



Policy Title: Title IX Sexual Harassment Grievance Policy	
Effective Date: November 10, 2021	Approving Authority: Vice President, Business Affairs

Saint Leo University Non-Discrimination EEO Statement:

Saint Leo University has a strong commitment to principles of equal employment opportunity and equal access to education. Saint Leo University does not discriminate on the basis of age, color, disability, ethnic origin, genetic information, gender, national origin, race, religion, sex, veteran status, or any other category protected by federal, state, or local law in its educational programs, admissions policies, financial aid, employment, or other school administered programs.

The policy is enforced by Saint Leo University and by applicable laws such as Title IX of the Education Amendments of 1972, Title VI and Title VII of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, Americans with Disabilities Act, Age Discrimination Act of 1975, and Florida Civil Rights Act of 1992.

The Title IX Coordinator, Vanessa O’Connell, may be contacted at titleixcoordinator@saintleo.edu or vanessa.oconnell@saintleo.edu.

The Director of Accessibility Services and The Section 504 Coordinator, Michael Bailey, may be contacted at michael.bailey02@saintleo.edu.

Retaliation:

Saint Leo University attempts keep the identity of any individual who has made a report or complaint of sex discrimination confidential, including the identity of any individual who has made a report or filed a Formal Complaint of sexual harassment under this Title IX Sexual Harassment Grievance Policy, any Complainant, any individual who has been reported to be the perpetrator of sex discrimination, any Respondent, and any witness, 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 under this Title IX Sexual Harassment Grievance Policy.

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 this Title IX Sexual Harassment Grievance Policy. 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. Complaints alleging retaliation may be addressed within the Student Code of Conduct or Human Resources Policies.

I. Purpose

Title IX of the Educational Amendments of 1972 prohibits any person in the United States from being discriminated against on the basis of sex in seeking access to any educational program or activity receiving federal financial assistance.

The U.S. Department of Education, which enforces Title IX, has long defined the meaning of Title IX's prohibition on sex discrimination broadly to include various forms of sexual harassment and sexual violence that interfere with a student's ability to equally access our educational programs and opportunities.

On May 19, 2020, the U.S. Department of Education issued a Final Rule under Title IX of the Education Amendments of 1972 that:

1. Defines the meaning of "sexual harassment" (including forms of sex-based violence)
2. Addresses how this institution must respond to reports of misconduct falling within that definition of sexual harassment, and
3. Mandates a grievance process that this institution must follow to comply with the law in these specific covered cases before issuing a disciplinary sanction against a person accused of sexual harassment.

See, 85 Fed. Reg. 30026 (May 19, 2020). The full text of the Final Rule and its extensive Preamble are available here: <http://bit.ly/TitleIXReg>

II. Applicability

The requirements and protections of this policy apply equally regardless of sex, sexual orientation, gender identity, gender expression, or other protected classes covered by federal or state law. All requirements and protections equitably provided to individuals regardless of such status as Complainant, Respondent, or Witness. Individuals who wish to file a complaint about the institution's policy or process may contact the Department of Education's Office for Civil Rights using contact information available at <https://ocras.ed.gov/contact-ocr>.

III. Applicability of Other Campus Policies

Saint Leo University remains committed to addressing any violations of its policies. Specifically, our campus has a Student Code of Conduct that defines certain behavior as a violation of campus policy for incidents involving students that do not meet the standards of Title IX. The University also has protocol that the Human Resources Department will follow to address any issues that do not meet the standards of Title IX.

To the extent that alleged misconduct falls outside the Title IX Sexual Harassment Grievance Policy, or misconduct falling outside the Title IX Sexual Harassment Grievance Policy is discovered in the course of investigating covered Title IX misconduct, the institution retains authority to investigate and adjudicate the allegations involving students under the policies and procedures defined within the Student Code of Conduct through a separate grievance proceeding.

The policies and procedures established in the Title IX Sexual Harassment Grievance Policy under the Final Rule have no effect and are not transferable to any other policy of the University for any violation of the Student Code of Conduct, employment policies, or any civil rights violation except as narrowly defined in this Policy. This Policy does not set a precedent for other policies or processes of the University and may not be cited for or against any right or aspect of

any other policy or process.

IV. Disability Accommodations

This Policy does not alter any institutional obligations under federal disability laws including the Americans with Disabilities Act of 1990, and Section 504 of the Rehabilitation Act of 1973.

Parties may request reasonable accommodations for disclosed disabilities to the Title IX Coordinator at any point before or during the Title IX Sexual Harassment Grievance Process that do not fundamentally alter the Process. The Title IX Coordinator will not affirmatively provide disability accommodations that have not been specifically requested by the Parties, even where the Parties may be receiving accommodations in other institutional programs and activities.

V. Revocation by Operation of Law

The Title IX Sexual Harassment Grievance Policy will become effective on August 14, 2020 and will only apply to sexual harassment alleged to have occurred on or after August 14, 2020.

Incidents of sexual harassment alleged to have occurred before August 14, 2020, will be investigated, and adjudicated according to the process in place at the time the incident allegedly occurred.

Should any portion of the Title IX Final Rule, 85 Fed. Reg. 30026 (May 19, 2020), be stayed or held invalid by a court of law, or should the Title IX Final Rule be withdrawn or modified to not require the elements of this policy, this policy, or the invalidated elements of this policy, will be deemed revoked as of the publication date of the opinion or order and for all reports after that date, as well as any elements of the process that occur after that date if a case is not complete by that date of opinion or order publication. Should the Title IX Sexual Harassment Grievance Policy be revoked in this manner, any conduct covered under the Title IX Sexual Harassment Grievance Policy shall be investigated and adjudicated under other existing University policy.

VI. Definitions

1. Advisor – a person chosen by the party or appointed by the institution to accompany the party to meetings related to the resolution process, to advise the party on that process, and to conduct cross-examination for the party at the hearing, if any.
2. Appeals Officer – a person appointed by the institution to consider an appeal regarding a Title IX Sexual Harassment Grievance decision. This individual will not have previously been involved in the case.
3. Complainant – any individual who has reported being or is alleged to be the victim of conduct that could constitute covered sexual harassment as defined under this policy.
4. Confidentiality – ability of identified confidential resources to not report crimes and violations to law enforcement or college officials without permission, except for extreme circumstances, such as a health and/or safety emergency or child abuse.
5. Consent – voluntary agreement to engage in a specific sexual activity with another person. Consent requires an outward demonstration, through mutually understandable words or actions, indicating that an individual has freely chosen to engage in a sexual activity.
6. Day – business day when the university is in normal operations.
7. Decision Maker – those who have decision-making and sanctioning authority within this policy.
8. Education Program or Activity – includes any on-campus premises, any off-campus premises that Saint Leo University has substantial control over (including buildings or property owned or controlled by a recognized student organization), and activity occurring within computer

and internet networks, digital platforms, and computer hardware or software owned or operated by, or used in the operations of Saint Leo University's programs and activities over which the Saint Leo University has substantial control.

9. Hearing Facilitator – the person responsible for a number of administrative tasks related to the hearing, typically the Title IX Coordinator or Designee. Hearing related tasks include pre-hearing logistics and exchange of materials; logistics of finalizing investigation report in the final ten-day, pre-hearing period; getting the right people in the right room(s) for pre-hearing and hearing; copying and disseminating materials for the hearing; arranging/monitoring/troubleshooting recording; ensuring parties, advisors, and witnesses are available and on time; ensuring space is available for deliberation; collaborating to ensure that the legal counsel, and/or sanctioning authorities (if applicable) are available as needed during process; corralling all versions of outcome letters/rationales, etc.
10. Formal Complaint – a document filed/signed by a Complainant or signed by the Title IX Coordinator alleging sexual harassment or retaliation for engaging in a protected activity against a Respondent and requesting that allegation be investigated.
11. Informal Resolution – a voluntary, structured interaction between involved parties (complainant and respondent) to resolve the allegations following the filing of a formal complaint and prior to a formal hearing on the allegations. The informal resolution process is intended to be flexible while also providing for a full range of possible outcomes.
12. Investigator – the person or persons charged with gathering facts about an alleged violation of this policy and compiling this information into an investigation report and file.
13. Irrelevant Evidence and Questions – evidence and questions that are not included as “relevant” evidence and questions including:
 - a. evidence and questions about the complainant's sexual predisposition or sexual behavior unless:
 1. They are offered to prove that someone other than the respondent committed the conduct alleged by the complainant, or
 2. They concern specific incidents of the complainant's prior sexual behavior with respect to the respondent and are offered to prove consent. 34 C.F.R. § 106.45(6)(i).
 - b. Evidence and questions that constitute, or seek disclosure of, information protected under a legally recognized privilege.
 - c. Any party's medical, psychological, and similar records unless the party has given voluntary, written consent. 85 Fed. Reg. 30026, 30294 (May 19, 2020).
14. Party – a person who takes part in this grievance process policy as a complainant or a respondent.
15. Privacy – offices and employees who cannot guarantee confidentiality but will maintain privacy to the greatest extent possible, and information disclosed will be related only as necessary to investigate and/or seek a resolution and to notify the Title IX Coordinator or designee.
16. Relevant Evidence and Questions - any questions and evidence that tends to make an allegation of sexual harassment more or less likely to be true.
17. Resolution – result of an informal or formal grievance procedure.
18. Respondent – any individual who has been reported to be the perpetrator of conduct that could constitute covered sexual harassment as defined under this policy.
19. Sanction – a consequence imposed by Saint Leo University on a Respondent who is found to have violated this policy.

20. Sexual Harassment – conduct on the basis of sex that satisfies one or more of the following:
- a. An employee conditioning educational benefits on participation in unwelcome sexual conduct (i.e., quid pro quo).
 - b. Unwelcome conduct that a reasonable person would determine is so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the educational institution’s education program or activity.
 - c. Sexual assault (as defined in the Clery Act), which includes any sexual act directed against another person, without the consent of the victim including instances where the victim is incapable of giving consent.
 - d. Dating violence (as defined in the Violence Against Women Act (VAWA) amendments to the Clery Act), which includes any violence committed by a person:
 1. Who is or has been in a social relationship of a romantic or intimate nature with the victim; and
 2. where the existence of such a relationship shall be determined based on a consideration of the following factors:
 - i. The length of the relationship.
 - ii. The type of relationship.
 - iii. The frequency of interaction between the persons involved in the relationship.
 - e. Domestic violence (as defined in the VAWA amendments to the Clery Act), which includes any felony or misdemeanor crimes of violence committed:
 1. By a current or former spouse or intimate partner of the victim,
 2. By a person with whom the victim shares a child in common,
 3. By a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner,
 4. By a person similarly situated to a spouse of the victim under the state of residency’s domestic or family violence laws or
 5. By any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the state of residency or where the incident occurred.
 - f. Stalking (as defined in the VAWA amendments to the Clery Act), meaning engaging in a course of conduct directed at a specific person that would cause a reasonable person to-- (A) fear for their safety or the safety of others; or (B) suffer substantial emotional distress.
21. Title IX Coordinator – the official designated by the University to ensure compliance with Title IX and the university’s Title IX program.

VII. Jurisdiction

The Title IX Coordinator, or designee without conflict of interest or bias, will determine if the Title IX Sexual Harassment Grievance Process should apply to a Formal Complaint. The Process will apply when all of the following elements are met, in the reasonable determination of the Title IX Coordinator:

1. The conduct is alleged to have occurred on or after August 14, 2020.
2. The conduct is alleged to have occurred in the United States.
3. The conduct is alleged to have occurred in Saint Leo University’s education program or activity; and
4. The alleged conduct, if true, would constitute covered sexual harassment as defined in this policy.

If all of the elements are met, Saint Leo University will investigate the allegations according to the Title IX Sexual Harassment Grievance Process.

If any one of these elements are not met, the Title IX Coordinator, or designee without conflict of interest or bias, will notify the parties that the Formal Complaint is being dismissed for the purposes of the Title IX Sexual Harassment Grievance Policy. Each party may appeal this dismissal using the procedure outlined in “Appeals,” below.

VIII. Making a Report

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: Vanessa O’Connell

Title: HR Governance & Regulatory Manager, Title IX Coordinator

Office Location: Benedictine Hall, 3rd Floor room 304

Email Address: vanessa.oconnell@saintleo.edu and titleixcoordinator@saintleo.edu

Telephone Number: (352) 588-8406

Mailing Address: Saint Leo University

Human Resources

ATTN: Vanessa O’Connell Title IX Coordinator

33701 S.R. 52

Saint Leo, FL 33574

Such 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.

The following Officials may provide confidentiality:

1. Counseling Services staff
2. University Health Center staff
3. University Ministry staff

The following are examples of Officials will provide privacy, but not confidentiality, upon receiving a report of conduct prohibited under this policy:

1. Assistant Directors of Residence Life
2. Associate Vice President of Human Resources
3. Associate Vice President of Student Affairs
4. Director of Human Resources
5. Director of Residence Life
6. Senior Human Resources Business Partner
7. Title IX Coordinator
8. Vice President of Student Affairs

9. Any other officials designated as Official's with Authority
10. All other university faculty and staff (those with confidentiality are exempt, as applicable)

IX. Non-Investigatory Measures

1. Administrative Leave – the authority to place an employee respondent on administrative leave during the Title IX Grievance Process.
2. Emergency Removal – the authority to remove a respondent from Saint Leo University's program or activity on an emergency basis, as recommended by the Saint Leo University Threat Assessment Behavioral Intervention Team (TABIT), once TABIT has undertaken an individualized safety and risk analysis and has determined 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. If Saint Leo University determines such a removal is necessary, the respondent will be provided notice and an opportunity to challenge the decision immediately following the removal.
3. Supportive Measures
 - a. Designed to restore or preserve equal access to Saint Leo University's education program or activity without unreasonably burdening the other party and without constituting punitive or disciplinary actions including by protecting the safety of all parties and the recipient's educational environment or deterring sexual harassment.
 - b. Supportive measures must be non-disciplinary and non-punitive.
 - c. Supportive measures may include counseling, extensions of deadlines or other course-related adjustments, modifications of work or class schedules, campus escort services, mutual restrictions on contact between the parties, changes in work or housing locations, leaves of absence, increased security and monitoring of certain areas of the campus, and other similar measures.

X. Formal Complaint

1. To file a Formal Complaint, a complainant must provide the Title IX Coordinator a written, signed complaint describing the facts alleged. Complainants are only able to file a Formal Complaint under this Policy if they are currently participating in, or attempting to participate in, the education programs or activities of Saint Leo University, including as an employee. For complainants who do not meet these criteria, the University will utilize existing policy in the Student Code of Conduct and/or Human Resources procedures.
2. If a complainant does not wish to make a Formal Complaint, the Title IX Coordinator may determine a Formal Complaint is necessary. Saint Leo University will inform the complainant of this decision in writing, and the complainant need not participate in the process further but will receive all notices issued under this Policy and Process.
3. Nothing in the Title IX Sexual Harassment Grievance Policy prevents a complainant from seeking the assistance of state or local law enforcement alongside the appropriate on-campus process.
4. A complainant who files a Formal Complaint may elect, at any time, to address the matter through the Institution's Informal Resolution Process. All Parties to a Formal Complaint must agree to enter the Informal Resolution Process through an informed written consent. Information about this Process is contained in the Informal Resolution Process outlined in this policy.
5. The institution may consolidate Formal Complaints alleging covered sexual harassment against more than one respondent, or by more than one complainant against one or more

respondents, or by one party against the other party, where the allegations of covered sexual harassment arise out of the same alleged facts or circumstances.

6. The Title IX Coordinator, or designee without conflict of interest or bias, may dismiss a Formal Complaint brought under the Title IX Sexual Harassment Grievance Policy, or any specific allegations raised within that Formal Complaint, at any time during the investigation or hearing, if:
 - a. A complainant notifies the Title IX Coordinator in writing that they would like to withdraw the Formal Complaint, or any allegations raised in the Formal Complaint.
 - b. The respondent is no longer enrolled or employed by Saint Leo University; or
 - c. If specific circumstances prevent Saint Leo University from gathering evidence sufficient to reach a determination regarding the Formal Complaint or allegations within the Formal Complaint.
7. Any party may appeal a dismissal determination using the process set forth in “Appeals,” below.

XI. Notice

1. Notice of Allegations
 - a. The Title IX Coordinator will draft and provide the Notice of Allegations to any party to the allegations of sexual harassment. Such notice will occur as soon as practicable, after the institution receives a Formal Complaint of the allegations, if there are no extenuating circumstances.
 - b. The Notice of Allegations will include the following:
 - i. Notice of the institution’s Title IX Sexual Harassment Grievance Process, including any informal resolution process, and a hyperlink to a copy of the process.
 - ii. Notice of the allegations potentially constituting covered sexual harassment, and sufficient details known at the time the Notice is issued, such as the identities of the parties involved in the incident, if known, including the complainant; the conduct allegedly constituting covered sexual harassment; and the date and location of the alleged incident, if known.
 - iii. A statement that the respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility is made at the conclusion of the grievance process.
 - iv. A statement that the parties may have an advisor of their choice, who may be, but is not required to be, an attorney, as required under 34 C.F.R. § 106.45(b)(5)(iv).
 - v. A statement that before the conclusion of the investigation, the parties may inspect and review evidence obtained as part of the investigation that is directly related to the allegations raised in the Formal Complaint, including the evidence upon which the institution does not intend to rely in reaching a determination regarding responsibility, and evidence that both tends to prove or disprove the allegations, whether obtained from a party or other source, as required under 34 C.F.R. § 106.45(b)(5)(vi);
 - vi. A statement that other University policy prohibits knowingly making false statements or knowingly submitting false information during the grievance process.
 - c. The parties will be notified by their institutional email accounts if they are a student or employee, and by other reasonable means if they are neither.

- d. The institution will provide sufficient time for the parties to review the Notice of Allegations and prepare a response before any initial interview.
2. Notice of Formal Complaint Dismissal
The Title IX Coordinator, or designee without conflict of interest or bias, may determine that the Formal Complaint must be dismissed on the mandatory grounds identified above, and will issue a Notice of Formal Complaint Dismissal. If such a determination is made, any party to the allegations of sexual harassment identified in the Formal Complaint will receive the Notice of Formal Complaint Dismissal in conjunction with, or in separate correspondence after, the Notice of Allegations.
3. Ongoing Notice
If, in the course of an investigation, the institution decides to investigate allegations about the complainant or respondent that are not included in the Notice of Allegations and are otherwise covered "sexual harassment" falling within the Title IX Sexual Harassment Grievance Policy, the institution will notify the parties whose identities are known of the additional allegations by their institutional email accounts or other reasonable means. The parties will be provided sufficient time to review the additional allegations to prepare a response before any initial interview regarding those additional charges.
4. Notice of Meetings and Interviews
Saint Leo University 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.

XII. Roles

1. Advisor of Choice
 - a. The parties have the right to select an advisor of their choice, who may be, but does not have to be, an attorney.
 - b. The Advisor of Choice may accompany the parties to any meeting or hearing they are permitted to attend, but may not speak for the party, except for the purpose of cross-examination and direct examination.
 - c. The Advisor of Choice is not an advocate. Except where explicitly stated by this Policy, as consistent with the Final Rule, Advisors of Choice shall not participate directly in the process as per standard policy and practice of Saint Leo University.
 - d. The Advisor of Choice may accompany the parties to any meeting or hearing they are permitted to attend, but may not speak for the party, except for the purpose of cross-examination and direct examination.
 - e. Saint Leo University will not intentionally schedule meetings or hearings on dates where the Advisors of Choice for all parties are not available, provided that the Advisors act reasonably in providing available dates and work collegially to find dates and times that meet all schedules.
 - f. Saint Leo University's obligations to investigate and adjudicate in a prompt timeframe under Title IX and other college policies apply to matters governed under this Policy, and Saint Leo University cannot agree to extensive delays solely to accommodate the schedule of an Advisor of Choice. The determination of what is reasonable shall be made by the Title IX Coordinator or designee. Saint Leo

University will not be obligated to delay a meeting or hearing under this process more than five (5) days due to the unavailability of an Advisor of Choice and may offer the party the opportunity to obtain a different Advisor of Choice or utilize one provided by Saint Leo University.

- g. The parties are not permitted to conduct cross-examination; it must be conducted by the advisor. 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.
- h. The advisor is not prohibited from having a conflict of interest or bias in favor of or against complainants or respondents generally, or in favor or against the parties to the particular case.
- i. The advisor is not prohibited from being a witness in the matter.
- j. If a party does not attend the live hearing, the party's advisor may appear and conduct cross-examination on their behalf. 85 Fed. Reg. 30026, 30340 (May 19, 2020).
- k. If neither a party nor their advisor appear at the hearing, Saint Leo University will provide an advisor to appear on behalf of the non-appearing party. See, 85 Fed. Reg. 30026, 30339-40 (May 19, 2020).
- l. Advisors shall be subject to the institution's Rules of Decorum and may be removed upon violation of those Rules.

2. Complainant and Respondent (The Parties)

- a. The parties cannot waive the right to a live hearing.
- b. 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.
- c. Saint Leo University will not threaten, coerce, intimidate, or discriminate against the 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).
- d. The parties shall be subject to the institution's Rules of Decorum.

3. The Decision-Maker

- a. Also referred to in this document by the title of Administrative Hearing Officer and Administrative Appellate Officer.
- b. The hearing body will consist of a panel of three decision-makers.
- c. No member of the hearing body will also have served as the Title IX Coordinator, Title IX investigator, or advisor to any party in the case, nor may any member of the hearing body serve on the appeals body in the case.
- d. No member of the hearing body will have a conflict of interest or bias in favor of or against complainants or respondents generally, or in favor or against the parties to the particular case.
- e. The hearing body 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.
- f. The parties will have an opportunity to raise any objections regarding a decisionmaker's actual or perceived conflicts of interest or bias at the commencement of the live hearing.

4. Witnesses
 - a. 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).
 - b. Witnesses shall be subject to the institution's Rules of Decorum.

XIII. Investigation

1. General Rules of Investigations
 - a. The Title IX Coordinator, or designee, will designate an Investigator to perform an investigation under a reasonably prompt timeframe of the conduct alleged to constitute covered sexual harassment after issuing the Notice of Allegations.
 - b. Saint Leo 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 Saint Leo University and does not indicate responsibility.
 - c. Saint Leo University cannot access, consider, or disclose medical records without a waiver from the party (or parent, if applicable) to whom the records belong or of whom the records include information.
 - d. Saint Leo University will provide an equal opportunity for the parties to present witnesses, including fact and expert witnesses, and other inculpatory and exculpatory evidence, (i.e. evidence that tends to prove and disprove the allegations) as described below.
2. Inspection and Review of Evidence
 - a. 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 meaningfully respond to the evidence prior to conclusion of the investigation.
 - b. Evidence that will be available for inspection and review by the parties will be any evidence that is directly related to the allegations raised in the Formal Complaint. It will include any:
 1. Evidence that is relevant, even if that evidence does not end up being relied upon by the institution in making a determination regarding responsibility.
 2. Inculpatory or exculpatory evidence (i.e. evidence that tends to prove or disprove the allegations) that is directly related to the allegations, whether obtained from a party or other source.
 - c. All parties must submit any evidence they would like the investigator to consider prior to when the parties' time to inspect and review evidence begins. See, 85 Fed. Reg. 30026, 30307 (May 19, 2020).
 - d. The institution will send the evidence made available for each party and each party's advisor, if any, to inspect and review, through an electronic format or a hard copy. The Institution is not under an obligation to use any specific process or technology to provide the evidence and shall have the sole discretion in terms of determining format and any restrictions or limitations on access.

- e. The parties will have ten (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. Parties may request a reasonable extension as their designated extension request. Such request for extension must be made prior to the end of the ten (10)-business day review period. The institution will provide copies of the parties' written responses to the investigator to all parties and their advisors, if any. See, 85 Fed. Reg. 30026, 30307 (May 19, 2020).
- f. The institution may provide the parties five (5) business days after the initial inspection and review of evidence, and before the investigator completes their Investigative Report, to provide additional evidence in response to their inspection and review of the evidence, and then provide the parties five (5) business days to inspect, review, and respond to the party's additional evidence through a written response to the investigator. Those written responses may be disclosed to the parties. See, 85 Fed. Reg. 30026, 30307 (May 19, 2020).
- g. Any evidence subject to inspection and review will be available at any hearing, including for purposes of cross-examination.
- h. The parties and their advisors must sign an agreement not to disseminate any of the evidence subject to inspection and review or use such evidence for any purpose unrelated to the Title IX grievance process. See, 85 Fed. Reg. 30026, 30435 (May 19, 2020).
- i. The parties and their advisors agree not to photograph or otherwise copy the evidence. See, 85 Fed. Reg. 30026, 30435 (May 19, 2020).

3. Investigative Report

- a. The Title IX Coordinator and/or an investigator 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 ten (10) business days prior the hearing in an electronic format or a hard copy for each party's review and written response.
- b. The Investigative Report is not intended to catalog all evidence obtained by the investigator, but only to provide a fair summary of that evidence.
- c. Only relevant evidence (including both inculpatory and exculpatory – i.e. tending to prove and disprove the allegations - relevant evidence) will be referenced in the Investigative Report.
- d. The investigator may redact irrelevant information from the Investigative Report when that information is contained in documents or evidence that is otherwise relevant. See, 85 Fed. Reg. 30026, 30304 (May 19, 2020).
- e. Evidence obtained in the investigation that is determined in the reasoned judgment of the investigator not to be directly related to the allegations in the Formal Complaint will be included in the appendices to the investigative report. Information within evidence may be appropriately redacted as deemed necessary by the investigator. See, 85 Fed. Reg. 30026, 30438 (May 19, 2020).

XIV. Informal Resolution Process

1. Procedures for Entering and Exiting the Informal Resolution Process
 - a. Parties who do not wish to proceed with an investigation and live hearing, but instead seek Saint Leo University's assistance to resolve allegations of Title IX-covered misconduct, may elect to enter the informal resolution process. Generally speaking, these resolution options are less time intensive than an investigation and live hearing, while still affording students an opportunity to actively participate in a process led by the University for resolution of their complaints.
 - b. No Party is required to participate in informal resolution, and Saint Leo University may never condition enrollment, employment, or enjoyment of any other right or privilege upon agreeing to informal resolution.
 - c. The Parties may elect to enter the University's Informal Resolution Process any time after the filing of the Formal Complaint through an informed written consent. This informed written consent will include all terms of the elected informal process, including a statement that any agreement reached through the process is binding on the Parties.
 - d. The Parties may elect to leave the informal resolution process at any point until the informal resolution process is concluded. If a Party elects to leave the informal resolution process, the formal resolution process recommences. In participating in the informal resolution process, the Parties understand that the timeframes governing the formal process temporarily cease, and only recommence upon reentry into the formal process.
 - e. For the purpose of this document, all Administrative Hearing Officers are decision-makers in accordance with the Federal Title IX Regulations.
2. Determination to Approve Entry into Informal Resolution Process
 - a. Even where the Parties agree to submit a matter to informal resolution, the Title IX Coordinator or other designated official must approve the decision to move the matter to the informal resolution process and may determine that informal resolution is not appropriate under the circumstances.
 - b. Factors that the Title IX Coordinator or other designated official may weigh in considering the appropriateness of the informal resolution process include, but are not limited to, the gravity of the allegations, whether there is an ongoing threat of harm or safety to the campus, whether the respondent is a repeat offender, and whether the Parties are participating in good faith. This determination is not subject to appeal.
 - c. Informal resolution is only permitted to address allegations of student-on-student sexual harassment and is never allowed as an option to resolve allegations that an employee sexually harassed a student. See, 85 Fed. Reg. 30026, 30054 (May 19, 2020).
 - d. At any time after the commencement of the informal resolution process, the Title IX Coordinator or other designated official may determine that the informal resolution process is not an appropriate method for resolving the matter and may require that the matter be resolved through the formal process. This determination is not subject to appeal.

3. Confidentiality

By selecting the informal resolution process, the Parties agree that any testimony and evidence (including admissions of responsibility) they share or receive during the informal resolution process concerning the allegations of the Formal Complaint is confidential while the parties are participating in the informal resolution process. No evidence concerning the allegations obtained within the informal resolution process may be disseminated to any person, provided that any Party to the informal resolution process may generally discuss the allegations under investigation with a parent, friend, advisor, or other source of emotional support, or with an advocacy organization. Should the Parties withdraw from the informal resolution process, information disclosed or obtained for purposes of the informal resolution process may be incorporated into the formal investigation and live hearing, provided that this information is disclosed and reviewed by the Parties under the investigatory and hearing procedures described in the Title IX Grievance Process.

4. Informal Resolution Options

Saint Leo University offers the following informal resolution procedures for addressing Formal Complaints of sexual harassment covered under this Policy.

a. Administrative Resolution

1. Should the Parties mutually determine to enter the informal resolution process, and the respondent elects to accept responsibility for the allegations of the Formal Complaint at any point during the informal resolution process, the institution may administratively resolve the Formal Complaint.
2. The Parties will receive simultaneous written notification of the respondent's acceptance of responsibility, and the Administrative Hearing Officer will convene to determine the respondent's sanction and other remedies, as appropriate and consistent with institutional policy. The Parties will be given an opportunity to present information for an administrative hearing, including but not limited to the submission of impact statements, and the Parties may be accompanied by their Advisor, but questioning of Parties or witnesses will not be permitted. The Parties will receive simultaneous written notification of the decision regarding sanctions and remedies, which may be appealed according to the process described within the Title IX Sexual Harassment Grievance Policy.

b. Mediation

1. The purpose of mediation is for the parties who are in conflict to identify the implications of a student's actions and, with the assistance of an Administrative Facilitator, identify points of agreement and appropriate remedies to address them. Either party can request mediation to seek resolution; mediation will be used only with the consent of both parties, who will be asked not to contact one another during the process. The Administrative Facilitator or other designated official will also review any request for mediation and may decline to mediate based on the facts and circumstances of the particular case. Either party has the right to terminate the mediation process and choose or resume another option for resolution at any time.
2. The mediation process will typically commence within approximately ten (10) business days after the Administrative Facilitator or designated official receives consent to mediate from both parties and will continue until

concluded or terminated by either party or the Administrative Facilitator or designated official. During mediation, any potential investigation will halt, and calculations for time frames will be paused. If the mediation results in a resolution, the disciplinary process will be concluded, and the matter will be closed. If a resolution cannot be reached, the matter will be referred to a designated official who is trained in the Title IX process to re-evaluate other options for resolution, including investigation.

3. During mediation, the Administrative Facilitator will guide a discussion between the parties. In circumstances where the parties do not wish to meet face to face, either party can request “caucus” mediation, and the Administrative Facilitator will conduct separate meetings. Whether or not the parties agree to meet face to face, each party will be permitted to bring an advisor of their choice to any meetings who may be, but is not required to be, an attorney.
4. At the conclusion of the mediation, the Administrative Facilitator will finalize the agreement in writing. A designated office, such as Student Affairs or Human Resources, will monitor adherence to the proposed solution and close the matter when compliance is satisfactory.

c. Restorative Justice

1. A restorative justice meeting is a dialogue, facilitated by an Administrative Facilitator or designated official, intended to restore relationships and repair harm after a conflict has occurred. Both parties come together to identify what harm was caused and, collaboratively, determine how conflict and trust might be, respectively, resolved and repaired.
2. A Party may request in writing to engage in restorative justice at any stage of the process, however, restorative justice may not be an appropriate mechanism for all conflicts. To qualify for restorative justice, the individual accused of wrongdoing must accept responsibility and express remorse for the harm that was caused. The harmed party must also be willing to accept an apology offered by the person accused of wrongdoing. Additionally, all involved parties must agree to and abide by measurable and timely actions within the scope of this Policy. The Administrative Facilitator or designated official will review any request for restorative justice and may decline to initiate RJ based on the facts and circumstances of the particular case.
3. The restorative justice meeting proceeds only if all parties agree to participate willingly. Upon doing so, the restorative justice process typically commences within ten (10) business days after the Administrative Facilitator or designated official receives written agreements from all involved parties. The meeting will continue until the successful conclusion or until the Administrative Facilitator or designated official determines that the conference will not be successful. If successful, an agreeable resolution is reached by all involved parties, at which time the process is concluded, and the matter is resolved. If a resolution cannot be reached, the matter will be referred to the designated official who is trained in the Title IX process to re-evaluate other options for resolution.
4. A designated office, such as Student Affairs or Human Resources, will monitor the parties’ adherence to their proposed solution and reserves the right to close the matter when compliance is satisfactory.

XV. Hearing

1. General Hearing Rules

- a. Saint Leo University will not issue a disciplinary sanction arising from an allegation of covered sexual harassment without holding a live hearing, unless otherwise resolved through an informal resolution process.
- b. For the purpose of this document, all Administrative Hearing Officers are decision-makers in accordance with the Federal Title IX Regulations.
- c. The live hearing may be conducted with all parties physically present in the same geographic location, or, at Saint Leo University's discretion, any or all parties, witnesses, and other participants may appear at the live hearing virtually through a remote video conferencing option. This technology will enable participants simultaneously to see and hear each other. At its discretion, Saint Leo University may delay or adjourn a hearing based on technological errors not within a party's control.
- d. All proceedings will be recorded through audio recording, audiovisual recording, or transcript. That recording or transcript will be made available to the parties for inspection and review. Once the entire hearing process is completed, the recording of the hearing will be available for review by the parties within five (5) business days, unless there are any extenuating circumstances.
- e. 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 Grievance Process. Once signed, this Agreement may not be withdrawn See, 85 Fed. Reg. 30026, 30435 (May 19, 2020)

2. Continuances or Granting Extensions

Saint Leo 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 Leo University will notify all participants and endeavor to accommodate all participants' schedules and complete the hearing as promptly as practicable.

3. Newly Discovered Evidence

- a. As a general rule, no new evidence or witnesses may be submitted during the live hearing. If a party identifies new evidence or witnesses that were not reasonably available prior to the live hearing and could affect the outcome of the matter, the party may request that such evidence or witnesses be considered at the live hearing.
- b. The Administrative Hearing Officers will consider this request and make a determination regarding (1) whether such evidence or witness testimony was actually unavailable by reasonable effort prior to the hearing, and (2) whether such evidence or witness testimony could affect the outcome of the matter. The party offering the newly discovered evidence or witness has the burden of establishing these questions by the preponderance of the evidence.
- c. If the Administrative Hearing Officers answers in the affirmative to both questions, then the parties will be granted a reasonable pause in the hearing to review the evidence or prepare for questioning of the witness.

4. Hearing Procedures

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

- a. An Administrative Hearing Officer will open and establish rules and expectations for the hearing.
- b. The Parties will each be given the opportunity to provide opening statements.
- c. Administrative Hearing Officers will ask questions of the Parties and Witnesses.
- d. Parties will be given the opportunity for live cross-examination after the Administrative Hearing Officers conduct their initial round of questioning.
- e. Before any cross-examination question is answered, an Administrative Hearing Officer will determine if the question is relevant. Cross-examination questions that are duplicative of those already asked, including by the Administrative Hearing Officers may be deemed irrelevant if they have been asked and answered.
- f. During the Parties' cross-examination, the Administrative Hearing Officers will have the authority to pause cross-examination at any time for the purposes of asking the Administrative Hearing Officer's own follow up questions; and any time necessary in order to enforce the established rules of decorum.
- g. 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 Administrative Hearing Officers. A Party's waiver of cross-examination does not eliminate the ability of the Administrative Hearing Officers to use statements made by the Party.

XVI. Determination Regarding Responsibility

1. Standard of Proof

Saint Leo 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 investigation and hearing determine whether it is more likely than not that a violation of the Policy occurred.

2. General Considerations for Evaluating Testimony and Evidence

- a. 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 Administrative Hearing Officers.
- b. Administrative Hearing Officers shall not draw inferences regarding a party or witness' credibility based on the party or witness' status as a complainant, respondent, or witness, nor shall it base its judgments in stereotypes about how a party or witness would or should act under the circumstances.
- c. 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 or evidence. Still, 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.
- d. Administrative Hearing Officers 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.

- e. 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 specific facts that occurred.
- f. The Final Rule requires that Saint Leo University allow parties to call "expert witnesses" for direct and cross examination. Saint Leo University does not provide for expert witnesses in other proceedings. While the expert witness will be allowed to testify and be crossed as required by the Final Rule, the Administrative Hearing Officers will be instructed to afford lower weight to non-factual testimony of the expert relative to fact witnesses, and any expert testimony that is not directed to the specific facts that occurred in the case will be afforded lower weight relative to fact witnesses, regardless of whether the expert witness testimony is the subject of cross examination and regardless of whether all parties present experts as witnesses.
- g. The Final Rule requires that Saint Leo University allow parties to call character witnesses to testify. Saint Leo University does not provide for character witnesses in other proceedings. While the character witnesses will be allowed to testify and be crossed 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.
- h. The Final Rule requires that Saint Leo 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 processes and testimony about them will be allowed to testify and be crossed as required by the Final Rule, the Administrative Hearing Officers will be instructed to afford lower weight to such processes relative to the testimony of fact witnesses.
- i. Where a party or witness' conduct or statements demonstrate that the party or witness is engaging in retaliatory conduct, including but not limited to witness tampering and intimidation, the Administrative Hearing Officers 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 institution email account, or other reasonable means as necessary. The Determination will include:

- a. Identification of the allegations potentially constituting covered sexual harassment.
- b. 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.
- c. Findings of fact supporting the determination.
- d. Conclusions regarding which section of University Policies, if any, the respondent has or has not violated.
- e. For each allegation:
 - 1. A statement of, and rationale for, a determination regarding responsibility.
 - 2. A statement of, and rationale for, any disciplinary sanctions the recipient imposes on the respondent; and

3. A statement of, and rationale for, whether remedies designed to restore or preserve equal access to the recipient's education program or activity will be provided by the recipient to the complainant; and
 - f. The recipient's procedures and the permitted reasons for the complainant and respondent to appeal (described below in "Appeal").
4. If there are no extenuating circumstances, the determination regarding responsibility will be issued by Saint Leo University within ten (10) business days of the completion of the hearing.
5. The determination regarding responsibility becomes final either on the date that the institution provides the parties with the written determination of the result of the appeal, or if an appeal is not filed, the date on which the opportunity to appeal expires.

XVII. Appeal

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 their written appeal within five (5) business days of being notified of the decision, indicating the grounds for the appeal.

The limited grounds for appeal available are as follows:

1. Procedural irregularity that affected the outcome of the matter (i.e. a failure to follow the University's procedures).
2. New evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made, that could affect the outcome of the matter.
3. The Title IX Coordinator, investigator(s), or decision-maker(s) had a conflict of interest or bias for or against an individual party, or for or against complainants or respondents in general, that affected the outcome of the matter.

The submission of appeal suspends any sanctions for the duration of an appeal. Supportive measures and remote learning opportunities remain available during the duration of the appeal. If a party appeals, the institution 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 will be decided by an Administrative Appellate Officer, who will be free of conflict of interest and bias, and will not serve as investigator, Title IX Coordinator, or an Administrative Hearing Officer in the same matter.

Appeal outcomes will be provided in writing simultaneously to both parties and include rationale for the decision.

XVIII. Sanctioning

1. Potential Disciplinary Sanctions for Student Respondents (one or more of the sanctions listed below can be issued to a student):
 - a. Alcohol and/or Drug Education: An online course designed to assist students with healthy lifestyle choices. Additionally, there is a fee associated with this sanction.
 - b. Apology: An apology reflecting an understanding of the inappropriateness of actions and the impact it had on the letter's recipient.
 - c. Behavioral Agreement: A signed behavioral agreement to live responsibly within the Saint Leo University community outlining specific behavior guidelines that must be followed.

- d. Community Probation: Designated period of time that includes the probability of more severe disciplinary sanctions, such as suspension or dismissal from the University if the student is found violating any policy during the probationary period.
- e. Contact Restriction: Restriction of personal contact with another individual or group for a stated period of time.
- f. Counseling: An assessment or an initial counseling session either at the University Counseling Center or at an approved community mental health provider. Students are required to abide by any treatment plan provided by provider.
- g. Deferred Sanction: When significant mitigating factors are present, one or more sanctions may be deferred for implementation. Deferral may be rescinded, and additional sanctions may be imposed for any new violations which occur during the deferred period.
- h. Disciplinary Probation: Designated period that includes the probability of more severe disciplinary sanctions, which may include suspension or dismissal from the University if the student is found violating the specified policy during the probationary period.
- i. Dismissal: Immediate and permanent separation of the student from the University without refund.
- j. Organizational Probation: Designated period of time that includes the probability of revocation of organizational privileges during the probationary period.
- k. Organizational Suspension: Prohibition of all organizational activities, formal and informal, both on and off campus for a designated period of time after which the organization is eligible for reinstatement/recognition. Conditions for reinstatement/recognition may be specified.
- l. Other Restrictions: Loss of specific privileges including, but not limited to, attendance at athletic and social events; organization participation; and access to specified University facilities for a designated period of time.
- m. Probationary Review Meetings: Scheduled meetings with the Associate Vice President for Student Affairs or designee.
- n. Reflection Paper: Reflective paper on a specific incident and its impact.
- o. Research Paper: Research paper on a specific topic citing at least three sources.
- p. Residence Hall Dismissal: Immediate and permanent removal of the student from the residence halls without refund.
- q. Residence Hall Probation: Designated period of time that includes the probability of expulsion from campus housing and/or revocation of privileges to live in campus housing if the student is found violating any policy during the probationary period.
- r. Residence Hall Suspension: Immediate removal from the University housing without refund for a designated period of time.
- s. Substance Use Evaluation: A required substance use evaluation. Students are responsible to make arrangements for this evaluation in accordance with the outlined terms in the sanction letter. Students are required to meet the recommendations of the certified treatment professionals as indicated in this evaluation. Results must be released to appropriate University officials as per sanction letter.
- t. University Suspension: Separation of the student from the University for a definite period of time without refund, after which the student is eligible to return. Conditions for readmission may be specified.

- u. Written Warning: Notice in writing to the student that he or she is violating or has violated a specific University policy and that continuation or repetition of similar misconduct, may be cause for further disciplinary action and more severe sanctions.
2. Potential Disciplinary Sanctions for Employee Respondents (one or more of the sanctions listed below can be issued to an employee):
- a. Written Warning: The documentation will include the reason for the written warning, any previous counseling regarding the problem, the steps the employee must take to correct the situation, and the next step if the problem is not resolved within the specified time.
 - b. Disciplinary Suspension: Employee suspension may be with pay or without pay depending on the circumstances. Suspension notices must include the reason for the suspension, the inclusive dates of the suspension, and whether the suspension is with pay or without pay. The suspension notice will include the reason for the suspension, the steps the employee must take to correct the situation in order to return from the suspension, and the next step if the problem is not resolved within the specified time.
 - c. Dismissal/Termination: An employee's employment may be terminated when circumstances warrant.

XIX. Delays

Each party may request a one-time delay in the Title IX Sexual Harassment Grievance Process of up to five (5) 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. For example, a request to take a five day pause made an hour before a hearing for which multiple parties and their advisors have traveled to and prepared for shall generally not be granted, while a request for a five day pause in the middle of investigation interviews to allow a party to obtain certain documentary evidence shall generally be granted. The Title IX Coordinator, or designee shall have sole judgment to grant further pauses in the Process.

XX. Approved

Updated and approved on November 10, 2021, Jeffrey D. Senese.

XXI. Effective

November 10, 2021