INVESTIGATION, RESOLUTION, AND LIVE HEARING PROCEDURES

SUMMARY

These procedures are designed to facilitate fact-finding and to review incidents involving violations of the Title IX Grievance, Harassment and Discrimination, and Sexual Misconduct policies. It is not intended to create an adversarial court-like proceeding. Saint Elizabeth University reserves the right to invoke these procedures when a student of the University has been charged off-campus with a violation of a local, state, or federal law. Students are subject to reasonable disciplinary action, including suspension or expulsion, for breach of federal, state, or local laws or University conduct policies for both on and off-campus conduct which is likely to have an adverse effect on the University, on the educational process, or if it affects the student's suitability as a member of the academic community.

The burden of proof in all campus conduct investigations including Title IX is “the preponderance of the evidence” standard - whether it is “more likely than not” that the policy violation occurred. If the evidence meets this standard, then the Respondent will be found responsible.

I. MAKING A REPORT TO THE INSTITUTION

Any person may report sex discrimination, including sexual harassment (whether or not the person reporting is the person alleged to be the victim of conduct that could constitute sex discrimination or sexual harassment), in person, by mail, by telephone, or by electronic mail, using the contact information listed for the Title IX Coordinator, or by any other means that results in the Title IX Coordinator receiving the person’s verbal or written report.

Contact Information for the Title IX Coordinator:
Name: Kristi Russo
Title: Director of Human Resources / Title IX Coordinator
Office Address: 2 Convent Road, Santa Rita Hall / Office 009
Email Address: krusso@steu.edu
Telephone Number: 973-290-4478
Mobile Number: 201-704-7950
A report may be made at any time (including during non-business hours) by using the telephone number, electronic mail address, or by mail to the office address listed for the Title IX Coordinator. An electronic report can be made online at www.steu.edu/title-ix/report.

In addition to reporting directly to the Title IX Coordinator, any member of the campus community can file a report through the Advocate CARE program at https://www.steu.edu/incidentreporting. Individuals submitting a report will be asked to provide contact information so the appropriate University official may follow up for more details regarding the report, if necessary.

II. INITIATING AN INVESTIGATION
   A. Receiving Notice
      After receiving notice that a student or employee wishes to file a complaint, the Title IX Coordinator will meet with the Complainant to document the complaint, provide a copy of the University policy and other appropriate resources, and determine if an investigation should commence. Upon the review of a complaint, if the Title IX Coordinator finds insufficient information or basis to support the complaint, the Title IX Coordinator is authorized to dismiss the complaint. The decision to dismiss a complaint by the Title IX Coordinator is final. However, if additional information becomes available, the University reserves the right to investigate a complaint that had previously been dismissed.

   B. Informing the Parties
      At the initiation of an investigation, the Title IX Coordinator will immediately schedule a meeting with the accused (the Respondent) and provide the Respondent with a copy of the University’s policy as well as written notice of the filed complaint. The Respondent must then prepare a written response to the allegations and submit it to the Title IX Coordinator within three business days of meeting with the Title IX Coordinator. The Title IX Coordinator will review both the written complaint and response and will assign two investigators to the case within two business day. Both the Complainant and the Respondent will receive written notification of the assignment of investigators. The University will make every effort to conduct a timely review of the complaint and conclude the investigation within ninety business days. A business day constitutes any normally scheduled workday that the University is open between the hours of 8 am and 5 pm.

      The Title IX Coordinator will explain to both the Complainant and the Respondent the policy procedures, the investigation process, support services available, and relevant avenues of redress. The Title IX Coordinator (or investigator) has the authority to take all reasonable and prudent interim measures to protect both parties pending completion of the investigation and the procedures undertaken to resolve the complaint.

   C. Complainant & Respondent Rights:
A Complainant has the right to:

- Have disclosures of domestic violence, dating violence, stalking, and sexual assault treated seriously;
- Make a report to local law enforcement and/or state police;
- Seek medical treat and/or speak to a medical professional regardless of intent to file a police report;
- Make a decision about whether or not to disclose a crime or policy violation and participate criminal justice process and/or in the judicial or conduct process free from pressure by the University;
- Participate in a process that is fair, impartial, and provides adequate notice and a meaningful opportunity to be heard;
- Be treated with dignity and to receive from the University courteous, fair, and respectful support services, and/or health care and counseling services, where available;
- Be free from any suggestion that the Complainant is at fault for the alleged policy violations, or should have acted in a different manner;
- Describe the incident to as few University representatives as practicable and not be required to unnecessarily repeat a description of the incident;
- Be protected from retaliation by the University community member, and/or their friends, family and acquaintances within the jurisdiction of the institution;
- Access to at least one level of appeal of a determination;
- Be accompanied by an advisor of choice (see explanation below).

A Respondent has the right to:

- Have disclosures of domestic violence, dating violence, stalking, and sexual assault treated seriously;
- Participate in a process that is fair, impartial, and provides adequate notice and a meaningful opportunity to be heard;
- Be treated with dignity and to receive from the University courteous, fair, and respectful support services, and/or health care and counseling services, where available;
- Be free from any assumption that the Respondent is at fault for the alleged policy violations, or should have acted in a different manner;
- Describe the incident to as few University representatives as practicable;
- Be protected from retaliation by the University community member, and/or their friends, family and acquaintances within the jurisdiction of the institution;
- Access to at least one level of appeal of a determination;
- Be accompanied by an advisor of choice (see explanation below).

D. Advisors: The Respondent and Complainant may be supported during interviews and meetings related to the Title IX investigation by an advisor of their choice, provided that person is not expected to be a witness or participate in the proceedings in any manner other than as an advisor. The chosen advisor may be an attorney. To serve as an
advisor, the individual will be required to meet with the Title IX Coordinator in advance of participating in a meeting to understand the expectations of the role, privacy, and appropriate decorum. No copies of written materials or any other evidence will be given to the advisor, the Complainant and Respondent may choose to share such information with an advisor, as necessary, to assist them in the proceedings.

E. Support Measures:
The University will make interim measures such as academic or housing accommodations, and other supports services, as appropriate, available to the Complainant and Respondent throughout the investigative process. These interim measures will be tailored to each complaint and/or investigation, making every effort to avoid undue duress or hardship on the Complaint or Respondent concerning their educational or employment experience. Support Measures may include the following:

- alternate housing assignments;
- course reassignment;
- issuance of a zero-contact order;
- change in work schedule and/or location; or
- reasonable academic accommodations, which may include withdrawal from class, retaking a class without penalty, and/or access to tutoring services.

III. INVESTIGATION TIMELINE

The University is committed to investigating and resolving complaints promptly. However, its ability to do so is closely related to the cooperation of the Complainant and Respondent and the witnesses they identify. Under normal circumstances, the University would expect to have resolved the formal complaint within 90 calendar days of receipt. Each party may request a one-time delay in the process of up to five (5) business days for good cause (granted or denied in the sole judgment of the Title IX Coordinator, or designee) provided that the requestor provides reasonable notice and the delay does not overly inconvenience other parties. The Title IX Coordinator will communicate any such delay to both parties within one (1) business day of the decision.

A. Typical Timeline

Absent unusual circumstances, the timeline will typically be:

- Complaint Filed
  - Weeks 1-3: Investigator conducts interviews with the Complainant, the Respondent, and relevant witnesses
  - Weeks 4-5: The parties will review the evidence gathered by the Investigators. The Parties will have up to 10 business days to respond. Investigator(s) designated by the Title IX coordinator will create an Investigative Report that fairly summarizes relevant evidence and will provide that Report to the parties at least 10 business days prior the hearing in an electronic format for each party’s review and written response.
• Weeks 6-7: Parties have the opportunity to respond to the Investigative report within 10 business days;
• Weeks 8-9: The Hearing Process and the review of the recording of the hearing by the Complainant(s) and Respondent(s) within five (5) business days of the completion of the Hearing Process.
• Week 10: If there are no extenuating circumstances, the determination regarding responsibility will be issued by SEU within 10 business days of the completion of the hearing.
• To appeal, a party must submit their written appeal within five (5) business days of being notified of the final determination, indicating the grounds for the appeal.

IV. Emergency Removal
SEU retains the authority to remove a Complainant or a Respondent from SEU’s program or activity on an emergency basis, where SEU (1) undertakes an individualized safety and risk analysis and (2) determines that an immediate threat to the physical health or safety of any student or other individual arising from the allegations of covered sexual harassment justifies a removal.

Interim Suspension Policy: An interim suspension may be imposed on any student by the Vice President for Student Life (or designee) when there is reasonable cause to believe, based on available facts, that the continued presence of the student in the community constitutes an immediate threat to a) the emotional or physical health, safety or welfare of any member of the University community or b) University property. An interim suspension may also be imposed by the Vice President (or designee) if the student’s behavior is deemed to be persistently or seriously disruptive to the University community. During the interim suspension, a student shall be denied access to the residence halls and/or to the campus (including classes) and/or all other University activities or privileges for which the student might otherwise be eligible, until a hearing/meeting can be held to determine the status of the student as a member of the University community. The University retains the right to contact the students’ parents or guardians regarding the reason for the interim suspension. Any student who is suspended on an interim basis and returns to the campus or otherwise violates the terms of the interim suspension shall be subject to further disciplinary action and may be treated as a trespasser. Permission to be on campus for a specific purpose may be granted in writing by the Vice President for Student Life (or designee). A student may be given an Interim Suspension if:
• The student has been arrested on campus or off-campus;
• The student has repeatedly refused to follow the lawful directions of a University official who is responding to a reported violation of the Code of Conduct or of applicable federal or State laws, or an emergency situation;
• The student threatens or poses a threat of safety to any members of the University community;
• It is the judgment of the University official that the student might pose a danger to the safety, security, or normal operations of the campus;
• The student directly and substantially impedes the lawful activities of others;
• The student threatens to cause or causes significant property damage;
• The student lacks the capacity to respond to pending disciplinary charges;
• The student does not seem to know the nature or wrongfulness of his/her behavior at the time of the offense; or
• The student has behaved in a manner indicating emotional distress requiring mental health evaluation or has threatened to harm the safety of any member of the University community.

If SEU determines such removal is necessary, the Respondent and/or the Complainant will be provided notice and an opportunity to challenge the decision immediately following the removal.

V. ALTERNATIVE AND FORMAL RESOLUTIONS
The Complainant may determine whether to use the alternative resolution or the formal resolution procedures as described below. To utilize the alternative resolution procedures, both parties must consent to participate. Utilization of either process requires the submission of formal complaint to the Title IX Coordinator.

A. Alternative Resolutions
The alternative resolution procedure involves a good faith effort to resolve the complaint through a confidential, informal method. The methods utilized for alternative resolution will be tailored to the specifics of each complaint. Methods may include, but are not limited to mediation, modification of the parameters of the situation where the offensive conduct occurred, and on- or off-campus counseling.

Where circumstances allow for the alternative resolution, reconciliatory measures will be initiated immediately, absent any unusual circumstances. Both the Complainant and the Respondent have the right to bypass or end the alternative resolution process at any time and initiate the formal resolution proceedings. If the complaint is not satisfactorily resolved through the alternative resolution process, either party may inform the Title IX Coordinator, in writing, the desire to use the formal resolution process.

B. Formal Resolutions
If either the Complainant or the Respondent requests a formal resolution process, a formal investigation and hearing will commence. Two Title IX investigators are assigned to each investigation. The investigators will give the Complainant and the Respondent a reasonable opportunity to be heard (orally and/or in writing) with respect to the complaint, to furnish names of witnesses, and to provide information or other evidence
pertaining to their knowledge of the event(s) set forth in the complaint.

Saint Elizabeth will provide, to a party whose participation is invited or expected, written notice of the date, time, location, participants, and purpose of all hearings, investigative interviews, or other meetings with a party, with sufficient time for the party to prepare to participate.

Saint Elizabeth University and not the parties, has the burden of proof and the burden of gathering evidence, i.e. the responsibility of showing a violation of this Policy has occurred. This burden does not rest with either party, and either party may decide not to share their account of what occurred or may decide not to participate in an investigation or hearing. This does not shift the burden of proof away from SEU and does not indicate responsibility.

Prior to the completion of the investigation, the parties will have an equal opportunity to inspect and review the evidence obtained through the investigation. The purpose of the inspection and review process is to allow each party the equal opportunity to respond meaningfully to the evidence prior to conclusion of the investigation. At the conclusion the investigation, the investigative report will be shared with both parties 10 business days in advance of the scheduled hearing. The parties will have 10 business days to inspect and review the evidence and submit a written response by email to the investigator. The investigator will consider the parties’ written responses before completing the Investigative Report.

VI. LIVE HEARING PROCESS

1. General Rules of Hearings
Saint Elizabeth University will not issue a disciplinary sanction arising from an allegation of covered sexual harassment without holding a live hearing.

The live hearing may be conducted with all parties physically present in the same geographic location, or, at SEU discretion, any or all parties, witnesses, and other participants may appear at the live hearing virtually through video conferencing software while located in a private room with their Advisor. This technology will enable participants simultaneously to see and hear each other. At its discretion, Saint Elizabeth University may delay or adjourn a hearing based on technological errors not within a party’s control.

All proceedings will be audio recorded. The recording will be made available to the parties for inspection and review.

Prior to obtaining access to any evidence, the parties and their advisors must sign an agreement not to disseminate any of the testimony heard or evidence obtained in the hearing or use such testimony or evidence for any purpose unrelated to the Title IX

2. **Continuances or Granting Extensions**
Saint Elizabeth University may determine that multiple sessions or a continuance (i.e. a pause on the continuation of the hearing until a later date or time) is needed to complete a hearing. If so, Saint Elizabeth University will notify all participants and endeavor to accommodate all participants’ schedules and complete the hearing as promptly as practicable.

3. **Participants in the live hearing**
Live hearings are not public, and the only individuals permitted to participate in the hearing are as follows:

a. **Complainant and Respondent (The Parties)**
   - The parties cannot waive the right to a live hearing.
   - The institution may still proceed with the live hearing in the absence of a party and may reach a determination of responsibility in their absence, including through any evidence gathered that does not constitute a “statement” by that party. See, 85 Fed. Reg. 30026, 30361 (May 19, 2020). See, OCR Blog (May 22, 2020), available at https://www2.ed.gov/about/offices/list/ocr/blog/20200522.html
   - Saint Elizabeth University will not threaten, coerce, intimidate or discriminate against either party in an attempt to secure the party’s participation. See 34 C.F.R. § 106.71; see also 85 Fed. Reg. 30026, 30216 (May 19, 2020).
   - If a party does not submit to cross-examination, the decision-maker cannot rely on any prior statements made by that party in reaching a determination regarding responsibility but may reach a determination regarding responsibility based on evidence that does not constitute a “statement” by that party.
   - The decision-maker cannot draw an inference about the determination regarding responsibility based solely on a party’s absence from the live hearing or refusal to answer cross-examination or other questions. See 34 C.F.R. §106.45(b)(6)(i).
   - The parties shall be subject to the institution’s employee or faculty handbook, or student code of conduct, as appropriate.

b. **The Decision-Maker**
   - The hearing body will consist of a single decision-maker.
   - The decision-maker will be trained on topics including how to serve impartially, issues of relevance, including how to apply the rape shield protections provided for Complainants, and any technology to be used at the hearing.
   - The decision-maker will not have served as the Title IX Coordinator, Title IX investigator, or advisor to any party in the case, may not serve on the appeals body in the case.
• The decision-maker is prohibited from having a conflict of interest or bias in favor of, against either party, for, or against complainants or respondents in general.
• The parties will have an opportunity to raise any objections regarding a decision-maker’s actual or perceived conflicts of interest or bias at the commencement of the live hearing.

c. Advisor of choice
• The parties have the right to select an advisor of their choice, who is not required to be an attorney.
• The advisor of choice may accompany the parties to any meeting or hearing the party is permitted to attend; however, the advisor is not permitted to participate or speak on behalf of the party, except for the purpose of cross-examination during the hearing process.
• The parties are not permitted to conduct cross-examination; the advisor must conduct it. As a result, if a party does not select an advisor, the institution will select an advisor to serve in this role for the limited purpose of conducting the cross-examination at no fee or charge to the party.
• The advisor is not prohibited from having a conflict of interest or bias in favor of, against Complainants or Respondents, for, or against complainants or respondents in general.
• The advisor is not prohibited from being a witness in the matter.
• If a party does not attend the live hearing, the party’s advisor may appear and conduct cross-examination on their behalf. See, 85 Fed. Reg. 30026, 30340 (May 19, 2020).
• If neither a party nor their advisor appear at the hearing, Saint Elizabeth University will provide an advisor to appear on behalf of the non-appearing party. See, 85 Fed. Reg. 30026, 30339-40 (May 19, 2020).
• Advisors shall be subject to the institution’s employee or faculty handbook, or student code of conduct, as appropriate, and may be removed upon violation of policies laid within. If the advisor is removed from the hearing, the institution will appoint the party a new advisor.

d. Witnesses
• Witnesses cannot be compelled to participate in the live hearing and have the right not to participate in the hearing free from retaliation. See, 85 Fed. Reg. 30026, 30360 (May 19, 2020).
• If a witness does not submit to cross-examination, as described below, the decision-maker cannot rely on any statements made by that witness in reaching a determination regarding responsibility, including any statement relayed by the absent witness to a witness or party who testifies at the live hearing. See, 85 Fed. Reg. 30026, 30347 (May 19, 2020).
• Witnesses shall be subject to the institution’s employee or faculty handbook, or student code of conduct, as appropriate, and may be removed upon violation of policies laid within.

4. Hearing Procedures
For all live hearings conducted under this Title IX Grievance Process, the procedure will be as follows:

- The decision-maker will open and establish rules and expectations for the hearing, utilizing the Title IX Grievance policy and applicable University policies and procedures as guidance;
- The Parties will each be given the opportunity to provide opening statements;
- The decision-maker will ask questions of the parties and witnesses;
- Parties will be given the opportunity for live cross-examination after decision-maker conducts the initial round of questioning;
- During the parties’ cross-examination, the decision-maker will have the authority to pause cross-examination at any time for the purposes of asking the decision-maker’s own follow up questions; and any time necessary to enforce the established rules of the hearing.
- Should a party or the party’s advisor choose not to cross-examine a party or witness, the party shall affirmatively waive cross-examination through a written or oral statement to the decision-maker. A party’s waiver of cross-examination does not eliminate the ability of the decision-maker to use statements made by the Party.

5. Live Cross-Examination Procedure

Each party’s advisor will conduct live cross-examination of the other party or parties and witnesses. During this live-cross examination, the advisor will ask the other party or parties and witnesses relevant questions and follow-up questions, orally, and in real time.

Before any cross-examination question is answered, the decision-maker will determine if the question is relevant. Cross-examination questions that are duplicative of those already asked, including by the decision-maker, might be deemed irrelevant if they have been asked and answered.

6. Review of Recording

The recording of the hearing will be available for review by the Complainant(s) and Respondent(s) within five business days, unless there are any extenuating circumstances.

VII. Determination Regarding Responsibility

1. Standard of Proof

Saint Elizabeth University uses the preponderance of the evidence standard for investigations and determinations regarding responsibility of formal complaints covered under this policy. This means that the final determination reflects whether it is more likely than not, that a violation of the policy has occurred to a neutral decision-maker.

2. General Considerations for Evaluating Testimony and Evidence
While the opportunity for cross-examination is required in all Title IX hearings, determinations regarding responsibility may be based in part, or entirely, on documentary, audiovisual, and digital evidence, as warranted in the reasoned judgment of the decision-maker.

Decision-makers shall not draw inferences regarding a party's or witness' credibility based on the party's or witness' status as a Complainant, Respondent, or witness, nor shall the decision-maker base judgments in stereotypes about how a party or witness would or should act under the circumstances.

Generally, credibility judgments should rest on the demeanor of the party or witness, the plausibility of their testimony, the consistency of their testimony, and its reliability in light of corroborating or conflicting testimony and/or evidence. Credibility judgments should not rest on whether a party or witness' testimony is non-linear or incomplete, or if the party or witness is displaying stress or anxiety.

Decision makers will afford the highest weight relative to other testimony to first-hand testimony by parties and witnesses regarding their own memory of specific facts that occurred. Both inculpatory and exculpatory (i.e. tending to prove and disprove the allegations) evidence will be weighed in equal fashion.

Except where specifically barred by the Title IX Final Rule, a witness' testimony regarding third-party knowledge of the facts at issue will be allowed but will generally be accorded lower weight than testimony regarding direct knowledge of the specific facts of what occurred.

The Final Rule requires that Saint Elizabeth University allow parties to call “expert witnesses” for direct and cross-examination. EU does not provide for expert witnesses in other proceedings. While the expert witness will be allowed to testify and cross-examined as required by the Final Rule, the decision-maker will be instructed to afford lower weight to non-factual testimony of the expert witness relative to fact witnesses, and any expert testimony that is not directed to the specific facts of the complaint will be afforded lower weight relative to fact witnesses, regardless of whether the expert witness testimony is subjected to cross-examination and regardless of whether all parties present experts as witnesses.

The Final Rule requires that Saint Elizabeth University allow parties to call character witnesses to testify. SEU does not provide for character witnesses in other proceedings. While the character witnesses will be allowed to testify and be cross-examined as required by the Final Rule, the decision-maker will be instructed to afford very low weight to any non-factual character testimony of any witness.

The Final Rule requires that Saint Elizabeth University admit and allow testimony regarding polygraph tests (“lie detector tests”) and other procedures that are outside
of standard use in academic and non-academic conduct processes. While the process and testimony and cross-examination of the process, test, and findings will be allowed as required by the Final Rule, the decision-maker will be instructed to afford lower weight to such processes relative to the testimony of fact witnesses.

Where a party or witness’ conduct or statements demonstrate that the party or the witness is engaging in retaliatory conduct, including but not limited to witness tampering and intimidation, the decision-maker may draw an adverse inference as to that party or witness’ credibility.

3. Components of the Determination Regarding Responsibility
The written Determination Regarding Responsibility will be issued simultaneously to all parties through their University email account, or other reasonable means, as necessary. The Determination will include:
• Identification of the allegations potentially constituting covered sexual harassment;
• A description of the procedural steps taken from the receipt of the formal complaint through the determination, including any notifications to the parties, interviews with parties and witnesses, site visits, methods used to gather other evidence, and hearings held;
• Findings of fact supporting the determination;
• Conclusions regarding which section of the Code of Conduct, Sexual Misconduct Policy, and Employee or Faculty Handbook, if any, it was determined that the Respondent had or had not violated.
• For each allegation:
  o A statement of, and rationale for, a determination regarding responsibility;
  o A statement of, and rationale for, any disciplinary sanctions imposed on the Respondent; and
  o A statement of, and rationale for, whether remedies designed to restore or preserve equal access to the University’s programs and/or activities will be provided by the University to the Complainant; and
• The University’s procedures and the permitted reasons for the Complainant and Respondent to appeal the determination (described below in “Appeal”).

4. Timeline of Determination Regarding Responsibility
If there are no extenuating circumstances, the determination regarding responsibility will be issued by SEU within 10 business days of the completion of the hearing.

5. Finality
The determination regarding responsibility becomes final either on the date that the University provides the parties with the written determination of the result of the appeal, if an appeal is filed consistent with the procedures and timeline outlined in “Appeals” below, or if an appeal is not filed, the date on which the opportunity to appeal expires.
VIII. SANCTIONS AND DISCIPLINARY ACTIONS

Disciplinary action, up to and including separation from the University as detailed in the determination letter by the decision-maker, may be taken against a Respondent who violated the policy. The appropriate University official will initiate disciplinary action as soon as reasonably practicable, and where appropriate, will take whatever steps necessary to prevent the recurrence of the offending behavior.

A. Students Complainants
Corrective and disciplinary actions for Respondents who are students will be determined on a case-by-case basis and may include but are not limited to:
● Changes in class schedule;
● Zero contact orders;
● Community service;
● Counseling;
● Disciplinary reprimand;
● Loss of privilege;
● Restitution;
● Disciplinary probation;
● Suspension; or
● Expulsion.

B. University Employees Complainants
Corrective and disciplinary actions for Respondents who are University employees will be determined on a case-by-case basis and may include but are not limited to:
● Participation in education sessions on harassment;
● A written reprimand;
● Reassignment of teaching or other responsibilities;
● Suspension without pay; or
● Termination.

C. Third Party Complainants
Corrective and disciplinary actions for Respondents who are third party employees or contracted vendors, or otherwise unaffiliated with the University will be determined on a case-by-case basis and may include but are not limited to:
● Campus ban;
● The filing of criminal charges;
● Reassignment of contracted services personnel; or
● Termination of business agreements.

IX. Appeals
Each party may appeal:
(1) the dismissal of a formal complaint or any included allegations and/or
(2) a determination regarding responsibility.

To appeal, a party must submit a written appeal within five (5) business days of receiving notification of the determination.

The limited grounds for appeal are as follows:

● Procedural irregularity that affected the outcome of the hearing or investigation (i.e. a failure to follow the institution’s own procedures);
● New evidence that was not reasonably available at the time the determination regarding responsibility was made, that could affect the outcome of the matter; or
● The Title IX Coordinator, investigator(s), or decision-maker(s) had a conflict of interest or bias for or against a party, or for or against complainants or respondents in general, that affected the outcome of the matter.

The submission of an appeal stays any sanctions for the length of an appeal. Supportive measures and remote learning opportunities remain available during the appeal process.

If a party appeals, the University will, as soon as practicable, notify the other party in writing of the appeal; however, the time for appeal shall be offered equitably to all parties and shall not be extended for any party solely because the other party filed an appeal.

Appeals may be no longer than five (5) pages (excluding attachments). Appeals should be submitted in electronic form using ARIAL or TIMES NEW ROMAN, 12-point font, and single-spaced. Appeals should use footnotes, not endnotes. Appeals that do not meet these standards may be returned to the party for correction, but the time for appeal will not be extended unless there is evidence that technical malfunction caused the appeal document not to meet these standards.

Appeals will be decided by an appeal decision-maker, typically a Vice President, or designee, who will be free of conflict of interest and bias against either party or Complaints and Respondents in general, and will not have served as investigator, Title IX Coordinator, or hearing decision-maker in the grievance process.

Outcome of the appeal will be provided in writing simultaneously to both parties and include rationale for the decision.

X. FALSE ALLEGATIONS

Knowingly making a material misstatement of fact, falsifying evidence or testimony, will subject the Complainant to disciplinary actions.

Respondents who believes that they have been the subject of a false complaint of conduct in violation of this policy may meet with the Title IX Coordinator to discuss the complaint. The filing of a complaint that does not result in a finding of a policy violation is not alone evidence of intent to file a false complaint.
XI. RETALIATION POLICY

Saint Elizabeth University will keep the identity of any Complaint, Respondent and witnesses, confidential, except as permitted by the FERPA statute, 20 U.S.C. 1232g, or FERPA regulations, 34 CFR part 99, or as required by law, or to carry out the purposes of 34 CFR part 106, including the conduct of any investigation, hearing, or judicial proceeding.

No person may intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by Title IX of the Education Amendments of 1972 or its implementing regulations.

No person may intimidate, threaten, coerce, or discriminate against any individual because the individual has made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding or hearing under these procedures and related policies.

Any intimidation, threats, coercion, or discrimination, for the purpose of interfering with any right or privilege secured by Title IX or its implementing regulations constitutes retaliation. This includes any charges filed against an individual for Code of Conduct violations that do not involve sex discrimination or sexual harassment, but that arise from the same facts or circumstances as a report or complaint of sex discrimination or a report or Formal Complaint of sexual harassment. As a result, SEU may not pursue drug or alcohol charges against students reporting offenses involving sexual harassment and misconduct based on their personal consumption of drugs or alcohol at or near the time of the incident. However, any such violation cannot have imperiled the health or safety of any other person. Amnesty does not preclude the University from pursuing educational measures, including discussion of the drug or alcohol offense regarding the risks and consequences of such activity.

Retaliation against an individual who has made a good faith complaint, participated in the investigation of a complaint, or otherwise exercised their rights under this policy or the law is prohibited and is grounds for disciplinary and/or remedial action. Retaliation is an offense separate and apart from the underlying alleged policy violation(s) and will be considered independently. Retaliation is grounds for immediate disciplinary action against the perpetrator of the retaliation up to and including expulsion of students and dismissal of employees. Anyone who believes that they may have been the victim of retaliation should discuss this concern with the Title IX Coordinator.

XII. FILING A COMPLAINT WITH A STATE AND/OR FEDERAL AGENCY

A student who is not satisfied with the Saint Elizabeth University’s handling of a complaint, may file a complaint with the appropriate federal and/or state agency.

Office for Civil Rights/New York, U.S. Department of Education, 32 Old Slip, 26th Floor, New York NY 10005-2500 | Telephone: 646-428-3800 | Facsimile: 646-428-3843 Email:
XII. RECORD KEEPING

All reports of sexual misconduct, sexually assault, or incidences of other forms of harassment or discrimination, must be submitted to the Title IX Coordinator. The Title IX Coordinator will maintain a record of all complaints, investigations, and determinations.