

UNIVERSITY-WIDE POLICY AGAINST DISCRIMINATORY HARASSMENT, SEXUAL HARASSMENT, SEXUAL ASSAULT AND OTHER FORMS OF SEXUAL VIOLENCE, DATING VIOLENCE, DOMESTIC VIOLENCE AND STALKING

Seton Hill University (SHU), a diverse academic community, celebrates this diversity and is committed to serving individuals and groups from all backgrounds. It strives to provide equal opportunity to all members of our community. True to its mission as a Catholic university, SHU also espouses trust, civility, and a willingness to recognize the dignity of each person. Thus, it is the responsibility of each member of the University community to learn to understand the differences among us, as well as the similarities, and to demonstrate tolerance, which precludes any expression of bigotry, intimidation, violence or other types of injurious behavior. Tolerance, however, is not enough. Respect, understanding, and a basic generosity of spirit are expected. SHU is also committed to freedom of thought, discourse, and speech and the attainment of the highest quality of academic and educational pursuits.

I. STATEMENT OF POLICY

SHU prohibits discrimination on the basis of race, color, religion, national origin, genetic information, age, marital status, familial status, sex, sexual orientation, gender identity, disability, or veteran status. SHU also prohibits Discriminatory Harassment, Sexual Harassment, Sexual Assault and all other forms of sexual violence, Dating Violence, Domestic Violence, and Stalking. SHU will respond promptly and appropriately to any form of alleged misconduct under this Policy and will take steps to prevent recurrence and to remedy its effects.

This Policy applies to all members of the SHU community (all students, faculty and staff) as well as to individuals not directly affiliated with SHU (e.g., contractors, vendors, and visitors). This Policy applies to both on and off-campus conduct that may affect the campus community or may affect access to education of any student. Such types of off-campus activities would include, but are not limited to, University-sponsored trips, athletic events, meetings, conferences, and University-related social events. This Policy likewise applies to online behavior and social media that may affect the educational or employment experience.

II. DEFINITIONS

The following definitions apply to this Policy:

- A. Complainant:** The Complainant is the party who has experienced conduct that he/she believes to be a violation of this Policy. This person is eligible to file a complaint with the Title IX Coordinator or Deputy Coordinator to initiate the Title IX Process. If the person who experienced the incident is the one who reports it to the Title IX Office, then that person is considered both the Complainant and the Reporter. SHU may be the Complainant in situations where it has an obligation to pursue the investigation.

- B. Consent:** Sexual activity requires consent, which is defined for purposes of this Policy as clear, unambiguous, and voluntary agreement between the participants to engage in specific sexual activity. Consent cannot be inferred from the absence of a "no"; a clear "yes," verbal or otherwise, is necessary. Although consent does not need to be verbal, verbal communication is the most reliable form of asking for and gauging consent, and individuals are thus urged to seek consent in verbal form. Talking with sexual partners about desires and

limits may seem awkward, but it serves as the basis for positive sexual experiences shaped by mutual willingness and respect. Consent cannot be obtained from someone who is asleep or otherwise mentally or physically incapacitated, whether due to alcohol, drugs, or some other condition. Consent cannot be obtained by threat, coercion, or force. Agreement given under such conditions does not constitute consent. Consent must be clear and unambiguous for each participant throughout any sexual encounter. Consent to some sexual acts does not imply consent to others, nor does past consent to a given act imply ongoing or future consent. Consent can be revoked at any time. For all of these reasons, sexual partners must evaluate consent in an ongoing fashion and should communicate clearly with each other throughout any sexual encounter. It is the responsibility of the person initiating the sexual act to obtain consent, even if the initiator is also drunk or under the influence of drugs. This means that the initiator can and will be held responsible for any acts of sexual violence that may occur.

1. **Incapacitation:** The inability, temporarily or permanently, to give consent because someone is mentally and/or physically helpless, unconscious, or unaware due to drug or alcohol consumption (voluntarily or involuntarily), or for some other reason. Incapacitation means a person does not have the ability to give consent.

- C. **Dating Violence:** Dating Violence is violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim. The existence of such a relationship shall be determined based on the reporting party's statement and with consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship.
- D. **Domestic Violence:** Domestic Violence includes felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim; by a person with whom the victim shares a child in common; by a person who is cohabitating with or has cohabitated with, the victim as a spouse or intimate partner; by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred; or 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 jurisdiction in which the crime of violence occurred.
- E. **Discriminatory Harassment:** Discriminatory Harassment is defined as any oral, written, physical, or symbolic behavior that is based on an individual's membership (or perceived membership) in a particular demographic group, including race, color, national origin, ethnicity, sex, sexual orientation, gender, gender identity, age, religion, or disability, and interferes with a Reasonable Person's academic or work performance, creates an intimidating, hostile or offensive environment for a person, or subjects a person to unwanted and unsolicited attention. Such behaviors include, but are not limited to, the use of slurs, epithets, name-calling, gestures, demeaning jokes, derogatory stereotypes, bullying, or conduct that may be physically threatening, harmful or humiliating or cause a person to feel unsafe.
- F. **Reasonable Person:** A Reasonable Person means a reasonable person under similar circumstances and with similar identities to the victim.

- G. Reporter:** The Reporter is the individual who reports the alleged misconduct to the Title IX Coordinator or Deputy Coordinator. This person does not necessarily have to have personally experienced the conduct. People who are aware of conduct that violates this Policy, whether they observe the conduct directly or otherwise learn about it and report it to the Title IX Coordinator or Deputy Coordinator meet this definition. If the person who experienced the incident is the one who reports it to the Title IX Office, then that person is considered both the Complainant and the Reporter.
- H. Respondent:** The Respondent is the person who is called upon to issue a response to the statement made by the Reporter and/or Complainant. The Respondent is named by the Complainant as a violator of policy.
- I. Responsible Employee:** A Responsible Employee for purposes of this Policy includes all SHU employees except the professional counselors in the Counseling Center and Family Therapy Center, the health service providers in the Health Services, the Director of Campus Ministry, and other priests and pastoral counselors. Responsible Employees are mandated reporters and have an obligation to promptly report incidents of sexual violence or other types of misconduct prohibited by this policy to the Title IX Coordinator or one of the Deputy Title IX Coordinators listed in Section IV below. The report should include all relevant details about the alleged incident that a student or another person has shared with the Responsible Employee, including the name of the Respondent (if known), the student or other member of the campus community who experienced the alleged misconduct, others involved in the incident as well as the date, time, and location of the incident. Before a student reveals this type of information to a Responsible Employee, the Responsible Employee should make every effort to ensure that the student understands the employee's reporting obligation, the student's option to request that SHU maintain his or her confidentiality (which would be considered by the Title IX Coordinator), and the student's right to share the information confidentially with certain individuals on campus or with off-campus sexual assault resource centers, advocates, and health care providers.
- J. Sexual Assault:** Sexual Assault is any sexual act directed against another person, without consent of the victim, including instances where the victim is incapable of giving consent. Sexual Assault may include any of the following:
- 1. Rape:** Rape is the penetration, no matter how slight, of the vagina or anus, with any body part or object, or oral penetration by a sex organ of another person, without the consent of the victim. This offense includes the rape of both males and females.
 - 2. Fondling:** Fondling is the touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental incapacity.
 - 3. Incest:** Incest is sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.
 - 4. Statutory Rape:** Statutory Rape is sexual intercourse with a person who is under the statutory age of consent.

- K. Sexual Battery:** Sexual Battery is generally defined as the non-consensual touching of another with intent to arouse or gratify the sexual desire of the offender. Examples include groping, touching genitals over or under clothing, etc.
- L. Sexual Coercion:** Sexual Coercion is the act of using pressure or force to have sexual contact with someone who has already refused or not consented.
- M. Sexual Exploitation:** Sexual Exploitation is a form of Sexual Harassment, and it includes taking non-consensual sexual advantage of another for one's own benefit or for the benefit of anyone other than the one being exploited. Examples include, but are not limited to, videotaping sexual acts without consent of both partners; allowing others to observe sexual activities without the consent of both partners; endangering the health of another person by knowingly exposing him/her to an STI or HIV; inducing incapacitation of another through encouragement to consume excess quantities of alcohol or giving the person alcohol or other drugs without his/her knowledge with the purpose of having sex with the other person.
- N. Sexual Harassment:** For purposes of this Policy, Sexual Harassment includes any unwelcome sexual advances, requests for sexual favors, or other unwelcome conduct of a sexual nature. Sexual violence is a form of sexual harassment. Sexual Harassment may be found in a single episode as well as in persistent behavior. Sexual Harassment also includes unwelcome sexual conduct when:
1. such conduct has the purpose or effect of interfering with a Reasonable Person's academic and/or work performance or of creating an intimidating, hostile, or offensive living, learning or working environment; or
 2. submission to such conduct is made (explicitly or implicitly) a term or condition of an individual's employment or education; or submission to or rejection of such conduct by an individual is used as the basis for academic or employment decisions affecting that individual.
- O. Stalking:** Stalking is defined as engaging in a Course of Conduct directed at a specific person that would cause a Reasonable Person to fear for the person's safety or the safety of others or suffer Substantial Emotional Distress. A person commits the crime of stalking when the person either: (i) engages in a Course of Conduct or repeatedly commits acts toward another person, including following the person without proper authority, under circumstances which demonstrate either an intent to place such other person in reasonable fear of bodily injury or to cause Substantial Emotional Distress to such other person; or (ii) engages in a Course of Conduct or repeatedly communicates to another person under circumstances which demonstrate or communicate either an intent to place such other person in reasonable fear of bodily injury or to cause Substantial Emotional Distress to such other person.
1. **Course of Conduct:** Course of Conduct means two or more acts, including, but not limited to, acts in which the stalker directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with a person's property.
 2. **Reasonable Person:** See definition provided above.

- 3. Substantial Emotional Distress:** Substantial Emotional Distress means significant mental suffering or anguish that may, but does not necessarily require medical or other professional treatment or counseling.

III. RIGHTS AND RESPONSIBILITIES UNDER THIS POLICY

Members of the SHU community, who are aware of conduct that violates this Policy, whether they observe the conduct directly or otherwise learn about it, are strongly encouraged to report it to the Title IX Coordinator or one of the Deputy Title IX Coordinators listed in Section IV below. Responsible Employees (as defined above) are obligated by this Policy to report such conduct to assure the matter is handled promptly and appropriately by trained personnel and that appropriate corrective, protective, and remedial actions may be taken as warranted, including interim measures.

Violations of this Policy can occur between members of opposite sexes and/or members of the same sex. Although Sexual Harassment often involves a supervisory employment relationship or faculty/student relationship, it can also be committed by a student against a faculty member, by an employee against a supervisor, by a member of one's peer group (such as by a student against another student), or by a contractor, vendor, or other visitor to SHU. Every member of the SHU community has both rights and responsibilities under this Policy.

Reporting Options and Student Requests for Confidentiality: Students reporting an incident of alleged sexual violence sometimes ask that their names not be disclosed to the Respondent or that no investigation or disciplinary action be pursued to address the alleged sexual violence. In such cases, the Title IX Coordinator will inform the student that honoring the request may limit SHU's ability to respond fully to the incident, including pursuing disciplinary action against the Respondent, and will explain that this Policy and the law include protections against retaliation. If students still request that their names not be disclosed to the Respondent or that SHU not investigate or seek action against the Respondent, the Title IX Coordinator will determine whether or not SHU can honor such a request while still providing a safe and nondiscriminatory environment for all students, including the student who reported the incident of alleged sexual violence. See also Section VII below regarding Other Available Actions and Resources. SHU generally offers amnesty to students who engaged in SHU-prohibited conduct (such as underage drinking) during an assault. This amnesty also extends to witnesses who may offer testimony in the case.

IRB-Approved University Research and Reporting: To make certain that research results are accurate and valid, SHU researchers who conduct IRB-approved research on campus-based Sexual Assault and other forms of interpersonal violence are exempt from Title IX reporting requirements. This exemption only applies when the researcher is acting in the researcher role. The exemption also does not apply to other instances of state law(s) that might intersect with this issue, for instance state mandatory reporting laws of child abuse and/or neglect. This exemption also does not apply to students under the age of 18 (who have permission to participate in the research) or when students over 18 disclose violence involving a minor, as researchers are mandatory reporters of suspected child abuse and/or neglect. The consent form, signed by research participants, must explicitly outline the difference pertaining to Title IX mandatory reporting requirements in the academic employee's role when acting as a

researcher. Finally, researchers must give participants a resource sheet provided by the SHU Title IX Coordinator.

IV. TITLE IX COORDINATOR AND DEPUTY COORDINATORS

The Title IX Coordinator and Deputy Coordinators listed below are responsible for, among other things, overseeing reports and complaints brought forward under this Policy to assure that these matters are handled appropriately and effectively, and for identifying and addressing patterns of misconduct and systemic problems. They also serve as resources available to anyone seeking additional information about the processes and procedures under this Policy, about other resources that may be available to Complainants or to Reporters.

Darlene Sauers serves as the Title IX Coordinator for SHU. Ms. Sauers' contact information is as follows:

Email: sauers@setonhill.edu
Phone: (724) 838-4210
Office Address: Administration 305

The following individuals serve as Deputy Title IX Coordinators for SHU:

Adriel Hilton, Dean of Students and Diversity Officer
Email: ahilton@setonhill.edu
Phone: (724) 830-1076
Office Address: Maura Hall 227

Debra Mason, Diversity Officer/Director of the Wukich Center
Email: dmason@setonhill.edu
Phone: (724) 830-4614
Office Address: Maura Hall 329

Michelle Walters, Director of Community Relations, School of Visual and Performing Arts
Email: walters@setonhill.edu
Phone: (724) 552-2923
Office Address: Performing Arts Center G-07

Inquiries may also be directed to the Office for Civil Rights of the U.S. Department of Education at (800) 421-3481 or by email at OCR@ed.gov.

V. OPTIONS AND PROCESSES FOR RESOLUTION

All students, prospective students, employees, applicants for employment, or campus visitors who believe that they have been subjected to conduct in violation of this Policy or who have observed, know of, or suspect an occurrence of Discriminatory or Sexual Harassment, Sexual Assault or other forms of sexual violence, Dating Violence, Domestic Violence, or Stalking are strongly encouraged to immediately contact the Title IX Coordinator or one of the Deputy Title IX Coordinators listed above.

Prompt reporting of such incidents makes investigation of the incident more effective and enhances the ability of SHU to take prompt and appropriate action regarding a complaint or report, including the ability to take interim protective measures. Although SHU does not impose a limitations period for reviewing internal complaints of alleged violations of this Policy, SHU recognizes that to conduct a meaningful investigation and take prompt action as appropriate, a timely report or complaint is important. (Note: The conferral of a degree and related activities may be held until final disposition of a complaint under this Policy.)

Individuals who may have been subjected to alleged violations of this Policy will be informed about options for resolving potential violations. Those options include informal resolution and formal resolution pursuant to this Policy. At the request of a Complainant, an advocate from Blackburn Center Against Domestic and Sexual Violence can be present throughout the process to offer support to Complainants who have experienced Dating, Domestic, or sexual violence.

Certain forms of misconduct under this Policy may constitute criminal conduct. The Blackburn Center Advocate can assist the Complainant with legal referrals should they be requested. Despite whether or not someone who has been subjected to such conduct chooses to pursue criminal charges externally, a person still has the right to pursue an internal complaint under this Policy, regardless of the status of any external proceedings. After the Title IX Coordinator receives a report, the Complainant may not want to pursue any action internally and/or externally. However, based on the nature of the report, SHU may still have an obligation to pursue an investigation, make a complaint, and take corrective action directly. See also Section III above, under the subheading “Reporting Options and Student Requests for Confidentiality.” For more information about reporting a matter to law enforcement, see Section VII-A. If the incident involves a member of the Lake Erie College of Osteopathic Medicine (LECOM), then see Section V-C-10 for more information about the process that will be utilized.

A. Initiation of the Process

Usually with the Complainant’s consent, the Title IX Coordinator, Deputy Coordinator, or another designee with appropriate training and qualifications will initiate the process under this Policy by notifying the Respondent that a complaint has been filed against that person and inform the Respondent of the nature of the complaint.

The Title IX Coordinator, Deputy Coordinator, or designee shall explain to both parties the avenues for informal and formal action, including a description of the process and the relevant avenues of redress to the Complainant and the Respondent and provide each of them with a copy of this Policy.

Both the Complainant and the Respondent may be accompanied by an advisor of their choice throughout the entire process to support and advise the student (but not to advocate on the student’s behalf).

- 1. Interim Measures.** During the pendency of an investigation or other proceedings under this Policy, SHU may take reasonable and prudent interim measures to ensure equal access to its education programs and activities, to protect the parties, and/or to safeguard the SHU community, including interim disciplinary measures if necessary and appropriate. In cases of alleged sexual violence, Sexual Assault, Dating Violence, Domestic Violence or other forms of sexual misconduct, or Stalking, the

Title IX Coordinator will review options with the parties in order to avoid contact. Requests for accommodations will be provided based on reasonableness and availability. Examples include, but are not limited to, course-related adjustments, no contact orders, leaves of absence, and changing academic and extracurricular activities and/or living arrangements, transportation, dining, and working situations as reasonable and appropriate. In such cases, the Title IX Coordinator will also notify the parties of available resources (such as counseling services, medical and mental health services, victim advocacy services) and of the right to report a crime to local law enforcement.

- 2. Confidentiality.** SHU will respect the wishes of the Complainant to maintain confidentiality to the greatest degree possible consistent with SHU's legal obligations to take all reasonable steps to protect the welfare of the campus community and to otherwise comply with applicable law. See also Section III above under the subheading "Reporting Options and Student Requests for Confidentiality."

B. Informal Resolution Process

SHU provides an informal resolution process when the parties desire to resolve the situation cooperatively. Informal resolution includes an inquiry by SHU into the facts but does not typically rise to the level of a full-blown investigation. The informal process, which is overseen by the Title IX Coordinator, Deputy Coordinator, or designee, is designed to resolve complaints quickly, efficiently, and to the mutual satisfaction of all parties involved, including the satisfaction of SHU for assuring a safe and non-discriminatory environment for the overall SHU community. Where circumstances allow, the informal process will be initiated as soon as possible after the filing of the complaint or receipt of a report of an alleged violation, absent any unusual circumstances.

Informal resolution may include, but is not limited to, options such as meeting informally with the Complainant and the Respondent with the intent of bringing about resolution, meeting privately with the Respondent and acting as intercessor, separation of the parties, referral of the parties to counseling programs, conducting educational and/or training programs, or other remedial measures.

Situations that are resolved through informal resolution are usually subject to follow-up after a period of time. Steps taken by the Title IX Coordinator, Deputy Title IX Coordinator, or designee to help the parties achieve informal resolution will be documented.

Some reports of alleged violations of this Policy may not be appropriate for informal resolution but may require a formal investigation as part of the Formal Complaint Process at the discretion of the Title IX Coordinator. The Office for Civil Rights of the U.S. Department of Education has taken the position that mediation is not an appropriate mechanism for resolution in cases of alleged Sexual Assault/sexual violence.

Both the Complainant and the Respondent have the right to bypass or end the informal resolution process at any time in order to begin the Formal Complaint Process.

C. Formal Complaint Process

If the allegation of a violation of this Policy has not been resolved as a result of the informal process or is not suited for informal efforts, or if either the Complainant or the Respondent requests to invoke the formal complaint process, the following process will be initiated. (The lodging and processing of a formal complaint does not preclude, however, the possibility of an informal or mediated resolution of the matter.)

In such cases, unless a statement has already been submitted, the Reporter or the Complainant should submit a written, signed complaint containing the name(s) and relevant allegations against the Respondent. The Title IX Coordinator, Deputy Coordinator, or designee shall share with the Respondent the reported complaint.

The following general principles and procedures shall govern this process, to the extent consistent with SHU's legal obligations:

1. Procedures are to be fair, both in substance and in perception, to all persons concerned and to the SHU community. All persons concerned are to be treated with respect, dignity, and impartiality.
2. The Title IX Coordinator, Deputy Title IX Coordinator, or another designee with appropriate training and qualifications will conduct the investigation. (The investigator need not be an employee of SHU so long as that person is trained and qualified.) The investigation of formal complaints generally includes interviews of the Complainant, the Respondent, and any witnesses who may have information relevant to the complaint as well as compilation and review of relevant documents and other materials as appropriate. Disclosure of facts to non-party witnesses shall be limited to what is reasonably necessary to conduct a fair and thorough investigation.
3. Both the Complainant and Respondent will be given an opportunity to be heard during the investigation, to provide documentation and other evidence, and to suggest the names of other persons who they believe might have relevant information. The Complainant and Respondent will be provided equal access to relevant information and documents gathered during the investigation.
4. At any time during (or prior to) the investigation, the Title IX Coordinator may recommend interim protections or remedies be provided by SHU officials. These protections and remedies may include (but are not limited to) separating the parties, placing limitations on contact between the parties, or making alternative workplace, housing, co-curricular, extracurricular or academic arrangements where reasonable and feasible. See also Section V-A above regarding Interim Measures. Failure to comply with the terms of interim protections or remedies may be considered a separate violation of this Policy.
5. The investigation shall be completed as promptly as possible and, in most cases, within 60 days from receipt of the original complaint. However, some investigations may not be completed in this time frame due to the nature and extent of the allegations or other extenuating circumstances. In the event the investigation cannot be completed within 60 days, the Complainant and Respondent shall be so notified in writing.
6. After concluding the investigation, the Title IX Coordinator, Deputy Coordinator, or designee will record findings and recommendations for sanctions/corrective actions in a written report (including remedial and protective actions if and as deemed necessary). In making any findings under this Policy, the "preponderance of the evidence" standard

(i.e., more likely than not) will be used. The Complainant and Respondent will be notified that the investigation has been completed and will be provided an opportunity to meet with the Title IX Coordinator to review the written report. If the investigator was someone other than the Title IX Coordinator, then the written report will be provided to the Title IX Coordinator.

- a. Sanctions:** Sanctions and corrective actions will be implemented on a case-by-case basis for violations of this Policy, and they will be appropriate to the circumstances and gravity of the violation. For employees, sanctions may include, but are not limited to, online training, coaching/counseling, verbal or written warning, salary freeze, probation, suspension, demotion, or termination from employment. Possible sanctions for students include, but are not limited to, educational projects/services, online training, counseling, verbal or written warning, suspension or expulsion from residence halls and/or dining facilities, suspension or exclusion from extracurricular or co-curricular activities, community service, probation, or suspension or dismissal from SHU. SHU will take appropriate steps to prevent recurrence of any violations of this Policy and to remediate the effects on the Complainant and the campus community, if and as appropriate.
7. Where the Respondent is a staff member of SHU, the written report of findings and recommendations shall be submitted to the Vice President for Finance and Administration/CFO. The Vice President for Finance and Administration/CFO shall make final decisions in such cases, in consultation with the Title IX Coordinator. The Grievance Procedure for staff shall not apply to matters arising under or relating to this Policy. Final decisions of the Vice President for Finance and Administration/CFO shall be communicated in writing to the Complainant and Respondent simultaneously.
8. Where a faculty member or other instructional employee is the Respondent, the written report of findings and recommendations shall be submitted to the Provost. The Provost, in consultation with the Title IX Coordinator, shall make final decisions in such cases. If the proposed action by the Provost includes discipline or dismissal of a faculty member, the matter will be referred to the processes described in the Policy Manual under “Dismissal for Cause and Actions Short of Dismissal,” except that the standard for proof of cause in cases arising under or relating to this Policy shall be preponderance of the evidence. The Grievance Policies for Faculty shall not apply to matters arising under or relating to this Policy. Final decisions of the Provost shall be communicated in writing to the Complainant and the Respondent simultaneously.
9. For cases involving student Respondents, the written report and recommendations shall be submitted to the Vice President for Student Affairs. At that point, either the Complainant or the Respondent may request a hearing appealing the findings and recommendations contained in the written report.

If no hearing is requested, the Vice President for Student Affairs, in consultation with the Title IX Coordinator, will make the final decision at that point, including imposition of disciplinary and remedial actions. Final decisions of the Vice President for Student Affairs shall be communicated via email to the Complainant and the Respondent simultaneously.

If a hearing is requested, then the request must be in writing (email is permissible) and be submitted to the Vice President for Student Affairs within five calendar days upon reviewing the findings and recommendations. An appeal for a hearing must demonstrate at least one of the following criteria:

- a. **New Information of a Substantive Nature:** New, significant or relevant information regarding the case becomes available that could not have been discovered by a Complainant or Respondent at the time of the investigation. Information is not considered new if the student did not actively participate in the investigation or withheld information during the investigation.
- b. **Substantive Procedural Error:** The specified procedural error or error in interpretation of SHU procedures may have substantially affected the investigation such that the Complainant or Respondent was denied a fair investigation or the error prevented the Title IX Investigator/Title IX Coordinator from making a fair decision.
- c. **Substantive Disproportionate Sanction:** The sanction appears to be significantly incongruent with the violation, given either the student's prior record or the usual action for his or her offense.
- d. **An Arbitrary or Capricious Finding:** The finding appears to be significantly incongruent with the established facts.

The Vice President for Student Affairs will determine if the appeal hearing will be granted or denied based on one of the above reasons.

If an appeal hearing is granted, a fair and impartial private hearing will be conducted before a three-member Hearing Panel (appointed by the Vice President for Student Affairs), consisting of SHU full-time faculty and/or administrators who have received appropriate training to hear such cases.

- a. The parties will receive at least five business days' notice of the date, time and place of the hearing. The Associate Dean of Students (or designee) shall be available to the Hearing Panel to assist with logistical matters such as coordinating scheduling, reserving rooms, collecting and distributing information, etc. The Title IX Coordinator, Deputy Title IX Coordinator, and/or designee will attend and may offer evidence deemed pertinent to the case. Both the Complainant and the Respondent shall have the chance to present information and documents, review information and documents ahead of time, vocalize their experience, and present witnesses to the incident(s). A copy of the investigator's report and recommendations will also be made available to the Hearing Panel. The hearing shall be voice-recorded; however, if technical difficulties occur, the hearing will continue.
- b. Both the Complainant and the Respondent must submit to the Vice President for Student Affairs a notice of who will be attending the hearing as an advisor and who will be attending to serve as a witness(es). The information is to be submitted at least 24 hours prior to the hearing.
- c. Both the Complainant and the Respondent may be accompanied at the hearing (and at all other phases of this process) by an advisor of their choice, to support and advise the student (but not to advocate on the student's behalf or to examine/cross-examine other parties or witnesses). There shall be no direct questioning between

- Respondents and Complainants, and the parties need not ever be in the same room. The Complainant and Respondent may attend the entire hearing, but other witnesses may attend only while presenting their own testimony. There shall be no questioning of the Complainant regarding prior sexual conduct with anyone other than the Respondent and then only if there is a prior sexual relationship between the parties that would be relevant to the issue of consent in the pending case. (Evidence of a prior consensual relationship by itself does not imply consent or preclude a finding of sexual misconduct.) If the advisor for any party is an attorney, SHU reserves the right to have an attorney present.
- d. The Hearing Panel will prepare a written report of its findings and recommendations (using the preponderance of evidence standard) and shall submit its report to the Vice President for Student Affairs, the Title IX Coordinator and each of the parties. Barring extenuating circumstances, that report should be submitted within five business days of the completion of the hearing. Following receipt of the Hearing Panel's findings and recommendations, the Vice President for Student Affairs, in consultation with the Title IX Coordinator, will make the final decision on the matter, including imposition of disciplinary and remedial actions. A copy of that decision shall be communicated in writing to the Complainant and Respondent simultaneously.
 - e. SHU will respect the privacy of students involved in this process by sharing information only with those who need to know the information. The privacy of student information is protected by FERPA, and nothing in this Policy or process would violate FERPA.
 - f. The Campus Life Resolution Board (CLRB) and the Administrative Hearing Board designated in the Student Handbook shall not apply to cases falling within this Policy.
10. In the event an applicable complaint or report is received by either SHU or LECOM and pertains to the opposite institution, a Title IX Coordinator (including any Deputy Title IX Coordinator or designee) of the institution that received the complaint shall immediately notify a Title IX Coordinator (including any Deputy Title IX Coordinator or designee) of the other institution. If the Respondent is a SHU student, faculty member or staff, that person will face the Title IX investigation, adjudication, and disciplinary procedures of SHU. If the Respondent is a LECOM student, faculty member or staff, that person will face the Title IX investigation, adjudication, and disciplinary procedures of LECOM. (Appendix D)
11. Individuals shall not make allegations that they know to be untrue or knowingly provide false information during the course of an investigation or other proceedings under this Policy. Making a false complaint or knowingly giving false information is a violation of this Policy and may be a basis for discipline.

D. Recordkeeping

Official records regarding complaints filed under this Policy will be securely and confidentially maintained by the Title IX Coordinator.

VI. RETALIATION IS PROHIBITED

It is a violation of this Policy for any member of the SHU community to retaliate against anyone who makes a report or brings a complaint under this Policy or who cooperates with or otherwise

participates in the investigation or resolution of a complaint or report under this Policy. All direct or indirect forms of retaliation (including, but not limited to, physical, written, oral, social media, etc.) are forbidden. SHU will take steps to prevent retaliation and will also take strong responsive action if SHU finds that retaliation has occurred.

VII. OTHER AVAILABLE ACTIONS AND RESOURCES

A. Contacting Law Enforcement

Certain forms of misconduct covered by this Policy would also be a violation of criminal law. An individual has the option of filing a criminal complaint and may do so with the Campus Police Department, which is located in Admin Annex #115 and can be reached by telephone at (724) 830-4999 or extension x4999 from a campus phone. The Campus Police Department is staffed seven days per week, 24 hours per day. After business hours (5:00 pm – 8:00 am), the Resident Director on duty can be contacted at (724) 433-3942. A criminal complaint may also be lodged with the Greensburg City Police Department, which can be reached at (724) 834-3800. You can also contact the PA State Police at (724) 832-3288.

Telling one's experience to the Title IX Coordinator does not obligate the individual to report it to the police, nor does reporting it to the police obligate someone to file a formal complaint under this Policy – these are separate processes. The SHU process and criminal process can occur simultaneously, or they can occur independently. If a Complainant would like to notify law enforcement, the Title IX Coordinator (or designee) can assist with that notification. SHU encourages these individuals of Sexual Assault and other forms of sexual violence, Dating Violence, Domestic Violence, and Stalking to report those matters to the police.

B. Other On-Campus and Off-Campus Resources

A number of on-campus and off-campus resources (some of which are listed below) are available to assist individuals who have been impacted by this Policy. Those resources include the following:

1. If the incident caused physical injury, the person should seek medical attention immediately and should also preserve any evidence of the incident and injuries as the evidence may assist with the investigation and/or serve as proof of a crime. The following resources are available locally to assist those who experienced the types of misconduct covered by this Policy:
 - a. University Counseling Center, Room 511 Administration Bldg., (724) 838-4295
 - b. Health Services, Room 510 Administration Bldg., (724) 838-4234
 - c. Seton Hill University Center for Family Therapy, Bayley Hall – First Floor, 1 Seton Hill Drive, Greensburg, PA 15601, (724) 552-0339
 - d. Emergency Room – Excelsa Health Westmoreland Hospital, 532 West Pittsburgh Street, Greensburg, (724) 832-4355
 - e. Blackburn Center, (888) 832-2272 (24-hrs.)
2. Additional resources
 - a. University Financial Aid Office, Room 104 Administration Bldg., (724) 830-4731
 - b. University Office of Multicultural and International Services, Room 502 Administration Bldg., (724) 830-1089

- c. Laurel Legal Services, Inc., 16 East Otterman Street, Greensburg, PA 15601, (724) 836-2211 or (800)-253-9558 (Protection from Abuse Orders [PFA])
3. In addition to reporting the misconduct to the Title IX Coordinator or to one of the Deputy Title IX Coordinators as described above (and/or to law enforcement), Complainants are also encouraged to take the following actions:
 - a. Get to a safe place. This may mean simply getting away from the location of the incident, or seeking support from a friend, a Residence Life staff member, or a person with whom the Complainant is comfortable.
 - b. Seek medical attention. The Complainant's well-being is of primary concern. If the incident caused physical harm, the Complainant should seek medical attention immediately at the nearest medical facility.
 - c. Preserve evidence. If the incident was a form of oral/verbal harassment, write the actual slur, joke, or comment on a sheet of paper. If it was written (for example, a flyer or email message), preserve the written evidence. An individual who has been sexually or physically assaulted should do everything possible to preserve any evidence of the incident and injuries because it may be helpful in proving that the alleged criminal offense occurred or in obtaining a protection order.
 - d. Seek support. The local rape crisis center is located at Blackburn Center Against Domestic and Sexual Violence, Greensburg, PA, 1-888-832-2272. The Complainant can also speak to a counselor at a national center by calling the RAINN hotline [800-656-HOPE]. Telling someone is the first step to healing and will help the Complainant re-establish control of the situation.

If the sexual misconduct involved any type of physical contact, especially in the case of non-consensual sexual contact and/or non-consensual sexual intercourse, the Complainant should also consider the steps described in Appendix A to this policy.

VIII. AWARENESS AND PREVENTION EDUCATION

This Policy will be published and widely disseminated to the entire SHU community, included in orientation materials for all new students, faculty, staff, and administrators and be made available through appropriate campus offices.

As an educational institution, SHU recognizes its responsibility to inform students and employees about campus security and prevention of crime. Information and programs to promote awareness and prevention of Sexual Assault and other forms of sexual violence, Dating Violence, Domestic Violence and Stalking are offered throughout the school year. The Title IX Coordinator and the Student Affairs Staff, in conjunction with faculty and other campus offices, including but not limited to, the Counseling Center, Health Services, the Offices of Residence Life and Student Engagement, and the Campus Police Department provide education, awareness and prevention programs for the campus on topics such as date/acquaintance rape, Sexual Assault prevention and response, personal safety, and bystander intervention. See also Appendix B to this Policy for additional information regarding Bystander Intervention. Specific programs have included: Lasting Choices: Protecting Our Campus from Sexual Assault, Bystander Intervention Training, Sex Signals, Sex, Drugs, Alcohol, and Everything In-Between, Red Flag Project, Walk a Mile in Her Shoes, academic coursework (Senior Seminar on Violence Against

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Women in Westmoreland County, Gender in the Workplace, Introduction to Counseling, Female Crime and Delinquency, PhotoVoice project in Art Therapy, Race, Class and Gender, Gender and Social Media), residence hall programs coordinated by the Resident Assistants, and Coffee Talks sponsored by Campus Ministry.

Campus counseling services are available to both the Complainant and the Respondent. Additionally, community-based services are available. See, for example, the information in Section VII-B above. The Title IX Coordinator can provide any member of the campus community with additional information.

Appendix A

Physical Sexual Misconduct: Tips and Steps

If the sexual misconduct you experienced involved any type of physical contact, you should consider taking the following steps:

1. If you can avoid bathing, showering, douching and/or changing your clothes, please do so. However, if you have done these things, it is okay and understandable - evidence can still be collected. If you changed your clothes, please bring them to the hospital - the hospital has evidence bags into which the clothes will be placed.
2. Seek medical care as soon as possible. Medical care is advised because you may have a physical injury that you are unaware of and evidence of the assault can be collected. This evidence collection is part of a Forensic Rape Examination (FRE). This testing is done at most hospital emergency rooms. Forensic Rape Exams can be collected anonymously. This means that the evidence is collected without speaking to the police. The police will simply collect the evidence from the hospital without speaking to you. In Pennsylvania, Complainants who report anonymously have at least two years to determine whether or not they wish to speak to the police. Complainants choosing to report the assault to law enforcement will likely speak, at least briefly, with a police officer while at the hospital or be provided information on how to contact the officer who will be handling your case. Forensic Rape Exams can be collected up to 9 days after an assault occurs. Having a FRE completed does not obligate you to follow through on criminal charges - it just offers you this option. You have the right to decline having an FRE performed entirely or to any specific portion of the FRE. Forensic Rape Exams can be provided at no cost to you or your insurance. You can anticipate the following in connection with your medical care:
 - a. If a medical advocate is not present, you have the right to request a Blackburn Center medical advocate be contacted and be present during the entire process. An advocate from Blackburn Center can meet you in the waiting room of the hospital to explain your options before you even speak with anyone at the hospital. This can be done by calling Blackburn Center's hotline at 1-888-832-2272. Advocates will come to the hospital any time, day or night.
 - b. A physical examination, which may include areas of the body touched or penetrated during the assault. Other bruises or other injuries may be evaluated.
 - c. If you suspect you have been drugged, please alert the nurse at the hospital and request urine testing for drugs. Testing for some drugs must be done within a shorter time frame while others are present for longer periods of time. If you are unable to seek medical care within a short time, collect your urine in a clean container with a tight-fitting lid, place it in the refrigerator, and take it with you to the medical facility. The sample would likely not be usable for evidence in a criminal proceeding, but you would find out for yourself if you were drugged.
 - d. You have the right to ask any questions of the medical practitioner or to request a break whenever you need it. The medical staff should also advise you about follow-up treatment, including information on follow-up testing for STIs and HIV.

Appendix B Bystander Intervention Information

You can actively help prevent incidents before they occur and help to keep your classmates, colleagues, and our campus community safe. Bystander intervention empowers and mobilizes individuals to recognize, intervene, prevent, and/or stop inappropriate comments, actions, and behaviors. All of us play a valuable role in preventing acts that violate the dignity, safety, and welfare of an individual.

Why bystander intervention matters:

Often people do not intervene because they may assume the situation isn't a problem, or feel it is none of their business. They may assume that someone else will do something, or believe that other people weren't bothered by the problem. In some cases, a person might feel their personal safety is at risk. When people do intervene in a situation, they often say it was the right thing to do, and that they would want someone to intervene if the roles were reversed. Research shows that this technique is an effective way to help prevent the problem of sexual violence across campuses and other communities.

The common components of bystander intervention are:

- A. Awareness. A key first step is to heighten awareness so individuals and groups are better able to identify instances of sexual violence.
- B. Sense of Responsibility. A sense of responsibility gives the bystander motivation to step in and take action. Bystanders are much more likely to help friends than strangers and are more likely to help strangers if they see them as part of a group they identify with (like supporting the same sports team).
- C. Perceptions of Norms. Perceptions of peer norms about helping (whether you think your friends are likely to help), and perceptions of authorities' (like teachers') attitudes are related to bystander attitudes. People often mistakenly think others are less supportive of doing something to address sexual violence than they actually are. Studies show links between perceptions of helping, trust, and commitment among community members; trust in campus authorities; and their willingness to take action as a bystander.
- D. Weighing Pros and Cons. People weigh the costs and benefits of getting involved in a risky situation. These include threats to their own safety, negative consequences for their relationships with others, and the potential to change the outcome of a risky situation or to help a Complainant.
- E. Confidence. People who feel more confident in their ability to help are more likely to act. A consistent research finding is that prevention programs, particularly in-person educational and skill workshops, increase individuals' sense that they can take effective action.
- F. Building Skills. People need to know what to do and how to do it. Population survey data shows that many people are at a loss for specific ways to help. Survivors say that friends and family do not always do things that are useful or supportive, and these negative or unhelpful responses make coping with and recovering from abuse much harder. Some of the promise of bystander intervention training is that it can give motivated community members skills to intervene in ways that protect their own safety and are truly supportive to Complainants.
- G. Context. Bystanders also need safety nets for themselves – resources they can call upon and community policies that support intervention.

Appendix C

Healthy, Consensual Relationships

Sexual violence is never the fault of the Complainant. Responsibility for sexual violence is strictly on the people who perpetrate this type of violence. Sexual violence is perpetrated out of a desire to degrade and humiliate someone, not out of a desire for sexual activity. The following tips are offered to help all members of our community understand that only “yes” means “yes” and that consent must be ongoing, affirmative, and freely given for the safety and well-being of all involved.

1. Do not make assumptions about:
 - a. Consent;
 - b. Someone’s sexual availability;
 - c. Whether a person is attracted to you;
 - d. How far you can go; or
 - e. Whether a person is physically and mentally able to consent.
2. Clearly communicate your intentions to your sexual partners and give them a chance to clearly relate their intentions to you.
3. Mixed messages from your partner should be a clear indication that you should step back and communicate your concerns.
4. Do not take advantage of someone who is under the influence.
5. Realize that your potential partner could be intimidated by you or fearful. You may have a power advantage because of your gender or size. Do not abuse that power.
6. Understand that consent to some forms of sexual behavior does not imply consent to other forms of sexual behavior.
7. Silence is not consent. Read your potential partner carefully, paying attention to verbal and non-verbal communication and body language.
8. Do not force someone to have sex with you or have sex with a partner who has not clearly consented to you by words or actions unmistakable in their meaning.

Appendix D

Lake Erie College of Osteopathic Medicine

Agreement between Seton Hill University and the Lake Erie College of Osteopathic Medicine Concerning Investigation, Adjudication and Sanctions Related to Title IX Complaints

Applicability:

This Agreement shall apply whenever a complaint or report is made to either Seton Hill University (SHU) or to the Lake Erie College of Osteopathic Medicine (LECOM), implicating either SHU's - University-Wide Policy Against Discriminatory Harassment, Sexual Harassment, Sexual Assault and Other Forms of Sexual Violence, Dating Violence, Domestic Violence and Stalking or LECOM's Title IX Policy of Prohibiting Sexual Misconduct, Relationship Violence and Stalking if at least one Complainant (alleged victim) or one Respondent (alleged perpetrator) is a member of the SHU community (faculty, staff or student) and at least one Complainant or one Respondent is a member of the LECOM community (faculty, staff or student).

Procedure:

In the event an applicable complaint or report is received by either institution, a Title IX Coordinator (including any Deputy Title IX Coordinator) of the institution that that received the complaint shall immediately notify a Title IX Coordinator (including any Deputy Title IX Coordinator) of the other institution.

If the Respondent is a Seton Hill University student, faculty member or staff, that person will face the Title IX investigation, adjudication, and disciplinary procedures of Seton Hill University. If the Respondent is a LECOM student, faculty member or staff, that person will face the Title IX investigation, adjudication and disciplinary procedures of LECOM.

Publication:

Seton Hill University agrees to publish this joint procedure as an addendum to its University-Wide Policy against Discriminatory Harassment, Sexual Harassment, Sexual Assault and Other Forms of Sexual Violence, Dating Violence, Domestic Violence and Stalking in order to provide its students, faculty and staff with notice of its contents. LECOM agrees to publish this joint procedure in its Title IX Policy of Prohibiting Sexual Misconduct, Relationship Violence and Stalking in order to provide its students, faculty and staff with notice of its contents.

John M. Ferretti, D.O.
President/CEO, Lake Erie College of Osteopathic Medicine

6/9/16
Date

Mary C. Finger, B.A., M.A., Ed.D.
President, Seton Hill University

6/22/16
Date