

## **Summary of the Title IX Sexual Harassment Policy 8.0 (formerly the Sexual Misconduct Policy 7.0)**

In November 2018, the US. Department of Education (DOE) released a Notice of Proposed Rule Making and began the public comment and revision process in order to formalize a new regulation governing Title IX. On May 6, 2020, the DOE released this Final Rule with an implementation date of August 14, 2020. The Sexual Misconduct Policy 7.0 has been revised by the Title IX Policy Review Committee in order to comply with the Final Rule. Below is a summary of the revisions.

- I. **Definition of Sexual Harassment.** The definition of hostile environment discrimination now requires that conduct be so severe, pervasive *and* objectively offensive that it denies a person equal access to an educational program or activity. This is a significant change from SLU's previous definition that aligns with the Title VII definition stating that conduct must be severe, pervasive *or* objectively offensive. This new definition creates a jurisdictional threshold narrowing what type of sexual harassment complaints are within the scope of Title IX. The University, however, will still investigate and address behaviors outside of the Title IX process (e.g., through student conduct).
- II. **Scope of Title IX: Where Does It Apply?** Under the Final Rule, Title IX applies only when sexual harassment occurs within an institution's education program or activity. Title IX no longer applies to sexual harassment that occurs off-campus in a setting that is not connected to an education program or activity or to incidents that occur outside the United States. The University, however, may still investigate and address behaviors outside of the Title IX process (e.g., through student conduct). The Title IX Sexual Harassment Policy 8.0 clearly outlines this new distinction throughout the Policy, most specifically in section outlining the scope of Title IX.
- III. **Scope of Title IX: To Whom Does it Apply?** The Final Rule makes it clear that Title IX applies to both students and employees and that institutions must use the grievance procedures required under the Final Rule for both students and employees. Thus, the Title IX Sexual Harassment Policy addresses this by including all students and employees under the Policy. In the past, this Policy was utilized in addressing Prohibited Conduct committed by students only.
- IV. **Grievance Process: Live Hearings and Cross Examination.** Unlike SLU's previous process which includes separate hearing meetings for the reporting party and accused party, the Final Rule requires a live hearing in which both parties, through an

advisor, can cross examine the other party and all witnesses. SLU will now have a hearing panel comprised of three employees (faculty or staff) make the determination regarding responsibility. This is a change from the single hearing officer model used in the previous policy. This hearing will be live, via video conferencing. If a Party or a witness does attend the live hearing or does not allow themselves to be cross examined, *all* of their statements in both the investigation and the hearing may not be considered by the Hearing Panel. The Hearing Chair will oversee the hearing process and must decide whether every question asked on cross examination is relevant before allowing an answer. Expert witnesses will be allowed to be interviewed during the investigation and allowed to testify at the hearing. Lastly, if a student does not have an advisor, SLU must provide the student with an advisor for the purposes of conducting cross examination. The section of the Policy governing the Grievance Process has been significantly revised to incorporate these and other requirements of Grievance Process under the Final Rule.

- V. **Language and Terminology.** The following are terms that have been incorporated in the Title IX Sexual Harassment Policy in order to align with the Final Rule.

<b>Term from the Sexual Misconduct Policy 7.0</b>	<b>New Term from the Title IX Sexual Harassment Policy 8.0</b>
Reporting Party	Complainant
Accused Party	Respondent
Investigation, Hearing and Determination of Responsibility, and Appeal Process	Grievance Process
Interim Measures	Supportive Measures
Sexual Misconduct	Sexual Harassment

The following are new terms used in the Title IX Sexual Harassment Policy 8.0 and their meaning.

<b>New Term</b>	<b>Definition</b>
Formal Complaint	A Formal Complaint is a document filed by a complainant or signed by the Title IX Coordinator alleging Prohibited Conduct against a Respondent and requesting that the school investigate the allegation of Prohibited Conduct.