a criminal complaint does not ensure the University is aware of the incident. Anyone who files a criminal complaint can also pursue a formal complaint with the University through the identified process.

Any report of a violation under this policy, made to the SAU Campus Police Department will be immediately reported to the Title IX Coordinator who will follow-up with the complainant and apprise them of their rights. The University respects an individual's decision with respect to notifying law enforcement, however, the University may notify the appropriate law enforcement authority, if necessary, given the nature of the allegations.

Reporting as a Third-Party Witness or Bystander

Third-parties including witnesses and bystanders with knowledge of an incident may also report sexual misconduct to the Title IX Coordinator. Reports can be made without identifying the parties involved. The University's response and ability to take corrective action may be limited by the information available about the incident or the individuals involved. Anyone who witnesses a sexual assault is strongly encouraged to call the local police or the SAU Campus Police Department as soon as possible.

Clery Act Reporting

The Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (Clery Act) requires University administrators to issue timely public notices about active safety concerns other incidents that pose a substantial threat to members of the University Community. The Clery Act also requires documentation of incidents of sexual misconduct for statistical reporting purposes. These reports include information regarding the type of incident and its general location, and helps to provide the University community with a clear snapshot of the extent and nature of campus crime. No personally identifiable information is included and every effort will be made to protect identifying information while disclosing enough information for community members to take appropriate protective measures.

IV. PROCEDURES AFTER A REPORT IS MADE

Interim Protective Measures

Reasonable and appropriate interim protective measures are available whether or not a formal complaint or criminal charges are pursued, and may be implemented at any point in the complaint process. Various interim protective options include but are not limited to: access to counseling and medical services, no-contact and/or stay way orders, no trespass orders, providing an escort on campus, class schedule and housing changes, temporary changes in job assignment or work environment, increased monitoring of certain areas on campus, interim suspension, or separation while an investigation is being conducted.

Whenever a report of sexual misconduct is made, the Title IX Coordinator will immediately assess the situation and look to mitigate the risk of harm to individuals or to the University Community through appropriate interim protective measures. The Title IX Coordinator may consult other University employees for assistance with this process, while maintaining the privacy of the parties involved.

Oversight

The University expects that all reports of sexual misconduct be made or referred to the Title IX Coordinator as soon as reasonably practicable. Due to the nature of the complaint, the relationship of the complainant and the respondent to the University (student, staff, faculty, third party), other designated faculty or staff members may assist in resolving a complaint.

If any SAU employee designated by this policy to assist with complaint resolution or participate in an investigation is the respondent, the Title IX Coordinator or University President will appoint another employee to perform that person's duties. Employees of the University may also be excused from participating in the investigation or resolution of a complaint if it is determined that their relationship to the complainant or the respondent poses a conflict of interest.

Initial Review of the Report

Once a report of sexual misconduct is received the Title IX Coordinator will meet with the complainant and the respondent individually to gather information and provide resources for support. If either party is a student, that individual may bring a personal advisor to any interview or meeting.

Personal advisors may include a parent, friend, a staff or faculty member, or an attorney. The role of the personal advisor is to advise the complainant or respondent and/or provide emotional support. A personal advisor cannot be a witness to the alleged incident or have any first-hand personal knowledge about the alleged incident.

Personal advisors must maintain strict confidentiality regarding any communications exchanged about the alleged incident, must limit their statements solely to advising the complainant or respondent and should not speak for the complainant or respondent, and will not be permitted to ask or answer any questions on behalf of either party.

Complainant's Initial Meeting with the Title IX Coordinator

The Title IX Coordinator or their designee will contact the complainant to schedule a meeting and notify them of their right to bring a personal advisor to the meeting. The purpose of the initial meeting is to gather additional information about the circumstances of the alleged violation including what resolution or remedy the complainant is seeking. The immediate physical safety and emotional well-being of the complainant will be addressed and they will be notified of their right to seek medical treatment, and to contact law enforcement. The complainant will be provided with a copy of the Sexual Misconduct Policy, and the protections provided by the University. All complainants will be provided with the SAU Sexual Misconduct Incident Form (see Appendix B), and informed of the options for proceeding with a formal complaint and investigation.

Complainants are free to share their own personal experiences, however, are advised to limit the number of people they confide in. There is the risk that the integrity of the investigation may be compromised by disclosing too much information about the alleged incident.

Any personally identifiable information including health information that is learned during an investigation must be kept confidential. Any willful or deliberate breach of this confidentiality is strictly prohibited and may result in disciplinary action, up to and including suspension, expulsion or termination.

Respondent's Initial Meeting with the Title IX Coordinator

If the complainant decides to pursue a formal complaint, the Title IX Coordinator or their designee will contact the respondent to schedule a meeting and notify them of their right to bring a personal advisor to the meeting. It shall be presumed that there has been no violation of any University policy by the respondent until a thorough investigation has been completed and there is a finding of misconduct, or unless there is an admission of a policy violation by the respondent.

The purpose of the initial meeting is to notify the respondent that a formal complaint is being pursued against them, to review the allegations against them and allow them to respond to the allegations made. The immediate physical safety and emotional well-being of the respondent will be addressed and they will be notified of their right to seek medical treatment, and to contact law enforcement.

The respondent will be provided with a copy of the Sexual Misconduct Policy, and the protections provided by the University. Respondents will be provided with the SAU Sexual Misconduct Incident Form to provide a written response to the complainant's allegations.

Respondents are free to share their own personal experiences, however, are advised to limit the number of people they confide in. There is the risk that the integrity of the investigation may be compromised by disclosing too much information about the alleged incident.

Any personally identifiable information including health information that is learned during an investigation must be kept confidential. Any willful or deliberate breach of this confidentiality is strictly prohibited and may result in disciplinary action, up to and including suspension, expulsion or termination.

Voluntary Resolution

If after the complainant's initial meeting with the Title IX Coordinator, it is determined that voluntary resolution may be appropriate, the University will take prompt corrective action through remedies intended to ensure the complainant's full access to the University's educational and employment opportunities.

Voluntary resolution may be appropriate if: (1) the complainant requests it; (2) the respondent agrees to the proposed resolution; (3) the complainant and the respondent are both students or employees of the University; and (4) the complaint does not involve any form of sexual assault. Either party may request to end voluntary resolution at any time and request to move forward with a formal complaint.

V. INVESTIGATION OF FORMAL COMPLAINTS

Notification of Investigation

If the complainant desires to pursue a complaint or the University determines that an investigation is warranted, the Title IX Coordinator will send both the complainant and the respondent a written Notice of Investigation. The Notice of Investigation will summarize the alleged sexual misconduct policy violation and inform both the complainant and the respondent of their rights and the applicable timeframes.

Investigation Procedures

The Title IX Coordinator will initiate an investigation within 15 calendar days of a complaint alleging a violation of the sexual misconduct policy. The scope of the investigation will be determined by the Title IX Coordinator and according to the alleged misconduct and facts. The Title IX Coordinator may conduct the investigation, or may at any time decide that it is in the best interest of the University to have an outside, trained consultant investigate allegations of sexual misconduct. Both the complainant and the respondent will be afforded an equal opportunity to participate fully in the investigation. Any refusal by either party to participate will not preclude the continuation of the investigation and resolution of the complaint. If the respondent refuses to cooperate, and a violation of the policy is found by a preponderance of the evidence, disciplinary action will be imposed.

Notice of investigative meetings and interviews will be provided to the complainant, respondent, and witnesses with relevant information, at least two days in advance. Meetings and/or interviews may be facilitated in person, by phone, or other electronic means. Both parties may provide statements, a list of witnesses, and any evidence they deem pertinent. Additionally, the Title IX Coordinator may request the appearance of individuals from the University Community who can provide substantial, relevant information. After conducting interviews and reviewing evidence collected or received, the Title IX Coordinator will prepare an Investigative Summary. The complainant and the respondent will have the opportunity to review a redacted copy of the Investigative Summary and be given a chance to respond in writing within five calendar days. After considering the responses from the Investigative Summary, the Title IX Coordinator will make a final determination considering the entire record and applying the preponderance of evidence standard.

Interviews

The Title IX Coordinator, or designated investigator will conduct interviews with the complainant, the respondent, witnesses, and any other member of the University Community with pertinent information. Interviews may be recorded and will be summarized in writing. Witnesses will be reminded of the importance of maintaining confidentiality and the prohibition on retaliation.

Collection of Evidence

In the process of an investigation, physical, documentary or other evidence may be collected. For evidence to be considered it must be presented directly to the Title IX Coordinator or designated investigator prior to the rendering of a final determination. Evidence may be gathered by visiting, inspecting, and taking photographs of sites of the alleged misconduct. Additionally, the complainant and the respondent may present any written evidence or documentation at any time before the investigation is concluded. Only substantive and relevant new information not available at the time of the investigation will be considered during any appeal of the final determination.

Evidence may include prior statements by the complainant, respondent or witnesses, any communication between the complainant and the respondent, email messages, social media posts, text messages, and photographs. The Title IX Coordinator or designated investigator has the discretion to determine the relevance of any witness or other evidence, and may exclude information in preparing the Investigative Summary if the information is irrelevant, immaterial, or more prejudicial than informative.

If the respondent was found to have violated this or a similar policy in the past, the information related to the past violation may be considered during the investigation if; the prior violation was substantially similar to the present alleged misconduct, and the prior violation indicates a pattern of behavior by the respondent. The complainant's past sexual history with the respondent or anyone else will not be considered in determining whether a violation of this policy occurred.

In instances where there was a prior or ongoing relationship between the complainant and the respondent, and the respondent asserts that consent was sought and given, the prior sexual history between the parties may be relevant to assess the manner and nature of communications between the parties used to establish consent; however, the existence of a current or previous dating, intimate or sexual relationship, by itself, does not constitute consent.

Investigative Summary and Follow-up Interviews

After the investigation, the Title IX Coordinator will prepare an Investigative Summary outlining the details of the complaint, and the evidence gathered. The complainant and the respondent will have five calendar days to review the Investigative Summary and respond in writing to the information gathered during the investigation.

Both the complainant and the respondent will be given an opportunity to submit a rebuttal statement and additional evidence and documentation in response to claims made by either party. Follow-up interviews with the complainant, respondent or any of the witnesses may be held at the discretion of the Title IX Coordinator, should any of the statements made or evidence submitted need clarification.

VI. RESOLUTION AND APPEALS PROCESS

Final Determination

The Title IX Coordinator will complete a final report within 15 calendar days of the conclusion of the investigation. The final report is confidential and will only be shared with those individuals with a need to know. In accordance with FERPA regulations, the final report will not contain the names of any witnesses without their consent. Final reports will contain a description of the complaint, summarize the facts found during the investigation, and will explain the basis for the final determination. If it is determined that the University's Sexual Misconduct Policy has been violated, the final report will also include a recommendation for appropriate corrective action.

The Title IX Coordinator will notify both parties in writing that a final determination has been reached. Both the complainant and the respondent will be contacted to schedule an individual meeting to discuss the findings of the investigation, the recommended remedies available, and disciplinary actions to be imposed.

Corrective Action

When a policy violation is substantiated, the Title IX Coordinator will convene a meeting with relevant parties to determine the appropriate corrective action to address the violation and prevent its recurrence. Corrective action may include both disciplinary action against the respondent and remedies for the complainant and all other affected members of the University Community.

In determining the appropriate corrective action, the following factors will be assessed: (1) the nature of the conduct; (2) the impact of the conduct on the complainant; (3) the impact of the conduct on the University Community; (4) prior history of sexual misconduct by the respondent, both at the University or elsewhere, including prior convictions; (5) protection of the University Community, and the preservation of a safe and respectful environment conducive to learning. Appendix C outlines the types of corrective action that may be imposed.

Complainants will be notified in writing of any corrective action taken to address a sexual misconduct policy violation, however, no confidential information contained in any student's record or employee's personnel file will be shared, unless permitted by law. If the sexual misconduct involves violence, the University is required to notify the complainant of the specific disciplinary action imposed against the respondent.

The University may at any time initiate a corrective action, even when no policy violation has occurred or no complaint has been filed; if it is determined that to do so would be in the best interest of the University Community. Additionally, the Title IX Coordinator may determine that one or both parties should receive training or counseling on Title IX, substance abuse, or any other subject matter relevant to the information contained in the Investigative Summary or Final Report. Although recommended training will not be regarded as discipline or punishment under these specific circumstances, completion is mandatory.

Appeals Process

The complainant and the respondent have equal rights to an impartial appeal should either party disagree with the final determination. Grounds for appeal include: (1) new evidence and/or witnesses that were not available at the time of the investigation that could have significantly impacted the outcome; (2) procedural errors that could have significantly impacted the outcome; (3) insufficient evidence to support the investigator's findings.

If the facts of the investigation lead to a determination that a Sexual Misconduct Policy violation has occurred, both the complainant and the respondent may: (1) accept the determination of the policy violation, and the recommended corrective action; or (2) request an appeal of the determination of policy violation and recommended corrective action. If the facts of the investigation lead to a determination that no violation of the Sexual Misconduct Policy has occurred the complainant may: (1) accept the determination that no policy violation occurred (applies to one or all alleged violations); or (2) request an appeal of the determination that no policy violation has occurred (applies to one or all alleged violations).

Requests to appeal a final determination should be submitted in writing to the Title IX Coordinator within five calendar days of receipt of the final determination. Appeal requests must contain the specific grounds for an appeal, and any supporting documentation, as well as copies of the Investigative Summary and Final Determination. The Title IX Coordinator will forward the complete appeal package to the Office of the President for review and decision.

Appendix A - Resources

Emergency Response

SAU Campus Police Department

Lynch Hall
(919) 516-4411
24 Hours a Day, 7 Days a Week

Raleigh Police Department – Downtown District

218 W Cabarrus Street
Raleigh, NC 27610
911 Emergency Dispatch
(919) 829-1911 Non-Emergency Dispatch

Medical Assistance

Gordon Health Center

M-F 8:00 am – 5:00 pm
Main Number (919) 516-4142
Timothy Stevenson, RN (919) 516-4304
tbstevenson@st-aug.edu
Mary Holt, Medical Assistant (919) 516-4305
mmholt@st-aug.edu

Solace Center

Provides free sexual assault forensic exams
M-F 9:00 am – 5:00 pm
1012 Oberlin Road
Raleigh, NC 27605
www.interactofwake.org

WakeMed Hospital

24 Hours a Day, 7 Days a Week
3000 New Bern Avenue
Raleigh, NC 27610
(919) 350-8000
www.wakemed.org

Wake County Public Health Services – Clinic A

Provides free STD testing, first come first served
M, TH, F 8:30 am or 12:30 pm
T 9:30 am or 12:30 pm; W 4:30 pm
10 Sunnybrook Road
Raleigh, NC 27610
(919) 250-4410
[www.wakegov.com/human services/publichealth](http://www.wakegov.com/human_services/publichealth)

Confidential Counseling and Support Services

Counseling and Psychological Services (CAPS)

CAPS House

M-F 9:00 am – 6:00 pm

Saturday availability by appointment

Walk-Ins Welcome

(919) 516-4255

University Chaplain

Reverend Nita C. Byrd

Hunter Building Room 207

(919) 516-4241

ncbyrd@st-aug.edu

Title IX Team

Jamila A. Ormond, Title IX Coordinator

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Dean of Women, Student Leadership and Campus Life

Hunter Building Room 204

(919) 516-5083

abrown@st-aug.edu

Dr. Paul Norman, Deputy Title IX Coordinator – Corrective Action

Dean of Men and First Year Experience

Hunter Building Room 204

(919) 516-4240

panorman@st-aug.edu

Leon Carrington, Deputy Title IX Coordinator – Athletics

Assistant Athletic Director

Delany Building Room 214

(919) 516-4372

lcarrington@st-aug.edu

Dr. Orlando E. Hankins, Sr. Deputy Title IX Coordinator – Faculty Liaison

Associate Provost

Benson Building Room 201

(919) 516-4860

oehankins@st-aug.edu

EXTERNAL REPORTING OPTIONS

Office for Civil Rights

U.S. Department of Education

400 Maryland Avenue SW

Washington, DC 20202

Phone: (202) 453-6020

Fax: (202) 453-6021 TTY: (800) 877-8339

OCR complaints must ordinarily be filed within 180 days of the last act of discrimination. OCR may extend the filing deadlines under certain circumstances. If you are requesting an extension of the filing deadline, you may be asked to show good cause why you did not file your complaint within the 180-day period.

U.S. Equal Employment Opportunity Commission (EEOC)

Raleigh Area Office

434 Fayetteville Street, Suite 700

Raleigh, NC 27601

Phone: (800) 669-4000

Fax: (919) 856-4151 TTY: (800) 669-6820

The EEOC prohibits sex-based discrimination including sexual harassment in the workplace. Complaints must generally be filed within 180 days from the last act of discrimination or harassment. State law may cause the timeframe to be extended to 300 days.

Appendix B - SAU Sexual Misconduct Incident Report Form

SAINT AUGUSTINE'S UNIVERSITY SEXUAL MISCONDUCT INCIDENT REPORT

Complainant's Information (the victim of alleged sexual misconduct)		
Name:		
Affiliation to Saint Augustine's (student, faculty, staff, other):	Email:	Phone:
Current address:		
City:	State:	ZIP Code:
Complainant's Preference for Complaint Processing (please check one):		
No Action <input type="checkbox"/>	Voluntary Resolution <input type="checkbox"/>	Formal Complaint <input type="checkbox"/>
Respondent's Information (the individual accused of alleged sexual misconduct)		
Name (if known):		
Affiliation to Saint Augustine's (student, faculty, staff, other):	Email:	Phone:
Current address:		
City:	State:	ZIP Code:
Incident Information		
Date and Time of Incident:		
Location or Address of Incident:		
Description of the Incident (please be as detailed as possible by including the type of alleged misconduct, circumstances of contact with the respondent, etc.). Additional pages may be attached.		
Have you Sought Medical Attention? Yes <input type="checkbox"/> No <input type="checkbox"/>	Has law enforcement been contacted? Yes <input type="checkbox"/> No <input type="checkbox"/> If Yes, please provide details of contact.	
Has this incident been reported to anyone else at SAU? If so, please provide that individual's name.		
Complainant's Desired Remedy or Corrective Action:		
Witnesses		
Name:	Title/Relationship to the Parties:	Phone:
I declare that the information provided on this form is true and correct. Signature of Complainant or Respondent:		Date:
Signature of Title IX Coordinator or Designee:		Date:

Appendix C – Corrective Actions

When a violation of the SAU Sexual Misconduct Policy has occurred, remedies may be granted and disciplinary action will be imposed according to the following guidelines. The level and type of corrective action imposed will depend on the type of offense, the harm to the complainant and/or University Community, and the respondent’s relationship to the University. Repeated or multiple offenses by the same respondent will at minimum result in a Tier II disciplinary action.

Types of Remedies Granted
Comprehensive and holistic survivor services including medical, counseling, and academic support; Conducting sexual misconduct prevention programs; Ensuring the complainant and the respondent do not share classes, work space, or extracurricular activities; Appropriate academic adjustments; Excusable absences from class or work; Permanent no-contact orders; Residential accommodation or reassignment; Work reassignment; Title IX Training of employees and/or students.

Level of Disciplinary Action	Types of Disciplinary Action Imposed
Tier I	Disciplinary Warning, Documented Counseling, Mandatory Education/Title IX Training
Tier II	Administrative Leave without Pay, Compensation Adjustments, Documented Counseling, Disciplinary Probation, Loss of Housing Privileges, No Contact Order, Short-Term Suspension, University Community Service
Tier III	Campus-wide Barring Order, Long-Term Suspension, Expulsion, Requirement to Cease Doing Business with the University, Restitution, Termination of Employment

Policy Violation	Type of Misconduct	Recommended Disciplinary Action
Gender Discrimination or Gender-Based Harassment (non-sexual)	A. Verbal, written, or electronic communication or physical conduct that creates a hostile environment	Tier I
	B. Discriminatory Treatment	Tier II
Sexual Harassment	A. Verbal, written, or electronic harassment, inappropriate or suggestive language; or discriminatory treatment (first/single offense)	Tier I
	B. Requests for sexual favors; unwanted sexual advances; or non-consensual touching of non-intimate body parts (first/single offense)	Tier II
	C. Pattern of harassment, repeated non-consensual touching of non-intimate body parts, or discriminatory treatment	Tier III

Sexual Intimidation	A. Indecent Exposure (first/single offense)	Tier I
	B. Verbal, written, or electronic aggression based on gender, or threats to commit a non-consensual sexual act against someone	Tier II
	C. Physical acts of aggression, bullying, or hostility based on gender	Tier II or Tier III (depending on whether the misconduct caused physical injury to the complainant)
Sexual Assault (Interim Suspension may be imposed pending investigation and final determination)	A. Non-consensual, coerced, or forced touching of intimate body parts or other sexual contact	Tier II
	B. Rape or attempted rape	Tier III
Sexual Exploitation	A. Viewing another person's sexual activity, intimate body parts, or nakedness without their knowledge or consent	Tier I
	B. Recording and/or distributing sexual images or audio of another person without their consent	Tier II
	C. Prostituting another person.	Tier III
Relationship Violence (Dating or Domestic)	A. Threat of physical or sexual violence	Tier I
	B. Act of physical or sexual violence that does not result in serious physical injury	Tier II
	C. Act of physical or sexual violence that results in serious physical injury including rape	Tier III
Stalking or Cyberstalking	A. Single or First Offense	Tier I
	B. Repeat or Multi-Victim Offense	Tier II or Tier III
Retaliation	A. Verbal, written, or electronic intimidation, threats, hostility, or aggression	Tier I
	B. Physical act of intimidation, coercion, hostility, or aggression; other adverse education or employment actions	Tier II or Tier III (depending on whether the retaliation resulted in physical harm or financial liability to University)
Providing False Information	Any incident of providing false information as a complainant, respondent or witness	Tier I or Tier II

Appendix D – Important Definitions

Bystander or Third Party – A bystander is an individual who observes an incident of alleged or potential sexual misconduct but does not participate. A third party is someone who may have observed or been told about the incident. A bystander or a third party may make a report regarding the incident to the Title IX Coordinator.

Clery Act – The Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistic Act is a federal law that generally requires all colleges and universities that receive federal financial assistance to keep and disclose information about crime on and near their campuses.

Complainant – An alleged victim of sexual misconduct who chooses to file a complaint and participate in the University's investigation and resolution of the alleged sexual misconduct.

Coercion – The use of pressure to compel another individual to initiate or continue sexual activity against their will. Coercion can include intimidation, manipulation, threats, and blackmail. An individual's words or conduct are sufficient to constitute coercion if they wrongfully impair another individual's free will and ability to choose whether or not to engage in sexual activity. Examples of coercion may include threatening to harm oneself or others if the other party does not engage in sexual activity, or threatening to "out" someone based on sexual orientation, gender identity, or gender expression.

Consent – Permission for something to happen or an agreement to do something. Consent must be informed, deliberate, voluntary, and mutual, and can be withdrawn at any time. Consent can be given by words or actions as long as those words or actions create clear, mutually understandable permission regarding the conditions of sexual activity. There is no consent when there is force, coercion, intimidation, threats, or duress. Consent may not be inferred or assumed from silence, or lack of objection. Consent to one sexual act does not constitute or imply consent to another sexual act; and previous consent cannot imply consent to future sexual acts. If a person is mentally or physically incapacitated or impaired such that they cannot understand the fact, nature, or extent of the sexual situation, there is no consent; this includes impairment due to drug or alcohol consumption, or being asleep or unconscious. Under North Carolina law, 16 is the minimum age of consent for sexual contact.

Dating Violence – Violence committed by a person who is or has previously been in a romantic, intimate or sexual relationship with the victim. For the purpose of this definition, dating violence includes, but is not limited to, sexual or physical abuse or threat of such abuse. Any incident meeting this definition is considered a crime for purposes of Clery Act reporting.

Domestic Violence – A felony or misdemeanor crime of violence committed by (a) a current or former spouse or intimate partner of the victim; (b) a person with whom the victim shares a child; (c) a person who is cohabitating with, or has cohabitated with the victim as a spouse or intimate partner; (d) a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred; or (e) any other person, against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred. Any incident meeting this definition is considered a crime for purposes of Clery Act reporting.

Family Educational Rights and Privacy Act (FERPA) – A federal law that generally protects the privacy of student education records. FERPA grants parents or eligible students the right to access, inspect, and review education records, the right to challenge the content of education records, and the right to consent to the disclosure of education records.

Gender-Based Harassment – Unwelcome conduct of a nonsexual nature based on a student's actual or perceived sex, including based on gender identity, gender expression, and nonconformity with gender stereotypes.

Gender Discrimination – The unequal treatment of an individual or group, based on gender when the conduct is not sexual in nature.

Gender Expression – External appearance of an individual’s gender identity, usually expressed through behavior, clothing, grooming, mannerisms, or voice, which may or may not conform to socially defined behaviors and characteristics typically associated with being either feminine or masculine.

Gender Identity – An individual’s innermost concept of themselves as a female, a male, a blend of both or neither. How individuals perceive themselves and what they call themselves. An individual’s gender identity can be the same or different from their sex assigned at birth.

Hostile Environment – Exists when sex-based harassment is sufficiently serious to deny or limit the student or employee’s ability to participate in or benefit from the University’s programs or activities. A hostile environment may be created by anyone involved in the University’s programs or activities. In determining whether sex-based harassment has created a hostile environment, the University considers the conduct in question from both a subjective and objective perspective.

It will be necessary, but not enough, that the conduct was unwelcome to the individual harassed. The University must also find that a reasonable person in the student or employee’s position would have perceived the conduct to be undesirable or offensive for that conduct to create or contribute to a hostile environment. In order to make the ultimate determination of whether a hostile environment exists the University considers a number of factors related to the severity, persistence, or pervasiveness of the sex-based harassment, including: (1) the type, frequency, and duration of the conduct; (2) the identity and relationships of persons involved; (3) the number of individuals involved; (4) the location of the conduct and the context in which it occurred; and (5) the degree to which the conduct affected one or more student’s education. The more severe the sex-based harassment, the less need there is to show a repetitive series of incidents to find a hostile environment. A single instance of sexual assault may be sufficient to create a hostile environment. Likewise, a series of incidents may be sufficient even if the sex-based harassment is not particularly severe.

Incapacitation – The temporary or permanent inability to give consent due to being mentally and/or physically disabled, asleep, unconscious, or unaware of what is going on. An individual who is incapacitated lacks the ability to make informed, rational judgments and cannot consent to sexual activity. Incapacitation may result from the use of alcohol or other drugs and is a state beyond drunkenness or intoxication. Although the impact of drugs or alcohol varies from person to person; warning signs that a person may be approaching incapacitation may include slurred speech, vomiting, combativeness, emotional volatility, unsteady movement, difficulty walking or standing, or the inability to move at all.

Pastoral Counselor – A person who is associated with a religious order or denomination, is recognized by that religious order or denomination as someone who provides confidential counseling, and is functioning within the scope of that recognition as a pastoral counselor.

Professional Counselor – A person whose official responsibilities include providing mental health counseling to members of the University Community and who is functioning within the scope of the counselor’s license or certification.

Preponderance of Evidence – The standard by which all complaints of sexual misconduct will be reviewed and decided. This preponderance is based on the more convincing evidence and its probable truth or accuracy, and not on the amount of evidence. If the evidence suggests that it is “more likely than not” or 51% likely that the alleged incident occurred, there may be a finding that a Title IX violation occurred.

Respondent – An individual who has been accused of committing Sexual Misconduct by the report or filing of an informal or formal complaint.

Responsible Employee – Any employee who has the authority to take action to address sexual misconduct; who has been given the duty of reporting incidents of sexual misconduct to the Title IX Coordinator or other appropriate designee; or whom a student could reasonably believe has the authority or duty.

Retaliation – Adverse or negative actions taken against any individual because of their report of a violation of this policy. Retaliation may include intimidation, threats, coercion, or unfavorable educational or employment actions. Retaliation may be committed by the respondent, the reporting party or another individual or group.

Sexual Assault – Actual or attempted sexual contact with another person without that person’s consent. Sexual assault includes, but is not limited to: unwanted touching or forcible fondling of another person’s intimate parts; intentional sexual contact; coercing, forcing, or attempting to coerce or force a person to touch another person’s intimate parts; attempted rape or rape, which is penetration, no matter how slight, of (1) the vagina or anus of a person by any body part of another person or by an object, or (2) the mouth of a person by a sex organ of another person, without the person’s consent.

Sexual Exploitation – Occurs when a person takes sexual advantage of another person for the benefit of anyone other than that person, without that person’s consent. Behaviors that could be considered sexual exploitation include: prostituting another person; recording and/or distributing audio or images of another person’s sexual activity, intimate body parts, or nakedness without that person’s consent; or viewing another person’s sexual activity, intimate body parts, or nakedness in a place where that person would have the reasonable expectation of privacy, without that person’s consent, and for sexual arousal or gratifying a sexual desire.

Sexual Harassment – Unwelcome conduct of a sexual nature, including but not limited to: unwelcome or unsolicited flirtation, or sexual advances; requests for sexual favors; insults, jokes, or anecdotes that demean an individual or a group’s sexuality, gender, gender identity, gender expression, gender non-conformance, or sexual orientation; inappropriate displays of sexually suggestive objects or pictures; unnecessary and inappropriate touching, such as hugging, or brushing against an individual’s body, patting or pinching; suggestions that submission to or rejection of sexual advances will affect decisions regarding academic standing, grades, receipt of financial aid or letters of recommendation, employment status, salary, or work assignments; other verbal or non-verbal conduct of a sexual nature, including rape, sexual assault, and sexual exploitation.

Sexual Intimidation – Unreasonable behavior, verbal or non-verbal, which has the effect of subjecting members of either sex to humiliation, embarrassment or discomfort because of their sex. Intimidation may involve aggression, bullying, or hostility based on gender or gender stereotypes even if the acts do not involve conduct of a sexual nature; threatening to commit a non-consensual sexual act upon another person; or engaging in indecent exposure.

Sexual Orientation – Refers to an individual’s emotional, romantic, and sexual attraction to individuals of a particular gender. Sexual orientation is usually divided into three categories: heterosexual or opposite sex; homosexual or same sex; and bisexual or either sex.

Sexual Violence – Physical sexual acts perpetrated against a person’s will or when a person is incapable of giving consent. Acts of violence can include rape, sexual assault, sexual battery, and sexual coercion.

Stalking or Cyberstalking – Conduct that is unwanted, unwelcome, unreciprocated and directed at a specific person, that would cause a reasonable person to (a) fear for the person’s safety or the safety of others; or (b) suffer substantial emotional distress. Stalking behaviors include, but are not limited to: waiting outside a person’s class, office or residence; following the person by car or foot; sending unwanted gifts, letters, phone calls, emails, text messages, or social media posts; threatening the person; vandalizing the person’s property; tracking the person’s computer, internet or telephone usage.

University Community – All members of the Saint Augustine’s University community including, but not limited to, members of the Saint Augustine’s University Board of Trustees, students, faculty, staff, and those who are conducting any type of business or participating in educational or other activities hosted by the University.

Unwelcome Conduct – Conduct that is undesirable, uninvited and/or considered offensive. Unwelcome conduct does not have to include intent to harm, be directed at a specific target, or involve repeated incidents. The fact that an individual may have welcomed the conduct on another occasion does not mean that the conduct is welcome on a subsequent occasion. Participation in the conduct or failure to complain does not always mean that the conduct was welcome.