



## Table of Contents

I)	Reporting Sexual Misconduct.....	4
a.	By contacting the SVSU's Title IX Coordinator or Official Authorities .....	4
b.	University Reports .....	4
c.	Police Reports .....	4
d.	Reporting Details .....	5
II)	Filing a Formal Complaint.....	5
III)	Title IX Coordinator Role and Responsibilities .....	7
IV)	Statement of the Rights of the Parties (See Appendix B).....	8
V)	Processing a Formal Sexual Misconduct Complaint .....	8
a.	Initial Assessment .....	8
b.	Violence Risk Assessment.....	9
c.	Dismissal (Mandatory and Discretionary) .....	10
VI)	Counter Claim.....	10
VII)	Right to an Advisor.....	10
a.	Who Can Serve as an Advisor .....	11
b.	Advisors in Hearings/SVSU-Appointed Advisor .....	11
c.	Advisor's Role .....	11
d.	Pre-Interview Meetings .....	12
e.	Advisor Violations of SVSU Policy .....	12
f.	Sharing Information with the Advisor.....	12
g.	Privacy of Records Shared with Advisor.....	13
h.	Expectations of an Advisor.....	13
i.	Expectations of the Parties with Respect to Advisors .....	13
VIII)	Resolution Processes .....	13
a.	Informal Resolution .....	13
b.	Alternate Resolution .....	14
c.	Respondent Accepts Responsibility for Alleged Violations.....	15
d.	Negotiated Resolution .....	15

IX) Grievance Process Pool .....15

    a. Pool Member Roles.....15

    b. Pool Member Appointment .....16

    c. Pool Member Training .....16

    d. Pool Membership.....17

X) Formal Grievance Process: Notice of Investigation and Allegations .....17

XI) Resolution Timeline.....18

XII) Appointment of Investigators .....18

XIII) Ensuring Impartiality .....18

XIV) Investigation Timeline.....18

XV) Delays in the Investigation Process and Interactions with Law Enforcement .....19

XVI) Steps in the Investigation Process.....19

XVII) Role and Participation of Witnesses in the Investigation .....21

XVIII) Recording of Interviews .....21

XIX) Evidentiary Considerations in the Investigation .....21

XX) Referral for Hearing.....21

XXI) Hearing Decision-maker Composition.....22

XXII) Evidentiary Considerations in the Hearing .....22

XXIII) Notice of Hearing .....23

XXIV) Alternative Hearing Participation Options .....24

XXV) Pre-Hearing Preparation .....24

XXVI) Pre-Hearing Meetings.....24

XXVII) Hearing Procedures.....25

XXVIII) Joint Hearings .....25

XXIX) The Order of the Hearing – Introductions and Explanation of Procedure .....26

XXX) Investigator Presents the Final Investigation Report .....26

XXXI) Testimony and Questioning.....26

XXXII) Refusal to Submit to Cross-Examination and Inferences .....27

XXXIII) Recording Hearings .....27

XXXIV) Deliberation, Decision-making, and Standard of Proof .....28

XXXV) Notice of Outcome.....28

XXXVI) Sanctions.....29

    a. Student Sanctions.....29

b. Employee Sanctions.....30

XXXVII) Withdrawal or Resignation While Charges Pending .....30

XXXVIII) Appeals .....31

    a. Grounds for Appeal.....31

    b. Sanctions Status During the Appeal .....32

    c. Appeal Considerations .....32

XXXIX) Long-Term Remedies/Other Actions .....33

XL) Failure to Comply with Sanctions and/or Interim and Long-term Remedies and/or Responsive  
Actions .....34

XLI) Recordkeeping .....34

XLII) Disabilities Accommodations in the Resolution Process .....35

XLIII) Revision of this Policy and Procedures.....35

Appendix A Title IX Advisory Committee Members .....36

Appendix B: Statement of Rights of the Parties.....37

Appendix C: Policy Examples .....40

Appendix D: Violence Risk Assessment (VRA).....43

Appendix E: Informal Resolution (IR) .....45

## I) Reporting Sexual Misconduct

The University encourages anyone who experiences or becomes aware of an incident of prohibited conduct involving a faculty, staff or student to immediately report the incident through the following reporting options:

### a. By contacting the SVSU's Title IX Coordinator or Official Authorities

**Dr. Mamie T. Thorns**  
 Title IX Coordinator  
 260 Wickes Hall  
 7400 Bay Road  
 University Center, MI 48710  
 Phone: (989) 964-4068  
 Fax: (989) 964-2827  
[mtthorns@svsu.edu](mailto:mtthorns@svsu.edu)

### b. University Reports

Any person who has experienced, observed, or learned of sexual misconduct may report it by submitting the online form; or via email, telephone or visit to any of the Title IX Advisory Board Members (See Appendix A). There is no "wrong way" to report sexual misconduct. The Title IX Advisory Board Members will forward the report to the Title IX Coordinator.

All University employees, including student employees, are required to report sex discrimination and sexual harassment to the Title IX Coordinator whenever they observe it or otherwise become aware of it. The only exception is for Confidential Employees.

Anonymous reports can be filed with the University using the on-line form.

[https://cm.maxient.com/reportingform.php?SaginawValleyStateUniv&layout\\_id=20](https://cm.maxient.com/reportingform.php?SaginawValleyStateUniv&layout_id=20) The University's response to an anonymous report will depend in its ability to identify the parties and other information contained in the report. If an anonymous report leads to a formal complaint, notice disclosing the identities of all of the parties involved will be provided to all parties.

### c. Police Reports

To file a report with the police, please contact any of the following organizations:

**University Police**  
 South Complex A  
 Corner of Pierce Road & South Campus  
 Dispatch (989) 964-4141

**Saginaw County Sheriff**  
 Central Dispatch (989) 797-4580

With a police report, The State of Michigan and/or federal law will apply, and the matter will follow the criminal processes through a police investigation, a referral to the Prosecutor's Office for prosecution and the criminal court system for resolution.

#### **d. Reporting Details**

To encourage reporting, individuals who in good faith report sexual misconduct, will not be disciplined by the University for their own personal consumption of alcohol or drugs related to the incident, provided the violations did not and do not place the health or safety of any other person at risk. The University may, however, initiate an educational discussion or pursue other educational remedies regarding alcohol or other drugs.

To promote thorough, and effective investigations, the University strongly encourages individuals to promptly report sexual misconduct. Waiting to make a report makes it more difficult to gather relevant and reliable information.

Individuals who are alleged to have been the victim of sexual misconduct are referred to throughout the process as the "Complainant." Individuals who are alleged to have engaged in sexual misconduct are referred to throughout the process as the "Respondent." If the sexual misconduct was reported by an individual who observed it or learned about it indirectly, that individual will be referred to as the "3rd Party Reporter."

When sexual misconduct is reported, the Title IX Coordinator or designee will provide information about how to file a Formal Complaint and provide Supportive Measures, as appropriate.

## **II) Filing a Formal Complaint**

A Formal Complaint is a document filed by a Complainant alleging sexual misconduct against a Respondent and requesting that the University investigate the allegation. The Title IX Coordinator also has the discretion to sign a formal complaint under circumstances including but not limited to allegations of violence, threats, use of weapons, and serial predation.

Once the complaint is filed, the Title IX Coordinator will do an initial assessment to determine if an investigation is appropriate. If an investigation is undertaken, notification that includes the identity of the Complainant and details regarding the allegations will be sent to all parties

To file an institutional complaint, please use the Title IX Sexual Assault and Misconduct Report online form [https://cm.maxient.com/reportingform.php?SaginawValleyStateUniv&layout\\_id=20](https://cm.maxient.com/reportingform.php?SaginawValleyStateUniv&layout_id=20) or contact any of the following individuals who have the authority to institute corrective measures:

**Dr. Mamie T. Thorns**  
Title IX Coordinator  
Office of Diversity Programs  
Wickes Hall 260  
(989) 964-4068  
[mtthorns@svsu.edu](mailto:mtthorns@svsu.edu)

**Dr. Sidney R. Childs**  
Associate Provost for Student Affairs/Dean of Students  
Office of Student Affairs  
Curtiss Hall 114  
(989) 964-4410  
[schilds@svsu.edu](mailto:schilds@svsu.edu)

**Dr. Marie Rabideau**

Associate Dean of Students/Student Conduct Programs  
Office of Student Affairs  
Curtiss Hall 114  
(989) 964-2220  
[rabideau@svsu.edu](mailto:rabideau@svsu.edu)

**Corrie Piotrowski**

Director of Human Resources  
Wickes Hall 373  
(989) 964-2253  
[cpiotrow@svsu.edu](mailto:cpiotrow@svsu.edu)

**Ms. Angela Pohl**

Deputy Athletic Director/Senior Woman Administrator  
Athletics Department  
Ryder Center 215  
(989) 964-7311  
[aspohl@svsu.edu](mailto:aspohl@svsu.edu)

Individuals may also report an allegation of sexual discrimination or sexual harassment or concerns about the process to the government. Specifically, incident Reporting to the U.S. Department of Education, Office for Civil Rights is an option for the resolution of discrimination.

To file a complaint with the government, please contact the following offices:

REGIONAL OFFICE (serving Michigan and Ohio):

Office for Civil Rights (OCR)  
U.S. Department of Education  
1350 Euclid Avenue, Suite 325  
Cleveland, OH 44115-1812  
Phone: 216-522-4970  
FAX: 216-522-2573  
TDD: 800-877-8339  
[OCR.Cleveland@ed.gov](mailto:OCR.Cleveland@ed.gov)

NATIONAL HEADQUARTERS:

Office for Civil Rights (OCR)  
U.S. Department of Education  
Lyndon Baines Johnson Department of Education Bldg.  
400 Maryland Avenue, SW  
Washington, DC 20202-1100  
Phone: 800-421-3481  
FAX: 202-453-6012  
TDD: 800-877-8339  
[OCR@ed.gov](mailto:OCR@ed.gov)

### III) Title IX Coordinator Role and Responsibilities

The Title IX Coordinator is:

- Responsible to receive all sex discrimination and sexual harassment reports and complaints by alleged victims (complainants) or third-parties at any time (including non-business hours).
- Available to answer inquiries and provide assistance to any University student, employee or third party regarding the application of Title IX and this policy.
- Responsible for creating, disseminating, and monitoring full compliance with all procedural requirements, notices, record keeping, and timeframes outlined in this policy and required by Title IX.
- Promptly contact the complainant to discuss the availability of supportive measures, consider the complainant's wishes with respect to supportive measures, inform the complainant of the availability of supportive measures with or without the filing of a formal complaint, and explain to the complainant the process for filing a formal complaint.
- Sign a formal complaint to initiate the grievance process under particular circumstances.
- Oversee a predictable and fair Grievance process.
- Responsible for overseeing investigations of sexual harassment involving any community member (student, faculty, staff, administrators, visitors and third parties).
- Responsible for monitoring and overseeing the University's compliance with Title IX and relevant VAWA provisions.
- Knowledgeable and trained in University policies and procedures and relevant state and federal laws.
- Available to advise any individual, including a Complainant, a Respondent or a third party, about the course of action available at the University, both informally and formally, and in the community.
- Responsible for offering and coordinating the effective implementation of supportive measures and maintaining documentation that protect a Complainant and Respondent and assure both parties equal access to university programs and activities, including educational and employment opportunities.
- Responsible for Intake process and determining dismissal or investigation.
- Responsible for administering and communicating the grievance procedures.
- Responsible for the coordination and oversight of outreach education and training to increase awareness, and to prevent sexual harassment in the University community.
- Recruit, train, and coordinate all contributors to the Title IX Process.
- Responsible for the effective implementation of remedies.
- Create and maintain records of (A) any sexual harassment investigation, including any responsibility determination, and any required recording or transcript, as well as any sanctions imposed on the respondent, and any remedies provided to the complainant; (B) Any appeal and its result; (C) Any informal resolution and its results; (D) All materials used to train investigators, adjudicators, and Title IX coordinators with regard to sexual harassment; (E) supportive measures taken; and (F) any reports required by local, state, or federal law and other insurance-related, board or other administrative requirements.

## IV) Statement of the Rights of the Parties (See Appendix B)

See Appendix C for examples of Sexual Misconduct.

## V) Processing a Formal Sexual Misconduct Complaint

### a. Initial Assessment

Following receipt of a Formal Complaint of an alleged violation of this Policy, the Title IX Coordinator will conduct an initial assessment, which is typically one to five business days in duration.

The Title IX Coordinator will initiate at least one of three responses:

- 1) Offering supportive measures because the Complainant does not want to file a Formal Complaint; and/or
- 2) An informal resolution (upon submission of a Formal Complaint); and/or
  - If an informal resolution option is preferred, the Title IX Coordinator assesses whether the complaint is suitable for informal resolution, which informal mechanism may serve the situation best or is available and may seek to determine if the Respondent is also willing to engage in informal resolution.
- 3) A formal investigation and hearing process including an investigation and a hearing (upon submission of a formal complaint).

In determining how to proceed, the Title IX Coordinator will divide the allegations in the Formal Complaint into two categories: (1) allegations of Sexual Misconduct that fall within Title IX (henceforth Category One) and (2) allegations of Sexual Misconduct that are beyond the scope of Title IX (henceforth Category Two). For example, Title IX does not apply to activities outside of the United States because laws created by the United States generally apply only to the United States. However, the University's Sexual Misconduct Policy does apply to students and faculty on study abroad trips. Sexual harassment that occurs on campus would be a Category One allegation. If the same behavior occurred on a study abroad trip, that would be a Category Two allegation.

The Category One allegation will be dismissed under any of the following circumstances:

1. If the conduct did not occur against a person in the United States; and/or
2. If at the time of filing a formal complaint, a Complainant is not participating in or attempting to participate in the education program or activity of the recipient with which the formal complaint is filed; and/or
3. If the conduct did not occur in the recipient's education program or activity; and/or
4. If the conduct alleged in the formal complaint would not constitute sexual harassment as defined in § 106.30 even if proved.

The Category One allegation may be dismissed at the discretion of the Title IX Coordinator under any of the following circumstances:

1. If at any time during the investigation or hearing, a Complainant notifies the Title IX Coordinator in writing that the Complainant would like to withdraw the formal complaint or any allegations therein;



2. The Respondent is no longer enrolled or employed by the recipient; or
3. Specific circumstances prevent the recipient from gathering evidence sufficient to reach a determination as to the formal complaint or allegations.

Any remaining Category One allegations will be combined with any Category Two allegations and resolved using the process outlined in this policy. If there are no remaining Category One allegations, the Category Two allegations will be resolved using the process outlined in this policy. At the discretion of the Title IX Coordinator, a Formal Complaint containing only Category Two allegations may be resolved utilizing a streamlined process or alternative resolution measures when appropriate.

If Category One allegations are dismissed, a written notification including the reason(s) for dismissal will be provided to both parties. The decision to dismiss a Formal Title IX complaint can be appealed by either party, using the process outlined in section XI.

If a Formal Complaint also implicates other forms of discriminatory and/or harassing conduct prohibited by university policies, the Title IX Coordinator will evaluate all reported allegations to determine whether the allegations may be appropriately investigated together without unduly delaying the resolution of the report of prohibited conduct. Where the Title IX Coordinator determines that a single investigation is appropriate, the determination of responsibility for the violation of university policy will be evaluated under the applicable policy, but the investigation and resolution will be conducted in accordance with these procedures.

If a report or Formal Complaint does not involve any students or if it does not implicate any form of sexual misconduct under this policy, the report/Formal Complaint will be processed under the appropriate policies.

#### **b. Violence Risk Assessment**

In many cases, the Title IX Coordinator or designee may determine that a Violence Risk Assessment (VRA) should be conducted by the CARE TEAM as part of the initial assessment. A VRA can aid in ten critical and/or required determinations, including:

- Emergency removal of a Respondent on the basis of immediate threat to physical health/safety;
- Whether the Title IX Coordinator or designee should pursue/sign a formal complaint absent a willing/able Complainant;
- Whether to put the investigation on the footing of incident and/or pattern and/or climate;
- To help identify potential predatory conduct;
- To help assess/identify grooming behaviors;
- Whether it is reasonable to try to resolve a complaint through informal resolution, and what modality may be most successful;
- Whether to permit a voluntary withdrawal by the Respondent;
- Whether to impose transcript notation or communicate with a transfer SVSU about a Respondent;
- Assessment of appropriate sanctions/remedies (to be applied post-hearing); and/or whether a Clery Act Timely Warning/Trespass order/Persona-non-grata is needed.

Threat assessment is the process of evaluating the actionability of violence by an individual against another person or group following the issuance of a direct or conditional threat. A VRA is a broader term used to assess any potential violence or danger, regardless of the presence of a vague, conditional, or direct threat.

VRAs require specific training and are typically conducted by psychologists, clinical counselors, social workers, case managers, law enforcement officers, student conduct officers, or other CARE team members. A VRA authorized by the Title IX Coordinator should occur in collaboration with the CARE Team. Where a VRA is required by the Title IX Coordinator or designee, a Respondent refusing to cooperate may result in a charge of failure to comply within the appropriate student or employee conduct process.

A VRA is not an evaluation for an involuntary behavioral health hospitalization (nor is it a psychological or mental health assessment). A VRA assesses the risk of actionable violence, often with a focus on targeted/predatory escalations, and is supported by research from the fields of law enforcement, criminology, human resources, and psychology. See Appendix D.

### **c. Dismissal (Mandatory and Discretionary)**

Upon any dismissal, SVSU will promptly send written notice of the dismissal and the rationale for doing so simultaneously to the parties.

This dismissal decision is appealable by any party under the procedures for appeal below. A Complainant who decides to withdraw a complaint may later request to reinstate it or refile it.

## **VI) Counter Claim**

SVSU is obligated to ensure that the grievance process is not abused for retaliatory purposes. SVSU permits the filing of counterclaims but uses an initial assessment, described above, to assess whether the allegations in the counterclaim are made in good faith. Counterclaims by the Respondent may be made in good faith, but are, on occasion, also made for purposes of retaliation. Counterclaims made with retaliatory intent will not be permitted.

Counterclaims determined to have been reported in good faith will be processed using the grievance procedures below. Investigation of such claims may take place after resolution of the underlying initial allegation, in which case a delay may occur.

Counterclaims may also be resolved through the same investigation as the underlying allegation, at the discretion of the Title IX Coordinator or designee. When counterclaims are **not** made in good faith, they will be considered retaliatory and may constitute a violation of this policy.

## **VII) Right to an Advisor**

The parties may each have an Advisor<sup>1</sup> of their choice present with them for all meetings and interviews within the resolution process, if they so choose. The parties may select whoever they wish to serve as

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<sup>1</sup> This could include an attorney, advocate, or support person. The law permits one Advisor for each party (witnesses are not entitled to Advisors within the process, though they can be advised externally), but some Recipients do permit more than one. If the Recipient allows more than one Advisor for one party, they should do so for all parties.

their Advisor as long as the Advisor is eligible and available.<sup>2</sup>

Choosing an Advisor who is also a witness in the process creates potential for bias and conflict-of-interest. A party who chooses an Advisor who is also a witness can anticipate that issues of potential bias will be explored by the hearing Decision-maker(s).

### **a. Who Can Serve as an Advisor**

The Advisor may be a friend, mentor, family member, attorney, or any other individual a party chooses to advise, support, and/or consult with them throughout the resolution process. The parties may choose Advisors from inside or outside of the SVSU community.

The Title IX Coordinator or designee will also offer to assign a trained Advisor for any party if the party so chooses. If the parties choose an Advisor from the pool available from SVSU, the Advisor will be trained by SVSU and be familiar with SVSU's resolution process.

If the parties choose an Advisor from outside the pool of those identified by SVSU, the Advisor may not have been trained by SVSU and may not be familiar with SVSU policies and procedures.

Parties also have the right to choose not to have an Advisor in the initial stages of the resolution process, prior to a hearing.

### **b. Advisors in Hearings/SVSU-Appointed Advisor**

Under U.S. Department of Education regulations applicable to Title IX, cross-examination is required during the hearing, but must be conducted by the parties' Advisors. The parties are not permitted to directly cross-examine each other or any witnesses. If a party does not have an Advisor for a hearing, SVSU will appoint a trained Advisor for the limited purpose of conducting any cross-examination.

A party may reject this appointment and choose their own Advisor, but they may not proceed without an Advisor. If the party's Advisor will not conduct cross-examination, SVSU will appoint an Advisor who will do so thoroughly, regardless of the participation or non-participation of the advised party in the hearing itself. Extensive questioning of the parties and witnesses will also be conducted by the Decision-maker(s) during the hearing.

### **c. Advisor's Role**

The parties may be accompanied by their Advisor in all meetings and interviews at which the party is entitled to be present, including intake and interviews. Advisors should help the parties prepare for each meeting and are expected to advise ethically, with integrity, and in good faith.

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<sup>2</sup> "Available" means the party cannot insist on an Advisor who simply doesn't have inclination, time, or availability. Also, the Advisor cannot have institutionally conflicting roles, such as being a Title IX administrator who has an active role in the matter, or a supervisor who must monitor and implement sanctions.

SVSU cannot guarantee equal Advisory rights, meaning that if one party selects an Advisor who is an attorney, but the other party does not or cannot afford an attorney, SVSU is not obligated to provide an attorney.

#### **d. Pre-Interview Meetings**

Advisors may request to meet with the administrative officials conducting interviews/meetings in advance of these interviews or meetings. This pre-meeting allows Advisors to clarify and understand their role and SVSU's policies and procedures.

#### **e. Advisor Violations of SVSU Policy**

All Advisors are subject to the same SVSU policies and procedures, whether they are attorneys or not. Advisors are expected to advise their advisees without disrupting proceedings. Advisors should not address SVSU officials in a meeting or interview unless invited to (e.g., asking procedural questions). The Advisor may not make a presentation or represent their advisee during any meeting or proceeding and may not speak on behalf of the advisee to the Investigator(s) or other Decision-maker(s) except during a hearing proceeding, during cross-examination.

The parties are expected to ask and respond to questions on their own behalf throughout the investigation phase of the resolution process. Although the Advisor generally may not speak on behalf of their advisee, the Advisor may consult with their advisee, either privately as needed, or by conferring or passing notes during any resolution process meeting or interview. For longer or more involved discussions, the parties and their Advisors should ask for breaks to allow for private consultation.

Any Advisor who oversteps their role as defined by this policy will be warned only once. If the Advisor continues to disrupt or otherwise fails to respect the limits of the Advisor role, the meeting will be ended, or other appropriate measures implemented. Subsequently, the Title IX Coordinator or designee will determine how to address the Advisor's non-compliance and future role.

#### **f. Sharing Information with the Advisor**

SVSU expects that the parties may wish to have SVSU share documentation and evidence related to the allegations with their Advisors. Parties may share this information directly with their Advisor or other individuals if they wish. Doing so may help the parties participate more meaningfully in the resolution process.

The Title IX Coordinator or designee will provide a consent form that authorizes SVSU to share such information directly with their Advisor. The parties must either complete and submit this form to the Title IX Coordinator or designee or provide similar documentation demonstrating consent to a release of information to the Advisor before SVSU is able to share records with an Advisor.

If a party requests that all communication be made through their attorney Advisor, SVSU will comply with that request at the discretion of the Title IX Coordinator.

**g. Privacy of Records Shared with Advisor**

Advisors are expected to maintain the privacy of the records shared with them. These records may not be shared with third parties, disclosed publicly, or used for purposes not explicitly authorized by SVSU. SVSU may seek to restrict the role of any Advisor who does not respect the sensitive nature of the process or who fails to abide by SVSU's privacy expectations.

**h. Expectations of an Advisor**

SVSU generally expects an Advisor to adjust their schedule to allow them to attend SVSU meetings when planned but may change scheduled meetings to accommodate an Advisor's inability to attend, if doing so does not cause an unreasonable delay.

SVSU may also make reasonable provisions to allow an Advisor who cannot attend in person to attend a meeting by telephone, video conferencing, or other similar technologies as may be convenient and available.

**i. Expectations of the Parties with Respect to Advisors**

A party may elect to change Advisors during the process and is not obligated to use the same Advisor throughout. The parties are expected to inform the Investigator(s) of the identity of their Advisor at least two (2) business days before the date of their first meeting with Investigators (or as soon as possible if a more expeditious meeting is necessary or desired).

The parties are expected to provide timely notice to the Title IX Coordinator or designee if they change Advisors at any time. It is assumed that if a party changes Advisors, consent to share information with the previous Advisor is terminated, and a release for the new Advisor must be secured. Parties are expected to inform the Title IX Coordinator of the identity of their hearing Advisor at least two (2) business days before the hearing.

For parties who are entitled to union representation, SVSU will allow the unionized employee to have their union representative (if requested by the party) as well as an Advisor of their choice present for all resolution-related meetings and interviews. To uphold the principles of equity, the other party (regardless of union membership) will also be permitted to have two Advisors. Witnesses are permitted to have union representation or Advisors in grievance process interviews or meetings.

**VIII) Resolution Processes**

Resolution proceedings are private. All persons present at any time during the resolution process are expected to maintain the privacy of the proceedings in accordance with SVSU policy. While there is an expectation of privacy around what Investigators share with parties during interviews, the parties have discretion to share their own knowledge and evidence with others if they so choose. SVSU encourages parties to discuss this with their Advisors before doing so.

**a. Informal Resolution**

Informal Resolution can include three different approaches:

- When the parties agree to resolve the matter through an alternate resolution mechanism [including mediation, restorative practices, etc.];
- When the Respondent accepts responsibility for violating policy, and desires to accept a sanction and end the resolution process; or
- When the Title IX Coordinator or designee can resolve the matter informally by providing supportive measures to remedy the situation.

To initiate Informal Resolution, a Complainant needs to submit a formal complaint, as defined above. If a Respondent wishes to initiate Informal Resolution, they should contact the Title IX Coordinator or designee to so indicate.

It is not necessary to pursue Informal Resolution first in order to pursue a Formal Grievance Process, and any party participating in Informal Resolution can stop the process at any time and begin or resume the Formal Grievance Process.

Prior to implementing Informal Resolution, SVSU will provide the parties with written notice of the reported misconduct and any sanctions or measures that may result from participating in such a process, including information regarding any records that will be maintained or shared by SVSU.

SVSU will obtain voluntary, written confirmation that all parties wish to resolve the matter through Informal Resolution before proceeding and will not pressure the parties to participate in Informal Resolution.

See Appendix E for Informal Resolution details.

## **b. Alternate Resolution**

Alternate Resolution is an informal process, including mediation or restorative practices, etc. by which a mutually agreed upon resolution of an allegation is reached. All parties must consent to the use of Alternate Resolution.

The Title IX Coordinator or designee may look to the following factors to assess whether Alternate Resolution is appropriate, or which form of Alternate Resolution may be most successful for the parties:

- The parties' amenability to Alternate Resolution;
- Likelihood of potential resolution, taking into account any power dynamics between the parties;
- The parties' motivation to participate;
- Civility of the parties;
- Cleared violence risk assessment/ongoing risk analysis;
- Disciplinary history;
- Whether an emergency removal is needed;
- Skill of the Alternate Resolution facilitator with this type of complaint;
- Complaint complexity;
- Emotional investment/intelligence of the parties;
- Rationality of the parties;
- Goals of the parties;
- Adequate resources to invest in Alternate Resolution (time, staff, etc.)

The ultimate determination of whether Alternate Resolution is available or successful is to be made by

the Title IX Coordinator. The Title IX Coordinator or designee maintains records of any resolution that is reached, and failure to abide by the resolution agreement may result in appropriate responsive/disciplinary actions. Results of complaints resolved by Informal Resolution or Alternate Resolution are not appealable.

### **c. Respondent Accepts Responsibility for Alleged Violations**

The Respondent may accept responsibility for all or part of the alleged policy violations at any point during the resolution process. If the Respondent indicates an intent to accept responsibility for all of the alleged misconduct, the formal process will be paused, and the Title IX Coordinator or designee will determine whether Informal Resolution can be used according to the criteria in that section above.

If Informal Resolution is applicable, the Title IX Coordinator or designee will determine whether all parties and SVSU are able to agree on responsibility, sanctions, and/or remedies. If so, the Title IX Coordinator implements the accepted finding that the Respondent is in violation of SVSU policy and implements agreed-upon sanctions and/or remedies, in coordination with other appropriate administrator(s), as necessary.

This result is not subject to appeal once all parties indicate their written assent to all agreed upon terms of resolution. When the parties cannot agree on all terms of resolution, the Formal Grievance Process will resume at the same point where it was paused.

When a resolution is accomplished, the appropriate sanction or responsive actions are promptly implemented in order to effectively stop the harassment or discrimination, prevent its recurrence, and remedy the effects of the discriminatory conduct, both on the Complainant and the community.

### **d. Negotiated Resolution**

The Title IX Coordinator or designee, with the consent of the parties, may negotiate and implement an agreement to resolve the allegations that satisfies all parties and SVSU. Negotiated Resolutions are not appealable.

## **IX) Grievance Process Pool**

The Formal Grievance Process relies on a pool of administrators (“the Pool”) to carry out the process. Members of the Pool are announced in an annual distribution of this policy to all students, parents/guardians of students, employees, prospective students, and prospective employees.

### **a. Pool Member Roles**

Members of the Pool are trained annually, and can serve in the following roles, at the direction of the Title IX Coordinator:

- To provide appropriate intake of and initial guidance pertaining to complaints
- To act as an Advisor to the parties
- To serve in a facilitation role in informal resolution or Alternate Resolution if appropriately trained in appropriate resolution modalities (e.g., mediation, restorative practices)
- To perform or assist with initial assessment
- To investigate complaints

- To serve as a hearing facilitator (process administrator, no decision-making role)
- To serve as a Decision-maker regarding the complaint
- To serve as an Appeal Decision-maker

## **b. Pool Member Appointment**

The Title IX Coordinator appoints the Pool, which acts with independence and impartiality

## **c. Pool Member Training**

The Pool members receive annual training. This training includes, but is not limited to:

- The scope of the SVSU's Interim Sexual Misconduct Policy and Procedures
- How to conduct investigations and hearings that protect the safety of Complainants and Respondents, and promote accountability
- Implicit bias
- Disparate treatment and impact
- Reporting, confidentiality, and privacy requirements
- Applicable laws, regulations, and federal regulatory guidance
- How to implement appropriate and situation-specific remedies
- How to investigate in a thorough, reliable, and impartial manner
- How to uphold fairness, equity, and due process
- How to weigh evidence
- How to conduct questioning
- How to assess credibility
- Impartiality and objectivity
- How to render findings and generate clear, concise, evidence-based rationales
- The definitions of all offenses
- How to apply definitions used by the SVSU with respect to consent (or the absence or negation of consent) consistently, impartially, and in accordance with policy
- How to conduct an investigation and grievance process including hearings, appeals, and informal resolution processes
- How to serve impartially by avoiding prejudgment of the facts at issue, conflicts of interest, and bias
- Any technology to be used at a live hearing
- Issues of relevance of questions and evidence
- Issues of relevance to create an investigation report that fairly summarizes relevant evidence
- How to determine appropriate sanctions in reference to all forms of harassment, discrimination, and/or retaliation allegations

Specific training is also provided for Appeal Decision-makers, intake personnel, Advisors (who are SVSU employees), and Hearing Officers. All Pool members are required to attend these trainings annually. The materials used to train all members of the Pool are publicly posted at <https://www.svsu.edu/titleix/>.



#### **d. Pool Membership**

The Pool may include representatives from Academic Affairs, Athletics, Business Affairs, Human Resource, Student Affairs, and University Police.

Individuals who are interested in serving in the Pool are encouraged to contact the Title IX Coordinator.

## **X) Formal Grievance Process: Notice of Investigation and Allegations**

The Title IX Coordinator or designee will provide written notice of the investigation and allegations (the “NOIA”) to the Respondent upon commencement of the Formal Grievance Process. This facilitates the Respondent’s ability to prepare for the interview and to identify and choose an Advisor to accompany them. The NOIA is also copied to the Complainant, who is to be given advance notice of when the NOIA will be delivered to the Respondent.

The NOIA will include:

- A meaningful summary of all allegations,
- The identity of the involved parties (if known),
- The precise misconduct being alleged,
- The date and location of the alleged incident(s) (if known),
- The specific policies implicated,
- A description of the applicable procedures,
- A statement of the potential sanctions/responsive actions that could result,
- A statement that the SVSU presumes the Respondent is not responsible for the reported misconduct unless and until the evidence supports a different determination,
- A statement that determinations of responsibility are made at the conclusion of the process and that the parties will be given an opportunity to inspect and review all directly related and/or relevant evidence obtained during the review and comment period,
- A statement about the SVSU’s policy on retaliation,
- Information about the privacy of the process,
- Information on the need for each party to have an Advisor of their choosing and suggestions for ways to identify an Advisor,
- A statement informing the parties that SVSU’s Policy prohibits knowingly making false statements, including knowingly submitting false information during the resolution process,
- Detail on how the party may request disability accommodations during the interview process,
- A link to SVSU’s VAWA Brochure, <https://www.svsu.edu/titleix/>,
- The name(s) of the Investigator(s), along with a process to identify, in advance of the interview process, to the Title IX Coordinator or designee any conflict of interest that the Investigator(s) may have, and
- An instruction to preserve any evidence that is directly related to the allegations.

Amendments and updates to the NOIA may be made as the investigation progresses and more information becomes available regarding the addition or dismissal of various charges.

Notice will be made in writing and may be delivered by one or more of the following methods: in person, mailed to the local or permanent address(es) of the parties as indicated in official SVSU records, or emailed to the parties' SVSU-issued email or designated accounts. Once mailed, emailed, and/or received in-person, notice will be presumptively delivered.

## **XI) Resolution Timeline**

SVSU will make a good faith effort to complete the resolution process within sixty-to-ninety (60-90) business days, including appeal, which can be extended as necessary for appropriate cause by the Title IX Coordinator or designee, who will provide notice and rationale for any extensions or delays to the parties as appropriate, as well as an estimate of how much additional time will be needed to complete the process.

## **XII) Appointment of Investigators**

Once the decision to commence a formal investigation is made, the Title IX Coordinator appoints Pool members to conduct the investigation (typically using a team of two Investigators), usually within two (2) business days of determining that an investigation should proceed.

## **XIII) Ensuring Impartiality**

Any individual materially involved in the administration of the resolution process including the Title IX Coordinator, Investigator(s), and Decision-maker(s)] may neither have nor demonstrate a conflict of interest or bias for a party generally, or for a specific Complainant or Respondent.

The Title IX Coordinator will vet the assigned Investigator(s) to ensure impartiality by ensuring there are no actual or apparent conflicts of interest or disqualifying biases. The parties may, at any time during the resolution process, raise a concern regarding bias or conflict of interest, and the Title IX Coordinator will determine whether the concern is reasonable and supportable. If so, another Pool member will be assigned and the impact of the bias or conflict, if any, will be remedied. If the source of the conflict of interest or bias is the Title IX Coordinator, concerns should be raised with Associate Dean of Students/Student Conduct Programs.

The Formal Grievance Process involves an objective evaluation of all relevant evidence obtained, including evidence which supports that the Respondent engaged in a policy violation and evidence which supports that the Respondent did not engage in a policy violation. Credibility determinations may not be based solely on an individual's status or participation as a Complainant, Respondent, or witness.

SVSU operates with the presumption that the Respondent is not responsible for the reported misconduct unless and until the Respondent is determined to be responsible for a policy violation by the applicable standard of proof.

## **XIV) Investigation Timeline**

Investigations are completed expeditiously, normally within thirty (30) business days, though some

investigations may take weeks or even months, depending on the nature, extent, and complexity of the allegations, availability of witnesses, police involvement, etc.

SVSU will make a good faith effort to complete investigations as promptly as circumstances permit and will communicate regularly with the parties to update them on the progress and timing of the investigation.

## **XV) Delays in the Investigation Process and Interactions with Law Enforcement**

SVSU may undertake a short delay in its investigation (several days to a few weeks) if circumstances require. Such circumstances include but are not limited to a request from law enforcement to temporarily delay the investigation, the need for language assistance, the absence of parties and/or witnesses, and/or accommodations for disabilities or health conditions.

SVSU will communicate in writing the anticipated duration of the delay and reason to the parties and provide the parties with status updates if necessary. SVSU will promptly resume its investigation and resolution process as soon as feasible. During such a delay, SVSU will implement supportive measures as deemed appropriate.

SVSU action(s) are not typically altered or precluded on the grounds that civil or criminal charges involving the underlying incident(s) have been filed or that criminal charges have been dismissed or reduced.

## **XVI) Steps in the Investigation Process**

All investigations are thorough, reliable, impartial, prompt, and fair. Investigations involve interviews with all relevant parties and witnesses; obtaining available, relevant evidence; and identifying sources of expert information, as necessary.

All parties have a full and fair opportunity, through the investigation process, to suggest witnesses and questions, to provide evidence and expert witnesses, and to fully review and respond to all evidence on the record.

The Investigator(s) typically take(s) the following steps, if not already completed (not necessarily in this order):

- Determine the identity and contact information of the Complainant
- In coordination with campus partners (e.g., the Title IX Coordinator), initiate or assist with any necessary supportive measures
- Identify all policies implicated by the alleged misconduct and notify the Complainant and Respondent of all of the specific policies implicated
- Assist the Title IX Coordinator with conducting a prompt initial assessment to determine if the allegations indicate a potential policy violation

- Commence a thorough, reliable, and impartial investigation by identifying issues and developing a strategic investigation plan, including a witness list, evidence list, intended investigation timeframe, and order of interviews for all witnesses and the parties
- Meet with the Complainant to finalize their interview/statement, if necessary
- Prepare the initial Notice of Investigation and Allegation (NOIA). The NOIA may be amended with any additional or dismissed allegations
  - Notice should inform the parties of their right to have the assistance of an Advisor, who could be a member of the Pool or an Advisor of their choosing present for all meetings attended by the party
- Provide each interviewed party and witness an opportunity to review and verify the Investigator's summary notes (or transcript) of the relevant evidence/testimony from their respective interviews and meetings
- Make good faith efforts to notify the parties of any meeting or interview involving the other party, in advance when possible
- When participation of a party is expected, provide that party with written notice of the date, time, and location of the meeting, as well as the expected participants and purpose
- Interview all available, relevant witnesses and conduct follow-up interviews as necessary
- Allow each party the opportunity to suggest witnesses and questions they wish the Investigator(s) to ask of the other party and witnesses, and document in the report which questions were asked, with a rationale for any changes or omissions.
- Complete the investigation promptly and without unreasonable deviation from the intended timeline
- Provide regular status updates to the parties throughout the investigation.
- Prior to the conclusion of the investigation, provide the parties and their respective Advisors (if so desired by the parties) with a list of witnesses whose information will be used to render a finding
- Write a comprehensive investigation report fully summarizing the investigation, all witness interviews, and addressing all relevant evidence. Appendices including relevant physical or documentary evidence will be included
- The Investigator(s) gather, assess, and synthesize evidence, but make no conclusions, engage in no policy analysis, and render no recommendations as part of their report
- Prior to the conclusion of the investigation, provide the parties and their respective Advisors (if so desired by the parties) a secured electronic or hard copy of the draft investigation report as well as an opportunity to inspect and review all of the evidence obtained as part of the investigation that is directly related to the reported misconduct, including evidence upon which the SVSU does not intend to rely in reaching a determination, for a ten (10) business day review and comment period so that each party may meaningfully respond to the evidence. The parties may elect to waive the full ten days.
- The Investigator(s) may elect to respond in writing in the investigation report to the parties' submitted responses and/or to share the responses between the parties for additional responses
- The Investigator(s) will incorporate relevant elements of the parties' written responses into the final investigation report, include any additional relevant evidence, make any necessary revisions, and finalize the report. The Investigator(s) should document all rationales for any changes made after the review and comment period
- The Investigator(s) shares the report with the Title IX Coordinator for their review and feedback
- The Investigator will incorporate any relevant feedback, and the final report is then shared with all parties and their Advisors through secure electronic transmission or hard copy at least

ten (10) business days prior to a hearing. The parties are also provided with a file of any directly related evidence that was not included in the report

## **XVII) Role and Participation of Witnesses in the Investigation**

Witnesses (as distinguished from the parties) who are employees and students of SVSU are expected to cooperate fully, answer questions honestly and completely, and participate in SVSU's investigation and resolution process. Failure of such witnesses to cooperate with and/or participate in the investigation or resolution process constitutes a violation of policy and may warrant discipline.

While in-person interviews for parties and all potential witnesses are ideal, circumstances (e.g., study abroad, summer break) may require individuals to be interviewed remotely. Skype, Zoom, FaceTime, WebEx, or similar technologies may be used for interviews if the Investigator(s) determine that timeliness or efficiency dictate a need for remote interviewing. SVSU will take appropriate steps to reasonably ensure the security/privacy of remote interviews.

Witnesses may also provide written statements in lieu of interviews or choose to respond to written questions, if deemed appropriate by the Investigator(s), though not preferred. If a witness submits a written statement but does not intend to be and is not present for cross examination at a hearing, their written statement may not be used as evidence.

## **XVIII) Recording of Interviews**

No unauthorized audio or video recording of any kind is permitted during investigation meetings. If Investigator(s) elect to audio and/or video record interviews, all involved parties must be made aware of and consent to audio and/or video recording.

## **XIX) Evidentiary Considerations in the Investigation**

The investigation does not consider: 1) incidents not directly related to the possible violation, unless they evidence a pattern; 2) the character of the parties; or 3) questions and evidence about the Complainant's sexual predisposition or prior sexual behavior, unless such questions and evidence about the Complainant's prior sexual behavior are offered to prove that someone other than the Respondent committed the conduct alleged by the Complainant, or if the questions and evidence concern specific incidents of the Complainant's prior sexual behavior with respect to the Respondent and are offered to prove consent.

## **XX) Referral for Hearing**

Provided that the complaint is not resolved through Informal Resolution, once the final investigation report is shared with the parties, the Title IX Coordinator or designee will refer the matter for a hearing.

The hearing cannot be less than ten (10) business days from the conclusion of the investigation –when the final investigation report is transmitted to the parties and the Decision-maker–unless all parties and the Decision-maker agree to an expedited timeline.

The Title IX Coordinator or designee will select an appropriate Decision-maker(s) from the Pool depending on whether the Respondent is an employee or a student. Allegations involving student-employees will be directed to the appropriate Decision-maker depending on the context of the alleged misconduct.

## **XXI) Hearing Decision-maker Composition**

SVSU will designate a single Decision-maker and/or a three-member panel from the Pool, at the discretion of the Title IX Coordinator or designee.

The Decision-maker(s) will not have had any previous involvement with the investigation. The Title IX Coordinator may elect to have an alternate from the Pool sit in throughout the resolution process in the event a substitute is needed for any reason.

Those who have served as Investigators will be witnesses in the hearing and therefore may not serve as Decision-makers. Those who are serving as Advisors for any party may not serve as Decision-makers in that matter.

The Title IX Coordinator may not serve as a Decision-maker or Hearing Officer in the matter but may serve as an administrative facilitator of the hearing if their previous role(s) in the matter do not create a conflict of interest. Otherwise, a designee may fulfill this role. The hearing will convene at a time determined by the Hearing Officer or designee.

## **XXII) Evidentiary Considerations in the Hearing**

Any evidence that the Decision-maker(s) determine(s) is relevant and credible may be considered. The hearing does not consider: 1) incidents not directly related to the possible violation, unless they evidence a pattern; 2) the character of the parties; or 3) questions and evidence about the Complainant's sexual predisposition or prior sexual behavior, unless such questions and evidence about the Complainant's prior sexual behavior are offered to prove that someone other than the Respondent committed the conduct alleged by the Complainant, or if the questions and evidence concern specific incidents of the Complainant's prior sexual behavior with respect to the Respondent and are offered to prove consent.

Previous disciplinary action of any kind involving the Respondent may be considered in determining an appropriate sanction upon a determination of responsibility. This information is only considered at the sanction stage of the process.

The parties may each submit a written impact statement prior to the hearing for the consideration of the Decision-maker(s) at the sanction stage of the process when a determination of responsibility is reached.

After post-hearing deliberation, the Decision-maker renders a determination based on the preponderance of the evidence; whether it is more likely than not that the Respondent violated the Policy as alleged.

## XXIII) Notice of Hearing

No less than ten (10) business days prior to the hearing, the Title IX Coordinator, Designee or the Hearing Officer will send notice of the hearing to the parties. Once mailed, emailed, and/or received in-person, notice will be presumptively delivered.

The notice will contain:

- A description of the alleged violation(s), a list of all policies allegedly violated, a description of the applicable procedures, and a statement of the potential sanctions/responsive actions that could result.
- The time, date, and location of the hearing and a reminder that attendance is mandatory, superseding all other campus activities.
- Any technology that will be used to facilitate the hearing.
- Information about the option for the live hearing to occur with the parties located in separate rooms using technology that enables the Decision-maker(s) and parties to see and hear a party or witness answering questions. Such a request must be raised with the Title IX Coordinator at least five (5) business days prior to the hearing.
- A list of all those who will attend the hearing, along with an invitation to object to any Decision-maker based on demonstrated bias. This must be raised with the Title IX Coordinator at least two (2) business days prior to the hearing.
- Information on how the hearing will be recorded and on access to the recording for the parties after the hearing.
- A statement that if any party or witness does not appear at the scheduled hearing, the hearing may be held in their absence, and the party's or witness's testimony and any statements given prior to the hearing will not be considered by the Decision-maker(s). For compelling reasons, the Hearing Officer may reschedule the hearing.
- Notification that the parties may have the assistance of an Advisor of their choosing at the hearing and will be required to have one present for any questions they may desire to ask. The party must notify the Title IX Coordinator if they do not have an Advisor, and the SVSU will appoint one. Each party must have an Advisor present. There are no exceptions.
- A copy of all the materials provided to the Decision-maker(s) about the matter, unless they have been provided already.
- An invitation to each party to submit to the Hearing Officer an impact statement pre-hearing that the Decision-maker will review during any sanction determination.
- An invitation to contact the Title IX Coordinator to arrange any disability accommodations, language assistance, and/or interpretation services that may be needed at the hearing, at least seven (7) business days prior to the hearing.
- Whether parties cannot bring mobile phones/devices into the hearing.

Hearings for possible violations that occur near or after the end of an academic term (assuming the Respondent is still subject to this Policy) and are unable to be resolved prior to the end of term will typically be held immediately after the end of the term or during the summer, as needed, to meet the resolution timeline followed by SVSU and remain within the 60-90 business day goal for resolution.

In these cases, if the Respondent is a graduating student, a hold may be placed on graduation and/or official transcripts until the matter is fully resolved (including any appeal). A student facing charges under this Policy is not in good standing to graduate.

## **XXIV) Alternative Hearing Participation Options**

If a party or parties prefer not to attend or cannot attend the hearing in person, the party should request alternative arrangements from the Title IX Coordinator or the Hearing Officer at least five (5) business days prior to the hearing.

The Title IX Coordinator, designee or the Hearing Officer can arrange to use technology to allow remote testimony without compromising the fairness of the hearing. Remote options may also be needed for witnesses who cannot appear in person. Any witness who cannot attend in person should let the Title IX Coordinator, designee or the Hearing Officer know at least five (5) business days prior to the hearing so that appropriate arrangements can be made.

## **XXV) Pre-Hearing Preparation**

The Hearing Officer or designee, after any necessary consultation with the parties, Investigator(s) and/or Title IX Coordinator, will provide the names of persons who will be participating in the hearing, all pertinent documentary evidence, and the final investigation report to the parties at least ten (10) business days prior to the hearing.

Any witness scheduled to participate in the hearing must have been first interviewed by the Investigator(s) or have proffered a written statement or answered written questions, unless all parties and the Hearing Officer assent to the witness's participation in the hearing. The same holds for any evidence that is first offered at the hearing. If the parties and Hearing Officer do not assent to the admission of evidence newly offered at the hearing, the Hearing Officer will delay the hearing and instruct that the investigation needs to be re-opened to consider that evidence.

The parties will be given a list of the names of the Decision-maker(s) at least five (5) business days in advance of the hearing. All objections to any Decision-maker must be raised in writing, detailing the rationale for the objection, and must be submitted to the Title IX Coordinator as soon as possible and no later than two days prior to the hearing. Decision-makers will only be removed if the Title IX Coordinator concludes that their bias or conflict of interest precludes an impartial hearing of the allegation(s).

The Title IX Coordinator or designee will give the Decision-maker(s) a list of the names of all parties, witnesses, and Advisors at least five (5) business days in advance of the hearing. Any Decision-maker who cannot make an objective determination must recuse themselves from the proceedings when notified of the identity of the parties, witnesses, and Advisors in advance of the hearing. If a Decision-maker is unsure of whether a bias or conflict of interest exists, they must raise the concern to the Title IX Coordinator as soon as possible.

During the ten (10) business day period prior to the hearing, the parties have the opportunity for continued review and comment on the final investigation report and available evidence. That review and comment can be shared with the Hearing Officer at the pre-hearing meeting or at the hearing and will be exchanged between each party by the Hearing Officer.

## **XXVI) Pre-Hearing Meetings**

The Hearing Officer may convene a pre-hearing meeting(s) with the parties and/or their Advisors to invite them to submit the questions or topics they (the parties and/or their Advisors) wish to ask or discuss at the



hearing, so that the Hearing Officer can rule on their relevance ahead of time to avoid any improper evidentiary introduction in the hearing or provide recommendations for more appropriate phrasing. However, this advance review opportunity does not preclude the Advisors from asking at the hearing for a reconsideration based on any new information or testimony offered at the hearing. The Hearing Officer must document and share their rationale for any exclusion or inclusion at this pre-hearing meeting.

The Hearing Officer, **only** with full agreement of the parties, may decide in advance of the hearing that certain witnesses do not need to be present if their testimony can be adequately summarized by the Investigator(s) in the investigation report or during the hearing.

At each pre-hearing meeting with a party and their Advisor, the Hearing Officer will consider arguments that evidence identified in the final investigation report as relevant is, in fact, not relevant. Similarly, evidence identified as directly related but not relevant by the Investigator(s) may be argued to be relevant. The Hearing Officer may rule on these arguments pre-hearing and will exchange those rulings between the parties prior to the hearing to assist in preparation for the hearing. The Hearing Officer may consult with legal counsel and/or the Title IX Coordinator or ask either or both to attend pre-hearing meetings.

The pre-hearing meeting(s) will be recorded.

## **XXVII) Hearing Procedures**

At the hearing, the Decision-maker(s) has the authority to hear and make determinations on all allegations of discrimination, harassment, and/or retaliation and may also hear and make determinations on any additional alleged policy violations that have occurred in concert with the discrimination, harassment, and/or retaliation, even though those collateral allegations may not specifically fall within the policy on Equal Opportunity, Harassment, and Nondiscrimination.

Participants at the hearing may include the Hearing Officer, any additional panelists, the hearing facilitator, the Investigator(s) who conducted the investigation, the parties (or three (3) organizational representatives when an organization is the Respondent), Advisors to the parties, any called witnesses, and anyone providing authorized accommodations or assistive services.

The Hearing Officer will answer all questions of procedure. Anyone appearing at the hearing to provide information will respond to questions on their own behalf.

The Hearing Officer will allow witnesses who have relevant information to appear at a portion of the hearing in order to respond to specific questions from the Decision-maker(s) and the parties and will then be excused.

## **XXVIII) Joint Hearings**

In hearings involving more than one Respondent or in which two (2) or more Complainants have accused the same individual of substantially similar conduct, the default procedure will be to hear the allegations jointly.

However, the Title IX Coordinator may permit the investigation and/or hearings pertinent to each Respondent to be conducted separately if there is a compelling reason to do so. In joint hearings, separate determinations of responsibility will be made for each Respondent with respect to each alleged policy

violation.

## **XXIX) The Order of the Hearing – Introductions and Explanation of Procedure**

The Hearing Officer explains the procedures and introduces the participants. This may include a final opportunity for challenge or recusal of the Decision-maker(s) on the basis of bias or conflict of interest. The Hearing Officer will rule on any such challenge unless the Hearing Officer is the individual who is the subject of the challenge, in which case the Title IX Coordinator will review and decide the challenge.

The Hearing Officer AND/OR hearing facilitator then conducts the hearing according to the hearing script. At the hearing, recording, witness logistics, party logistics, curation of documents, separation of the parties, and other administrative elements of the hearing process are managed by a non-voting hearing facilitator appointed by the Title IX Coordinator. The hearing facilitator may attend to: logistics of rooms for various parties/witnesses as they wait; flow of parties/witnesses in and out of the hearing space; ensuring recording and/or virtual conferencing technology is working as intended; copying and distributing materials to participants, as appropriate, etc.

## **XXX) Investigator Presents the Final Investigation Report**

The Investigator(s) will then present a summary of the final investigation report, including items that are contested and those that are not, and will be subject to questioning by the Decision-maker(s) and the parties (through their Advisors). The Investigator(s) will be present during the entire hearing process, but not during deliberations.

Neither the parties nor the Decision-maker(s) should ask the Investigator(s) their opinions on credibility, recommended findings, or determinations, and the Investigators, Advisors, and parties will refrain from discussion of or questions about these assessments. If such information is introduced, the Hearing Officer will direct that it be disregarded.

## **XXXI) Testimony and Questioning**

Once the Investigator(s) present their report and are questioned, the parties and witnesses may provide relevant information in turn, beginning with the Complainant, and then in the order determined by the Hearing Officer. The parties/witnesses will submit to questioning by the Decision-maker(s) and then by the parties through their Advisors (“cross-examination”).

All questions are subject to a relevance determination by the Hearing Officer. The Advisor, who will remain seated during questioning, will pose the proposed question orally, electronically, or in writing (orally is the default, but other means of submission may be permitted by the Hearing Officer upon request or agreed to by the parties and the Hearing Officer), the proceeding will pause to allow the Hearing Officer to consider it, and the Hearing Officer will determine whether the question will be permitted, disallowed, or rephrased.

The Hearing Officer may explore arguments regarding relevance with the Advisors, if the Hearing Officer so chooses. The Hearing Officer will then state their decision on the question for the record and advise the

party/witness to whom the question was directed, accordingly. The Hearing Officer will explain any decision to exclude a question as not relevant, or to reframe it for relevance.

The Hearing Officer will limit or disallow questions on the basis that they are irrelevant, unduly repetitious (and thus irrelevant), or abusive. The Hearing Officer has final say on all questions and determinations of relevance, subject to any appeal. The Hearing Officer may consult with legal counsel on any questions of admissibility. The Hearing Officer may ask advisors to frame why a question is or is not relevant from their perspective but will not entertain argument from the advisors on relevance once the Hearing Officer has ruled on a question.

If the parties raise an issue of bias or conflict of interest of an Investigator or Decision-maker at the hearing, the Hearing Officer may elect to address those issues, consult with legal counsel, and/or refer them to the Title IX Coordinator, and/or preserve them for appeal. If bias is not in issue at the hearing, the Hearing Officer should not permit irrelevant questions that probe for bias.

## **XXXII) Refusal to Submit to Cross-Examination and Inferences**

If a party or witness chooses not to submit to cross-examination at the hearing, either because they do not attend the meeting, or they attend but refuse to participate in questioning, then the Decision-maker(s) may not rely on any prior statement made by that party or witness at the hearing (including those contained in the investigation report) in the ultimate determination of responsibility. The Decision-maker(s) must disregard that statement. Evidence provided that is something other than a statement by the party or witness may be considered.

If the party or witness attends the hearing and answers some cross-examination questions, only statements related to the cross-examination questions they refuse to answer cannot be relied upon. However, if the statements of the party who is refusing to submit to cross-examination or refuses to attend the hearing are the subject of the allegation itself (e.g., the case is about verbal harassment or a quid pro quo offer), then those statements are not precluded from admission.

The Decision-maker(s) may not draw any inference solely from a party's or witness's absence from the hearing or refusal to answer cross-examination or other questions.

If charges of policy violations other than sexual harassment are considered at the same hearing, the Decision-maker(s) may consider all evidence it deems relevant, may rely on any relevant statement as long as the opportunity for cross-examination is afforded to all parties through their Advisors, and may draw reasonable inferences from any decision by any party or witness not to participate or respond to questions.

If a party's Advisor of choice refuses to comply with SVSU's established rules of decorum for the hearing, SVSU may require the party to use a different Advisor. If a SVSU-provided Advisor refuses to comply with the rules of decorum, SVSU may provide that party with a different Advisor to conduct cross-examination on behalf of that party.

## **XXXIII) Recording Hearings**

Hearings (but not deliberations) are recorded by SVSU for purposes of review in the event of an appeal. The parties may not record the proceedings and no other unauthorized recordings are permitted.

The Decision-maker(s), the parties, their Advisors, and appropriate administrators of SVSU will be permitted to listen to the recording in a controlled environment determined by the Title IX Coordinator. No person will be given or be allowed to make a copy of the recording without permission of the Title IX Coordinator.

### **XXXIV) Deliberation, Decision-making, and Standard of Proof**

The Decision-maker(s) will deliberate in closed session to determine whether the Respondent is responsible or not responsible for the policy violation(s) in question. If a panel is used, a simple majority vote is required to determine the finding. The preponderance of the evidence standard of proof is used. The hearing facilitator may be invited to attend the deliberation by the Hearing Officer, but is there only to facilitate procedurally, not to address the substance of the allegations.

When there is a finding of responsibility on one or more of the allegations, the Decision-maker(s) may then consider the previously submitted party impact statements in determining appropriate sanction(s).

The Hearing Officer will ensure that each of the parties has an opportunity to review any impact statement submitted by the other party(ies). The Decision-maker(s) may – at their discretion – consider the statements, but they are not binding.

The Decision-maker(s) will review the statements and any pertinent conduct history provided by appropriate administrator and will recommend the appropriate sanction(s) as required.

The Hearing Officer or designee will then prepare a written deliberation statement and deliver it to the Title IX Coordinator or designee, detailing the determination, rationale, the evidence used in support of its determination, the evidence disregarded, credibility assessments, and any sanctions or recommendations.

This report typically should not exceed three (3) to five (5) pages in length and must be submitted to the Title IX Coordinator within two (2) business days of the end of deliberations, unless the Title IX Coordinator grants an extension. If an extension is granted, the Title IX Coordinator will notify the parties.

### **XXXV) Notice of Outcome**

Using the deliberation statement, the Title IX Coordinator or designee will work with the Hearing Officer to prepare a Notice of Outcome. The Notice of Outcome will then be reviewed by legal counsel, when appropriate. The Title IX Coordinator or designee will then share the letter, including the final determination, rationale, and any applicable sanction(s) with the parties and their Advisors within 5 business days of receiving the Decision-maker(s)' deliberation statement.

The Notice of Outcome will then be shared with the parties simultaneously. Notification will be made in writing and may be delivered by one or more of the following methods: in person, mailed to the local or permanent address of the parties as indicated in official SVSU records, or emailed to the parties' SVSU-issued email or otherwise approved account. Once mailed, emailed, and/or received in-person, notice will be presumptively delivered.

The Notice of Outcome will identify the specific policy(ies) reported to have been violated, including the

relevant policy section, and will contain a description of the procedural steps taken by SVSU from the receipt of the misconduct report to the determination, including any and all notifications to the parties, interviews with parties and witnesses, site visits, methods used to obtain evidence, and hearings held.

The Notice of Outcome will specify the finding on each alleged policy violation; the findings of fact that support the determination; conclusions regarding the application of the relevant policy to the facts at issue; a statement of, and rationale for, the result of each allegation to the extent SVSU is permitted to share such information under state or federal law; any sanctions issued which SVSU is permitted to share according to state or federal law; and any remedies provided to the Complainant designed to ensure access to SVSU's educational or employment program or activity, to the extent SVSU is permitted to share such information under state or federal law (this detail is not typically shared with the Respondent unless the remedy directly relates to the Respondent).

The Notice of Outcome will also include information on when the results are considered by SVSU to be final, any changes that occur prior to finalization, and the relevant procedures and bases for any available appeal options.

## **XXXVI) Sanctions**

Factors considered when determining a sanction/responsive action may include, but are not limited to:

- The nature, severity of, and circumstances surrounding the violation(s)
- The Respondent's disciplinary history
- Previous allegations or allegations involving similar conduct
- The need for sanctions/responsive actions to bring an end to the discrimination, harassment, and/or retaliation
- The need for sanctions/responsive actions to prevent the future recurrence of discrimination, harassment, and/or retaliation
- The need to remedy the effects of the discrimination, harassment, and/or retaliation on the Complainant and the community
- The impact on the parties
- Any other information deemed relevant by the Decision-maker(s)

The sanctions will be implemented as soon as is feasible, either upon the outcome of any appeal or the expiration of the window to appeal without an appeal being requested.

The sanctions described in this policy are not exclusive of, and may be in addition to, other actions taken, or sanctions imposed by external authorities.

### **a. Student Sanctions**

Any student who violates this Policy will be subject to the range of remedial actions (in accordance with University Code of Student Conduct), which for students, range from probation to expulsion, depending on the totality of the circumstances of the incident, and taking into account any previous Student Code violations. Remedial actions may include, but are not limited to, one or more of the following:

- a) Completion of Rehabilitation Program
- b) Developmental/Educational Assignments
- c) Expulsion
- d) Fines
- e) Referral for Counseling

- f) Restitution
- g) Restrictions
- h) Temporary University Suspension
- i) University Housing Probation
- j) University Housing Suspension
- k) University Probation
- l) University Suspension
- m) Warning

## b. Employee Sanctions

### Sanctions for Faculty or Staff

Review of the findings of the investigation shall occur pursuant to the employee's collective bargaining agreement, where applicable, or in accordance with the applicable SVSU policy. If the Respondent is a member of the faculty or staff, possible sanctions are as follows:

**Formal Reprimand:** Written documentation of a failure to abide by SVSU policy or procedures maintained in the employee's personnel file.

**Educational Programs:** Participation in educational programs, such as trainings, workshops, seminars, or other educational activities.

**Revocation of SVSU privileges:** Revocation of SVSU privileges, such as participation in extra-curricular or volunteer activities, for a definite or indefinite period of time.

**Campus restrictions:** Limitations on the times and/or places where the employee may be present on campus.

**No contact orders:** Prohibition on all forms of contact with certain people.

**Suspension:** Exclusion from work, with or without pay, and other related activities as set forth for a definite period of time.

**Termination:** Permanent separation from employment.

### Sanctions for Contractors, Guests, Volunteers and Other Third Parties

If the Respondent is a contractor, guest, volunteer, or other third party, possible sanctions are as follows:

**Trespass Warning:** Notice that future visits to the SVSU campus may result in a citation for trespassing.

**Campus Restrictions:** Limitations on the times and/or places where the person may be present on campus.

**No Contact Orders:** Prohibition on all forms of contact with certain people.

**Relationship Termination:** Termination of the person's relationship with SVSU

## XXXVII) Withdrawal or Resignation While Charges Pending

Students: If a student has an allegation pending for violation of the Interim Policy on Sexual Misconduct, SVSU may place a hold on a student's ability to graduate and/or to receive an official transcript/diploma.

Should a student decide to not participate in the resolution process, the process proceeds absent their participation to a reasonable resolution. Should a student Respondent permanently withdraw from SVSU, the resolution process ends, as SVSU no longer has disciplinary jurisdiction over the withdrawn student.

However, SVSU will continue to address and remedy any systemic issues, variables that may have contributed to the alleged violation(s), and any ongoing effects of the alleged harassment, discrimination, and/or retaliation. The student who withdraws or leaves while the process is pending may not return to SVSU. A hold will be placed on their ability to be readmitted. They may also be barred from SVSU

property and/or events.

If the student Respondent only withdraws or takes a leave for a specified period of time (e.g., one semester or term), the resolution process may continue remotely, and that student is not permitted to return to SVSU unless and until all sanctions have been satisfied.

During the resolution process, SVSU may put a hold on a responding student's transcript or place a notation on a responding student's transcript or dean's disciplinary certification that a disciplinary matter is pending.

Employees: Should an employee Respondent resign with unresolved allegations pending, the resolution process ends, as SVSU no longer has disciplinary jurisdiction over the resigned employee.

However, SVSU will continue to address and remedy any systemic issues, variables that contributed to the alleged violation(s), and any ongoing effects of the alleged harassment or discrimination.

The employee who resigns with unresolved allegations pending is not eligible for rehire with SVSU, and the records retained by the Title IX Coordinator will reflect that status.

All SVSU responses to future inquiries regarding employment references for that individual will include that the former employee resigned during a pending disciplinary matter.

## **XXXVIII) Appeals**

Any party may file a request for appeal ("Request for Appeal"), but it must be submitted in writing to the Title IX Coordinator or designee within 3 days of the delivery of the Notice of Outcome.

A three-member appeal/panel chosen from the Pool will be designated by the Title IX Coordinator. No appeal panelists [Decision-maker] will have been involved in the process previously, including any dismissal appeal that may have been heard earlier in the process. A voting Hearing Officer of the Appeal panel will be designated.

The Request for Appeal will be forwarded to the Appeal Hearing Officer for consideration to determine if the request meets the grounds for appeal (a Review for Standing).

This review is not a review of the merits of the appeal, but solely a determination as to whether the request meets the grounds and is timely filed.

### **a. Grounds Appeal**

Appeals are limited to the following grounds:

- (A) Procedural irregularity that affected the outcome of the matter;
- (B) 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
- (C) 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 specific Complainant or Respondent that affected the outcome of the matter.

If any of the grounds in the Request for Appeal do not meet the grounds in this Policy, that request will be denied by the Hearing Officer and the parties and their Advisors will be notified in writing of the denial and the rationale.

If any of the grounds in the Request for Appeal meet the grounds in this Policy, then the Appeal Hearing Officer will notify the other party(ies) and their Advisors, the Title IX Coordinator, and, when appropriate, the Investigators and/or the original Decision-maker(s).

The other party(ies) and their Advisors, the Title IX Coordinator, and, when appropriate, the Investigators and/or the original Decision-maker(s) will be mailed, emailed, and/or provided a hard copy of the request with the approved grounds and then be given 5 business days to submit a response to the portion of the appeal that was approved and involves them. All responses will be forwarded by the Hearing Officer to all parties for review and comment.

The non-appealing party (if any) may also choose to raise a new ground for appeal at this time. If so, that will be reviewed for standing by the Appeal Hearing Officer and either denied or approved. If approved, it will be forwarded to the party who initially requested an appeal, the Investigator(s) and/or original Decision-maker(s), as necessary, who will submit their responses in 5 business days, which will be circulated for review and comment by all parties.

Neither party may submit any new requests for appeal after this time period. The Appeal Hearing Officer will collect any additional information needed and all documentation regarding the approved grounds and the subsequent responses will be shared with the Appeal Panel, and the Hearing Officer/Panel will render a decision in no more than 5 business days, barring exigent circumstances. All decisions are by majority vote and apply the preponderance of the evidence standard.

A Notice of Appeal Outcome will be sent to all parties simultaneously including the decision on each approved ground and rationale for each decision. The Notice of Appeal Outcome will specify the finding on each ground for appeal, any specific instructions for remand or reconsideration, any sanctions that may result which SVSU is permitted to share according to state or federal law, and the rationale supporting the essential findings to the extent SVSU is permitted to share under state or federal law.

Notification will be made in writing and may be delivered by one or more of the following methods: in person, mailed to the local or permanent address of the parties as indicated in official institutional records, or emailed to the parties' SVSU-issued email or otherwise approved account. Once mailed, emailed and/or received in-person, notice will be presumptively delivered.

## **b. Sanctions Status During the Appeal**

Any sanctions imposed as a result of the hearing are stayed during the appeal process. Supportive measures may be reinstated, subject to the same supportive measure procedures above.

If any of the sanctions are to be implemented immediately post-hearing, then emergency removal procedures (detailed above) for a hearing on the justification for doing so must be permitted within 48 hours of implementation.

SVSU may still place holds on official transcripts, diplomas, graduations, and course registration pending the outcome of an appeal when the original sanctions included separation.

## **c. Appeal Considerations**

- Decisions on appeal are to be deferential to the original decision, making changes to the finding



only when there is clear error and to the sanction(s)/responsive action(s) only if there is a compelling justification to do so.

- Appeals are not intended to provide for a full re-hearing (de novo) of the allegation(s). In most cases, appeals are confined to a review of the written documentation or record of the original hearing and pertinent documentation regarding the specific grounds for appeal.
- An appeal is not an opportunity for Appeal Decision-makers to substitute their judgment for that of the original Decision-maker(s) merely because they disagree with the finding and/or sanction(s).
- The Appeal Hearing Officer/Panel may consult with the Title IX Coordinator on questions of procedure or rationale, for clarification, if needed. Documentation of all such consultation will be maintained.
- Appeals granted based on new evidence should normally be remanded to the original Investigator(s) and/or Decision-maker(s) for reconsideration. Other appeals may be remanded at the discretion of the Title IX Coordinator or, in limited circumstances, decided on appeal.
- Once an appeal is decided, the outcome is final: further appeals are not permitted, even if a decision or sanction is changed on remand (except in the case of a new hearing).
- In rare cases where a procedural or substantive error cannot be cured by the original Decision-maker(s) (as in cases of bias), the appeal may order a new hearing with a new Decision-maker(s).
- The results of a remand to a Decision-maker(s) cannot be appealed.
- In cases in which the appeal results in reinstatement to SVSU or resumption of privileges, all reasonable attempts will be made to restore the Respondent to their prior status, recognizing that some opportunities lost may be irreparable in the short term.

## **XXXIX) Long-Term Remedies/Other Actions**

Following the conclusion of the resolution process, and in addition to any sanctions implemented, the Title IX Coordinator may implement additional long-term remedies or actions with respect to the parties and/or the campus community that are intended to stop the harassment, discrimination, and/or retaliation, remedy the effects, and prevent reoccurrence.

These remedies/actions may include, but are not limited to:

- Referral to counseling and health services
- Referral to the Employee Assistance Program
- Education to the individual and/or the community
- Permanent alteration of housing assignments
- Permanent alteration of work arrangements for employees
- Provision of campus safety escorts
- Climate surveys
- Policy modification and/or training
- Provision of transportation accommodations
- Implementation of long-term contact limitations between the parties
- Implementation of adjustments to academic deadlines, course schedules, etc.

At the discretion of the Title IX Coordinator, certain long-term support or measures may also be provided to the parties even if no policy violation is found.

When no policy violation is found, the Title IX Coordinator will address any remedies owed by SVSU to the Respondent to ensure no effective denial of educational access.

SVSU will maintain the privacy of any long-term remedies/actions/measures, provided privacy does not impair the SVSU's ability to provide these services.

## **XL) Failure to Comply with Sanctions and/or Interim and Long-term Remedies and/or Responsive Actions**

All Respondents are expected to comply with the assigned sanctions, responsive actions, and/or corrective actions within the timeframe specified by the final Decision-maker(s) (including the Appeal Hearing Officer/Panel).

Failure to abide by the sanction(s)/action(s) imposed by the date specified, whether by refusal, neglect, or any other reason, may result in additional sanction(s)/action(s), including suspension, expulsion, and/or termination from SVSU.

A suspension will only be lifted when compliance is achieved to the satisfaction of the Title IX Coordinator and/or designee.

## **XLI) Recordkeeping**

SVSU will maintain for a period of at least seven years records of:

1. Each sexual harassment investigation including any determination regarding responsibility and any audio or audiovisual recording or transcript required under federal regulation;
2. Any disciplinary sanctions imposed on the Respondent;
3. Any remedies provided to the Complainant designed to restore or preserve equal access to the SVSU's education program or activity;
4. Any appeal and the result therefrom;
5. Any Informal Resolution and the result therefrom;
6. All materials used to train Title IX Coordinators, Investigators, Decision-makers, and any person who facilitates an Informal Resolution process. SVSU will make these training materials publicly available on SVSU's website.
7. Any actions, including any supportive measures, taken in response to a report or formal complaint of sexual harassment, including:
  - a. The basis for all conclusions that the response was not deliberately indifferent;
  - b. Any measures designed to restore or preserve equal access to SVSU's education program or activity; and
  - c. If no supportive measures were provided to the Complainant, document the reasons why such a response was not clearly unreasonable in light of the known circumstances.

SVSU will also maintain any and all records in accordance with state and federal laws.

## **XLII) Disabilities Accommodations in the Resolution Process**

SVSU is committed to providing reasonable accommodations and support to qualified students, employees, or others with disabilities to ensure equal access to the SVSU's resolution process.

Anyone needing such accommodations or support should contact the Director of Accessibility Resources and Accommodations, who will review the request and, in consultation with the person requesting the accommodation and the Title IX Coordinator, determine which accommodations are appropriate and necessary for full participation in the process.

## **XLIII) Revision of this Policy and Procedures**

This Policy and procedures supersede any previous policy(ies) addressing harassment, sexual misconduct, discrimination, and/or retaliation and will be reviewed and updated annually by the Title IX Coordinator. SVSU reserves the right to make changes to this document as necessary, and once those changes are posted online, they are in effect.

During the resolution process, the Title IX Coordinator may make minor modifications to procedures that do not materially jeopardize the fairness owed to any party, such as to accommodate summer schedules. The Title IX Coordinator may also vary procedures materially with notice (on the institutional website, with the appropriate effective date identified) upon determining that changes to law or regulation require policy or procedural alterations not reflected in this Policy and procedures.

If government laws or regulations change – or court decisions alter – the requirements in a way that impacts this document, this document will be construed to comply with the most recent government regulations or holdings.

This document does not create legally enforceable protections beyond the protection of the background state and federal laws which frame such policies and codes, generally.

This Policy and procedures are effective August 14,2020.

## Appendix A: Title IX Advisory Committee Members

LAST NAME	FIRST NAME	OFFICE EXT.	EMAIL	DIVISION/COLLEGE of
Barry	Peter	4302	<a href="mailto:pbbarry@svsu.edu">pbbarry@svsu.edu</a>	COLLEGE OF ARTS AND BEHAVIORAL SCIENCES
Block	Clifford	4285	<a href="mailto:cablock@svsu.edu">cablock@svsu.edu</a>	SVSU CHIEF OF POLICE
Childs	Sidney	2932	<a href="mailto:schilds@svsu.edu">schilds@svsu.edu</a>	ACADEMIC AND STUDENT AFFAIRS
Crane	Ellen	4109	<a href="mailto:ecrane@svsu.edu">ecrane@svsu.edu</a>	ADMINISTRATION & BUSINESS AFFAIRS
Hamlin	Andrea	7299	<a href="mailto:alhamlin@svsu.edu">alhamlin@svsu.edu</a>	ACADEMIC AND STUDENT AFFAIRS
Hendrickson	Amy	2172	<a href="mailto:alhendri@svsu.edu">alhendri@svsu.edu</a>	COLLEGE OF BUSINESS AND MANAGEMENT
Jones	Arianna		<a href="mailto:ajjones5@svsu.edu">ajjones5@svsu.edu</a>	STUDENT
Kaczynski	John	7481	<a href="mailto:jlkaczyn@svsu.edu">jlkaczyn@svsu.edu</a>	OFFICE OF THE PRESIDENT
Maher	Jim	2222	<a href="mailto:jmmaher@svsu.edu">jmmaher@svsu.edu</a>	ADMINISTRATION & BUSINESS AFFAIRS
Misra	Arundhati	2463	<a href="mailto:abmisra@svsu.edu">abmisra@svsu.edu</a>	ACADEMIC AND STUDENT AFFAIRS
Peruski	David	4358	<a href="mailto:daperusk@svsu.edu">daperusk@svsu.edu</a>	COLLEGE OF HEALTH AND HUMAN SERVICES
Piotrowski	Corrie	2253	<a href="mailto:cpiotrow@svsu.edu">cpiotrow@svsu.edu</a>	HUMAN RESOURCES
Pohl	Angela	7311	<a href="mailto:aspohl@svsu.edu">aspohl@svsu.edu</a>	ADMINISTRATION & BUSINESS AFFAIRS
Porte	Larry		<a href="mailto:lrporte@yahoo.com">lrporte@yahoo.com</a>	
Portwine	Ron	2064	<a href="mailto:report@svsu.edu">report@svsu.edu</a>	ADMINISTRATION & BUSINESS AFFAIRS
Rabideau	Marie	2220	<a href="mailto:rabideau@svsu.edu">rabideau@svsu.edu</a>	ACADEMIC AND STUDENT AFFAIRS
Schweitzer	Connie	4160	<a href="mailto:schw@svsu.edu">schw@svsu.edu</a>	ADMINISTRATION & BUSINESS AFFAIRS
Stricker	Carmen	4480	<a href="mailto:ccstrick@svsu.edu">ccstrick@svsu.edu</a>	ACADEMIC AND STUDENT AFFAIRS
Thorns	Mamie	4068	<a href="mailto:mtthorns@svsu.edu">mtthorns@svsu.edu</a>	OFFICE OF THE PRESIDENT
Walker	Delores	4068	<a href="mailto:dmwalke1@svsu.edu">dmwalke1@svsu.edu</a>	OFFICE OF DIVERSITY PROGRAMS

## Appendix B: Statement of Rights of the Parties

- The right to an equitable investigation and resolution of all credible allegations of prohibited harassment or discrimination made in good faith to SVSU officials.
- The right to timely written notice of all alleged violations, including the identity of the parties involved (if known), the precise misconduct being alleged, the date and location of the alleged misconduct (if known), the implicated policies and procedures, and possible sanctions.
- The right to timely written notice of any material adjustments to the allegations (e.g., additional incidents or allegations, additional Complainants, unsubstantiated allegations) and any attendant adjustments needed to clarify potentially implicated policy violations.
- The right to be informed in advance of any public release of information regarding the allegation(s) or underlying incident(s), whenever possible.
- The right not to have any personally identifiable information released to the public without consent provided, except to the extent permitted by law.
- The right to be treated with respect by SVSU officials.
- The right to have SVSU policies and procedures followed without material deviation.
- The right not to be pressured to mediate or otherwise informally resolve any reported misconduct involving violence, including sexual violence.
- The right not to be discouraged by SVSU officials from reporting sexual misconduct or discrimination to both on-campus and off-campus authorities.
- The right to be informed by SVSU officials of options to notify proper law enforcement authorities, including on-campus and local police, and the option(s) to be assisted by SVSU authorities in notifying such authorities, if the party so chooses. This also includes the right not to be pressured to report, as well.
- The right to have allegations of violations of this Policy responded to promptly and with sensitivity by SVSU law enforcement and/or other SVSU officials.
- The right to be informed of available interim actions and supportive measures, such as counseling; advocacy; health care; legal, student financial aid, visa, and immigration assistance; or other services, both on campus and in the community.
- The right to a SVSU-implemented no-contact order or a no-trespass order against a non-affiliated third party when a person has engaged in or threatens to engage in stalking, threatening, harassing, or other improper conduct that presents a danger to the welfare of the party or others.
- The right to be informed of available assistance in changing academic, living, and/or working situations after an alleged incident of discrimination, harassment, and/or retaliation, if such changes are reasonably available. No formal report, or investigation, either campus or criminal, needs to occur before this option is available. Such actions may include, but are not limited to:

- Relocating an on-campus student's housing to a different on-campus location
  - Assistance from SVSU staff in completing the relocation
  - Changing an employee's work environment (e.g., reporting structure, office/workspace relocation)
  - Transportation accommodations
  - Visa/immigration assistance
  - Arranging to dissolve a housing contract and a pro-rated refund
  - Exam, paper, and/or assignment rescheduling or adjustment
  - Receiving an incomplete in, or a withdrawal from, a class (may be retroactive)
  - Transferring class sections
  - Temporary withdrawal/leave of absence (may be retroactive)
  - Campus safety escorts
  - Alternative course completion options.
- The right to have the SVSU maintain such actions for as long as necessary and for supportive measures to remain private, provided privacy does not impair the SVSU's ability to provide the supportive measures.
  - The right to receive sufficiently advanced, written notice of any meeting or interview involving the other party, when possible.
  - The right to ask the Investigator(s) and Decision-maker(s) to identify and question relevant witnesses, including expert witnesses.
  - The right to provide the Investigator(s)/Decision-maker(s) with a list of questions that, if deemed relevant by the Investigator(s)/Hearing Officer, may be asked of any party or witness.
  - The right not to have irrelevant prior sexual history or character admitted as evidence.
  - The right to know the relevant and directly related evidence obtained and to respond to that evidence.
  - The right to fair opportunity to provide the Investigator(s) with their account of the alleged misconduct and have that account be on the record.
  - The right to receive a copy of the investigation report, including all factual, policy, and/or credibility analyses performed, and all relevant and directly related evidence available and used to produce the investigation report, subject to the privacy limitations imposed by state and federal law, prior to the hearing, and the right to have at least ten (10) business days to review the report prior to the hearing.
  - The right to respond to the investigation report, including comments providing any additional relevant evidence after the opportunity to review the investigation report, and to have that response on the record.
  - The right to be informed of the names of all witnesses whose information will be used to make a finding, in advance of that finding, when relevant.
  - The right to regular updates on the status of the investigation and/or resolution.

- The right to have reports of alleged Policy violations addressed by Investigators, Title IX Coordinators, and Decision-maker(s) who have received relevant annual training.
- The right to a Hearing Panel that is not single sex in its composition, if a panel is used.
- The right to preservation of privacy, to the extent possible and permitted by law.
- The right to meetings, interviews, and/or hearings that are closed to the public.
- The right to petition that any SVSU representative in the process be recused on the basis of disqualifying bias and/or conflict of interest.
- The right to have an Advisor of their choice to accompany and assist the party in all meetings and/or interviews associated with the resolution process.
- The right to have SVSU compel the participation of faculty and staff witnesses.
- The right to the use of the appropriate standard of evidence, preponderance of the evidence to make a finding after an objective evaluation of all relevant evidence.
- The right to be present, including presence via remote technology, during all testimony given and evidence presented during any formal grievance hearing.
- The right to have an impact statement considered by the Decision-maker(s) following a determination of responsibility for any allegation, but prior to sanctioning.
- The right to be promptly informed in a written Notice of Outcome letter of the finding(s) and sanction(s) of the resolution process and a detailed rationale therefor (including an explanation of how credibility was assessed), delivered simultaneously (without undue delay) to the parties.
- The right to be informed in writing of when a decision by the SVSU is considered final and any changes to the sanction(s) that occur before the decision is finalized.
- The right to be informed of the opportunity to appeal the finding(s) and sanction(s) of the resolution process, and the procedures for doing so in accordance with the standards for appeal established by the SVSU.
- The right to a fundamentally fair resolution as defined in these procedures.

## Appendix C: Policy Examples

Some examples of possible sexual harassment include:

- A professor offers for a student to have sex or go on a date with them in exchange for a good grade. This constitutes sexual harassment regardless of whether the student accedes to the request and irrespective of whether a good grade is promised, or a bad grade is threatened.
- A student repeatedly sends graphic, sexually-oriented jokes and pictures around campus via social media to hundreds of other students. Many don't find it funny and ask them to stop, but they do not. Because of these jokes, one student avoids the sender on campus and in the residence hall in which they both live, eventually asking to move to a different building and dropping a class they had together.
- A professor engages students in class in discussions about the students' past sexual experiences, yet the conversations are not in any way germane to the subject matter of the class. The professor inquires about explicit details and demands that students answer them, though the students are clearly uncomfortable and hesitant.
- An ex-partner widely spreads false stories about their sex life with their former partner to the clear discomfort and frustration of the former partner, turning the former partner into a social pariah on campus.
- Chris has recently transitioned from male to non-binary, but primarily expresses as a female. Since their transition, Chris has noticed that their African Studies professor, Dr. Mukembo, pays them a lot more attention. Chris is sexually attracted to Professor Mukembo and believes the attraction is mutual. Chris decides to act on the attraction. One day, Chris visits Dr. Mukembo during office hours, and after a long conversation about being non-binary, Chris kisses Dr. Mukembo. Dr. Mukembo is taken aback, stops the kiss, and tells Chris not to do that. Dr. Mukembo explains to Chris that they are not interested in Chris sexually or romantically. Chris takes it hard, crying to Dr. Mukembo about how hard it is to find someone who is interested in them now based on their identity. Dr. Mukembo feels sorry for Chris and softens the blow by telling them that no matter whether they like Chris or not, faculty-student relationships are prohibited by the university. Chris takes this as encouragement. One night, Chris goes to a gay bar some distance from campus and sees Dr. Mukembo at the bar. Chris tries to buy Dr. Mukembo a drink and, again, tries to kiss Dr. Mukembo. Dr. Mukembo leaves the bar abruptly. The next day, Chris makes several online posts that out Dr. Mukembo as gay and raise questions about whether they are sexually involved with students. Dr. Mukembo contacts the Title IX Office and alleges that Chris is sexually harassing him.

### Examples of Stalking

- Students A and B were friends with benefits. Student A wanted a more serious relationship, which caused student B to break it off. Student A could not let go, and pursued student B relentlessly. Student B obtained a campus no-contact order. Subsequently, Student B discovered their social media accounts were being accessed, and things were being posted and messaged as if they were from them, but they were not. Whoever accessed their account posted a picture of a penis, making it look as if they had sent out a picture of themselves, though it was not their penis. This caused them considerable embarrassment and social anxiety. They changed their passwords, only to have it happen again. Seeking help from the Title IX Coordinator, Student B met with the



IT department, which discovered an app on their phone and a keystroke recorder on their laptop, both of which were being used to transmit their data to a third party.

- A graduate student working as an on-campus tutor received flowers and gifts delivered to their office. After learning the gifts were from a student, they recently tutored, the graduate student thanked the student and stated that it was not necessary and would appreciate it if the gift deliveries stopped. The student then started leaving notes of love and gratitude on the tutor's car, both on-campus and at home. Asked again to stop, the student stated by email, "You can ask me to stop, but I'm not giving up. We are meant to be together, and I'll do anything to make you have the feelings for me that I have for you." When the tutor did not respond, the student emailed again, "You cannot escape me. I will track you to the ends of the earth. If I can't have you, no one will."

#### Examples of Sexual Assault:

- Amanda and Bill meet at a party. They spend the evening dancing and getting to know each other. Bill convinces Amanda to come up to his room. From 11:00 p.m. until 3:00 a.m., Bill uses every line he can think of to convince Amanda to have sex with him, but she adamantly refuses. Despite her clear communications that she is not interested in doing anything sexual with him, Bill keeps at her, questions her religious convictions, and accuses her of being "a prude." He brings up several rumors that he has heard about how she performed oral sex on a number of other guys. Finally, it seems to Bill that her resolve is weakening, and he convinces her to "jerk him off" (hand to genital contact). Amanda would have never done it but for Bill's incessant advances. He feels that he successfully seduced her and that she wanted to do it all along but was playing shy and hard to get. Why else would she have come up to his room alone after the party? If she really didn't want it, she could have left.
- Jiang is a junior. Beth is a sophomore. Jiang comes to Beth's residence hall room with some mutual friends to watch a movie. Jiang and Beth, who have never met before, are attracted to each other. After the movie, everyone leaves, and Jiang and Beth are alone. They hit it off, soon become more intimate, and start to make out. Jiang verbally expresses his desire to have sex with Beth. Beth, who was abused by a babysitter at the age of five and avoids sexual relations as a result, is shocked at how quickly things are progressing. As Jiang takes her by the wrist over to the bed, lays her down, undresses, and begins to have intercourse with Beth, Beth has a severe flashback to her childhood trauma. She wants to tell Jiang to stop but cannot. Beth is stiff and unresponsive during the intercourse.
- Kevin and John are at a party. Kevin is not sure how much John has been drinking, but he is pretty sure it's a lot. After the party, he walks John to his apartment, and John comes on to Kevin, initiating sexual activity. Kevin asks John if he is really up to this, and John says yes. They remove each other's clothes, and they end up in John's bed. Suddenly, John runs for the bathroom. When he returns, his face is pale, and Kevin thinks he may have thrown up. John gets back into bed, and they begin to have sexual intercourse. Kevin is having a good time, though he can't help but notice that John seems pretty groggy and passive, and he thinks John may have even passed out briefly during the sex, but he came to again. When Kevin runs into John the next day, he thanks him for the great night. John remembers nothing and decides to make a report to the Dean.

Examples of Retaliation:

- Student-athlete A alleges sexual harassment by a coach; the coach subsequently cuts the student-athlete's playing time without a legitimate justification.
- A faculty member alleges gender inequity in pay within her department; the Department Hearing Officer then revokes his approval for her to attend a national conference, citing the faculty member's tendency to "ruffle feathers."
- A student from Organization A participates in a sexual misconduct investigation as a witness whose testimony is damaging to the Respondent, who is also a member of Organization A; the student is subsequently removed as a member of Organization A because of their participation in the investigation.

## Appendix D: Violence Risk Assessment (VRA)

Threat assessment is the process of assessing the actionability of violence by an individual against another person or group following the issuance of a direct or conditional threat. A Violence Risk Assessment (VRA) is a broader term used to assess any potential violence or danger, regardless of the presence of a vague, conditional, or direct threat.

The implementation of VRAs require specific training and are typically conducted by psychologists, clinical counselors, social workers, case managers, law enforcement officers, student conduct officers, and/or other Behavioral Intervention Team (BIT) (sometimes also known as CARE teams) members.

A VRA occurs in collaboration with CARE team and must be understood as an on-going process, rather than a singular evaluation or meeting. A VRA is not an evaluation for an involuntary behavioral health hospitalization, nor is it a psychological or mental health assessment.

A VRA assesses the risk of actionable violence, often with a focus on targeted/predatory escalations, and is supported by research from the fields of law enforcement, criminology, human resources, and psychology.

When conducting a VRA, the assessor(s) use an evidence-based process consisting of:

1. an appraisal of *risk factors* that escalate the potential for violence;
2. a determination of *stabilizing influences* that reduce the risk of violence;
3. a contextual *analysis of violence risk* by considering environmental circumstances, hopelessness, and suicidality; catalyst events; nature and actionability of threat; fixation and focus on target; grievance collection; and action and time imperative for violence; and
4. the application of *intervention and management* approaches to reduce the risk of violence.

To assess an individual's level of violence risk, the Title IX Coordinator will initiate the violence risk assessment process through the CARE Team. The CARE Team will assign a trained individual(s) to perform the assessment, according to the specific nature of the Title IX case.

The assessor will follow the process for conducting a violence risk assessment as outlined in the BIT manual and will rely on a consistent, research-based, reliable system that allows for the operationalization of the risk levels.

Some examples of formalized approaches to the VRA process include: The NaBITA Risk Rubric,<sup>3</sup> The Structured Interview for Violence Risk Assessment (SIVRA-35),<sup>4</sup> The Extremist Risk Intervention Scale

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<sup>3</sup> [www.nabita.org/tools](http://www.nabita.org/tools)

<sup>4</sup> [www.nabita.org/resources/assessment-tools/sivra-35/](http://www.nabita.org/resources/assessment-tools/sivra-35/)

(ERIS),<sup>5</sup> Looking Glass,<sup>6</sup> Workplace Assessment of Violence Risk (WAVR-21),<sup>7</sup> Historical Clinical Risk Management (HCR-20),<sup>8</sup> and MOSAIC.<sup>9</sup>

The VRA is conducted independently from the Title IX process, free from outcome pressure, but is informed by it. The individual(s) conducting the assessment will be trained to mitigate any bias and provide the analysis and findings in a fair and equitable manner.

The CARE team's member(s) conducts a VRA process and makes a recommendation to the Title IX Coordinator as to whether the VRA indicates there is a substantial, compelling, and/or immediate risk to health and/or safety of an individual or the community.

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<sup>5</sup> [www.nabita.org/resources/assessment-tools/eris/](http://www.nabita.org/resources/assessment-tools/eris/)

<sup>6</sup> [www.nabita.org/looking-glass](http://www.nabita.org/looking-glass)

<sup>7</sup> [www.wavr21.com](http://www.wavr21.com)

<sup>8</sup> [hcr-20.com](http://hcr-20.com)

<sup>9</sup> [www.mosaicmethod.com](http://www.mosaicmethod.com)

## Appendix E: Informal Resolution (IR)

Informal Resolution includes:

1. A response based on supportive measures; and/or
2. A response based on a Respondent accepting responsibility; and/or
3. A response based on alternative resolution, which could include various approaches and facilitation of dialogue.

Alternative resolution approaches like mediation, restorative practices, transformative justice, etc., are likely to be used more and more often by colleges and universities.

Here are the principles to be considered for supporting various approaches to informal resolution:

- IR can be applied in any sex/gender-based interpersonal conflict but should only be cautiously considered for violent incidents (sexual violence, stalking, domestic and dating violence, severe sexual harassment, sexual exploitation, etc.)
- Situations involving dangerous patterns or significant ongoing threat to the community should not be resolved by IR.
- The determination of whether to permit an IR-based resolution is entirely at the discretion of the Title IX Coordinator (TIXC) and in line with the requirements for IR laid out in the Title IX regulations.
- Any party can end IR early-, mid-, or late-process for any reason or no reason.
- IR can be attempted before and in lieu of formal resolution as a diversion-based resolution (although a formal complaint must be filed if you are within Section 106.30, per OCR).
- Alternative approaches can inform formal resolution, as in a formal resolution model infused with restorative practices.
- IR could be deployed after formal resolution, as an adjunct healing/catharsis opportunity (that could potentially mitigate sanctions or be a form of sanction).
- Alternate Resolution approaches to IR must be facilitated by SVSU or a third-party. There may be value in creating clearly agreed-upon ground rules, which the parties must sign in advance and agree to abide by, otherwise the informal resolution process will be deemed to have failed.
- Technology-facilitated IR can be made available, should the parties not be able or willing to meet in person.
- If IR fails, a formal resolution can take place thereafter. No evidence elicited within the “safe space” of the IR facilitation is later admissible in the formal resolution unless all parties consent.
- With cases involving violence, the preferred alternative approach typically involves a minimal number of essential parties and is not a wide restorative circle approach in order to ensure confidentiality.
- Some approaches require a reasonable gesture toward accountability (this could be more than an acknowledgement of harm) and some acceptance, or at least recognition, by the Respondent that catharsis is of value and likely the primary goal of the Complainant. A full admission by the Respondent is not a prerequisite. This willingness needs to be vetted carefully in advance by the TIXC before determining that an incident is amenable/appropriate for resolution by IR.
- IR can result in an accord or agreement between the parties (Complainant, Respondent, SVSU) which is summarized in writing by and enforced by SVSU. This can be a primary goal of the process.
- IR can result in the voluntary imposition of safety measures, remedies, and/or agreed-upon resolutions by the parties, that are enforceable by SVSU. These can be part of the accord/agreement.
- As a secondary goal, IR can result in the voluntary acceptance of “sanctions,” meaning that a Respondent could agree to withdraw, self-suspend (by taking a leave of absence), or undertake other restrictions/transfers/online course options that would help to ensure the safety/educational access of the Complainant, in lieu of formal sanctions that would create a formal record for the Respondent.

These are enforceable by SVSU as part of the accord/agreement, as may be terms of mutual release, non-disparagement, and/or non-disclosure.

- While a non-disclosure agreement (NDA) could result from IR, it would have to be mutually agreed-upon by the parties in an environment of non-coercion verified by the TIXC.
- Institutions must develop clear rules for managing/facilitating the conference/meeting/dialogue of alternative resolution approaches, to ensure they are civil, age-appropriate, culturally-competent, reflective of power imbalances, and maximize the potential for the resolution process to result in catharsis, restoration, remedy, etc., for the harmed party(ies).

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