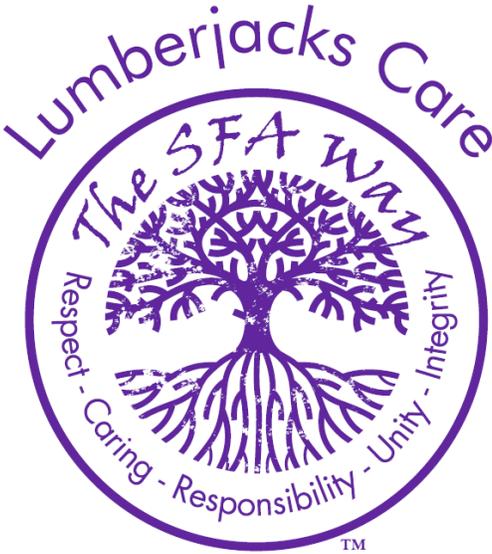


Gender Based Discrimination  
Response & Resource Information Guide



## **Introduction**

Stephen F. Austin State University strives to provide an educational and work environment that affirms the rights and dignity of each individual. It is the policy of the university, in accordance with federal and state law, to prohibit unlawful discrimination on the basis of race, color, religion, national origin, sex, age, disability, genetic information, citizenship and veteran status. Additionally, Stephen F. Austin State University prohibits discrimination on the basis of sexual orientation, gender identity, and gender expression. Unlawful discrimination based on sex includes discrimination defined as sexual harassment.

The Discrimination Complaints policy (2.11) and the Sexual Misconduct policy (2.13) outline the university's commitment and detail the procedures used to investigate reported violations ([www.sfasu.edu/policies](http://www.sfasu.edu/policies)). It is the responsibility of the university president to ensure that SFA and all its constituencies comply with the provisions of this policy and with all federal and state laws, executive orders and regulations regarding non-discrimination.

The university prohibits and will not tolerate sexual misconduct because such behavior violates the university's institutional values, adversely impacts the university's community interest, and interferes with the university's mission. The university also prohibits retaliation against any person who, in good faith, reports or discloses a violation of this policy, files a reported violation, and/or otherwise participates in an investigation, proceeding, reported violation, or hearing under this policy. Once the university becomes aware of an incident of sexual misconduct, the university will promptly and effectively respond in a manner designed to eliminate the misconduct, prevent its recurrence, and address its effects.

## **Title IX Coordinators**

The Title IX Coordinator is the SFA official with responsibility for coordinating the university's efforts to comply with and carry out its responsibilities under Title IX and implementing Title IX regulations, including the investigation of Title IX reported violations.

Dr. Michael Walker  
Mckibben Building, Room 304  
P.O. Box 13032 Nacogdoches, TX 75962-3032  
[TitleIX@sfasu.edu](mailto:TitleIX@sfasu.edu)  
(936) 468-8292  
Fax: (936) 468-6638

Deputy Title IX Coordinator for Students  
Dr. Hollie Smith  
Assistant Dean of Student Affairs  
Baker Pattillo Student Center  
Suite 3.105  
P.O. Box 13066  
Nacogdoches, TX 75962-3066

[TitleXstudents@sfasu.edu](mailto:TitleXstudents@sfasu.edu)

(936) 468-7249

Fax: (936) 468-7111

Deputy Title IX Coordinator for Faculty, Staff, and Third-Parties

Loretta Doty

Director of Human Resources

Austin Building, Suite 201

P.O. Box 13039

Nacogdoches, TX 75962-3039

[TitleXemployees@sfasu.edu](mailto:TitleXemployees@sfasu.edu)

(936) 468-2304

Fax: (936) 468-1104

Deputy Title IX Coordinator for Athletics

Loree McCary

Senior Women's Administrator, SFA Athletics

SFA Athletic Fieldhouse

P.O. Box 13010

Nacogdoches, TX 75962-3010

[TitleXathletics@sfasu.edu](mailto:TitleXathletics@sfasu.edu)

(936) 468-3751

Fax: (936) 468-4052

Deputy Title IX Coordinator for the SFA Charter School

Lysa Hagan CEO/Principal

SFA Charter School, Room 101B

P.O. Box 6072

Nacogdoches, TX 75962-6072

[TitleXcharter@sfasu.edu](mailto:TitleXcharter@sfasu.edu)

(936) 468-5899

Fax: (936) 468-7015

### **What to Do if You or Someone You Know Has Experienced Sexual Misconduct**

If you are concerned about someone's safety or need medical attention, call 911 or go to a medical facility of your choice. The following options are on or near campus:

Student Health Clinic, Stephen B. Tucker Building

Corner of Raguet and East College Streets

*(Students only, 8 a.m.-5 p.m.)*

Nacogdoches Memorial Hospital, 1204 N. Mound Street  
(Students and staff, 24 hours)

Excel ER, 1420 North Street  
(Students and staff, 24 hours)

### **Steps to Consider:**

#### **Seeking Medical Attention As Soon As Possible**

If you go to a medical facility, the trained professionals can collect necessary physical evidence. Even if you do not opt for forensic evidence collection, health care professionals can treat injuries and take steps to address concerns of pregnancy and/or sexually transmitted infections.

#### **Preserving Evidence**

It is important to preserve physical evidence of an assault even if you do not yet know whether you want to report the assault or pursue filing a reported violation. Evidence is best collected as soon as possible or at least within 72 hours of the incident. Do not shower to avoid washing away evidence. You can also preserve evidence by saving text messages, instant messages, and other communications that may be useful to investigators.

#### **Reporting the Sexual Misconduct**

Although the university strongly encourages all members of the community to immediately report sexual misconduct to law enforcement, you have a choice whether to make such a report, and you can decline to involve the police. Refer to the *Options for Reporting Sexual Misconduct* section for more information.

#### **Reports may be made by:**

- An individual who has experienced sexual misconduct;
- Anyone who receives a report from someone who experienced sexual misconduct; and/or
- Anyone who witnesses or otherwise has information that sexual misconduct may have occurred.

The university encourages individuals to immediately report incidents of sexual misconduct, but we recognize that some individuals may be reluctant at first. Although there is no specific time limit, we recommend reporting as soon as possible.

#### **Tips for Responsible Employees: How to Respond to a Disclosure of Sexual Assault**

##### **During the disclosure:**

- If a student begins to share information about an experience of sexual misconduct, try to compassionately interrupt them to remind them of your duty to report to the Title IX coordinator.

- Be clear that they can still talk to you but you want them to be able to make an informed decision about whether or not to continue
  - If they hesitate, offer them the information about the confidential resources on campus found on the inside cover of this guide
- If they choose to continue, provide nonjudgmental, compassionate support. Try to avoid asking questions about the incident or experience and refrain from telling them what you think they should do.
- Do not assume you know how the student feels or anything related to their emotional affect.
- Refer the student to appropriate confidential and reporting resources in the following section. Let them know that the confidential resources will not disclose anything about the incident to anyone.

After the disclosure:

- Ask the student if they would like to sit with you while you complete the online form ([www.sfasu.edu/lumberjacks-care](http://www.sfasu.edu/lumberjacks-care)).
- Let them know that they can request confidentiality in working with the Title IX coordinator and that the institution will do everything possible to maintain their confidentiality.
- Fill out the report with the information you have. Do not worry about asking the student for details as they will be asked to provide these when they meet with the Title IX designee.
- Ask if the student feels safe leaving. If not ask them if you can call campus police to escort them to where they are going on campus or if they have a friend they can be with.
- Treat the student with the compassion and kindness you have always shown them when you see them.
- Follow up to ask how they are doing. If you see they are struggling (or continuing to struggle) in class or aren't showing up for class or you note a change in appearance or character ask them about it or refer them to the SFA Early Alert Program by completing the Early Alert Form at [www.sfasu.edu/judicial](http://www.sfasu.edu/judicial) (click the Early Alert Program link on the bottom of the page).
  - If the student feels their academic challenges are due to their experience of sexual violence refer them to the Title IX coordinator for support
- Prioritize your self-care; working with someone who has experienced trauma can cause a person to feel a myriad of emotions or reactions. Acknowledge how the disclosure might have impacted your emotional well-being and take action to alleviate any stress it may have caused.

### **Syllabus Statement**

Following is a statement that faculty can include in their syllabus in order to notify students of their reporting obligation as a responsible employee:

#### Statement as a Responsible Employee

Stephen F. Austin State University strives to provide an educational and work environment that affirms the rights and dignity of each individual. It is the policy of the university, in accordance with federal and state law, to prohibit unlawful gender or sex-based discrimination or harassment, including sexual

assault, sexual harassment, intimate partner and dating violence, and stalking. Please be aware that all Stephen F. Austin State University employees (other than those designated as confidential resources such as advocates, counselors, and healthcare providers employed in these capacities by the university and as listed in section 4.5 of Policy 2.13) are required to report information about such discrimination and harassment to the University. This means that if you tell a faculty member about a situation of gender-based discrimination, sexual harassment, and/or sexual violence, or other related misconduct as outlined in Policy 2.13, the faculty member must share that information with the University's Title IX Coordinator. If you would to speak to a confidential resource that does not have this reporting responsibility you can find a list of resources at [www.sfasu.edu/Lumberjacks-care](http://www.sfasu.edu/Lumberjacks-care).

### **Confidential Support Resources for Sexual Misconduct**

#### **Students**

##### **SFA Counseling Services**

Rusk Building - 3rd Floor  
Monday through Friday, 8 a.m.-5 p.m.  
(936) 468-2401  
[counseling@sfasu.edu](mailto:counseling@sfasu.edu)

##### **Student Health Clinic**

Corner of Raguette and East College Streets  
Monday through Friday, 8 a.m.-5 p.m.  
(936) 468-4008  
[healthservices@sfasu.edu](mailto:healthservices@sfasu.edu)

#### **Students and Employees**

##### **Family Crisis Center of East Texas - SFA Office**

Inside the Student Health Clinic  
Monday, Wednesday, Thursday and Friday, 8 a.m-5 p.m.  
Tuesday 1-5 p.m.  
Closed from noon to 1 p.m. daily  
(936) 468-SAFE (7233)  
24 hour crisis Line (800) 828-7233  
[www.familycrisiscenterofeasttexas.com/sfasu-campus-office](http://www.familycrisiscenterofeasttexas.com/sfasu-campus-office)

#### **Reporting Options for Sexual Misconduct and Harassment**

All administrators, faculty, staff, students, and third parties are strongly encouraged to immediately report any incidents of Sexual Misconduct and Other Inappropriate Sexual Conduct to the Title IX coordinator or one of the deputy coordinators. Reporting options, including anonymous, third party, and responsible employee online reporting forms, can be found at the following website:

[www.sfasu.edu/lumberjacks-care](http://www.sfasu.edu/lumberjacks-care). In addition, a link to reporting information is maintained on the university home page.

Following are the options to initiate an investigation:

- Report the incident to a Title IX coordinator using the contact information on page 2;
- File a criminal report with the SFA Department of Public Safety  
232 E. College St., Nacogdoches, Texas  
(936) 468-2608 (non-emergency, from land line)  
(936) 468-2608 (emergency, from cell phone)  
911 (emergency, from landline)  
<http://www.sfasu.edu/dps/>  
or the appropriate law enforcement agency depending on the location of the incident\*;
- Pursue student discipline by contacting the Office for Student Rights and Responsibilities (OSRR)  
(936) 468-2703  
<http://www.sfasu.edu/judicial/>

\* If the incident occurred at a location off-campus, a report may be filed with the appropriate law enforcement agency. No matter the location of the incident, SFA University Police can assist the reporting party in filing a report with the appropriate law enforcement agency.

Reports can be filed by completing the online report form at [www.sfasu.edu/Lumberjacks-care](http://www.sfasu.edu/Lumberjacks-care), sending an email, calling, or meeting with a Title IX coordinator or deputy coordinator. Go to [www.sfasu.edu/lumberjacks-care](http://www.sfasu.edu/lumberjacks-care) for reporting forms, guides, and more information about how to file a report. Reports may be filed anonymously by utilizing the online reporting form found at [www.sfasu.edu/Lumberjacks-care](http://www.sfasu.edu/Lumberjacks-care).

### **Reporting and Investigation Overview**

#### **Assessment of Reported Violation**

The Title IX coordinator or designee will conduct a preliminary assessment of the reported violation and recommend courses of action in consultation with the reporting party.

#### **Notification to Reporting Party of University Offices Offering Assistance**

After receiving a report, the Title IX coordinator or deputy coordinator shall inform the reporting party of available resources and assistance

### **INFORMAL RESOLUTION OF CERTAIN SEXUAL MISCONDUCT COMPLAINTS**

Informal resolution may be appropriate:

- a) With a report not involving Sexual Violence as defined in this policy; and
- b) When both parties are categorically similar (i.e. employee/employee or student/student).

If an informal resolution is deemed appropriate by the Title IX coordinator or designee, then the Complainant will be provided assistance with informally resolving the alleged Sexual Misconduct. Assistance may include, depending on the reported policy violation, providing the Complainant with strategies for communicating with the Respondent that the behavior is unwelcomed and should cease, directing a university official to inform the Respondent to stop the unwelcomed conduct, or other informal resolution designed to stop, remedy, and prevent future incidents. However, the university may take more formal action, including disciplinary action, to ensure an environment free of Sexual Harassment or Sexual Misconduct.

A Complainant may end this informal process at any time and proceed with a formal report and investigation.

#### Timeframe

Informal resolutions should be completed no later than 10 business days after the Title IX coordinator receives the request for informal resolution. Should an informal resolution take longer, a justification for the delay will be provided to the parties by the Title IX coordinator.

#### Confidentiality and Documentation

The university will document informal resolutions. The Title IX coordinator will retain the documentation. If the Complainant or Reporting Party wishes to remain anonymous, the university's ability to establish facts and eliminate the alleged misconduct will be limited. The university will attempt to find the right balance between the Complainant's or Reporting Party's desire for privacy and confidentiality and its responsibility to provide an environment free of Sexual Misconduct.

#### **INTERIM MEASURES AND ONGOING ASSISTANCE**

In addition to the services provided by on- and off-campus providers, the university will take immediate and interim measures to assure the safety and well-being of the Complainant; to maintain an environment free from harassment, discrimination or Retaliation; and to protect the safety and well-being of community members (for example, if the accused is an employee, interim action may include reassignment and/or suspension. If the accused is a student, interim action may include suspension, no contact orders, changing living arrangements, modifying the course schedule, or modifying other aspects of the educational environment). *Active participation in an investigation is not required for the provision of interim measures.*

Interim action may also include allowing the Complainant to move to a new residence hall, change work schedules, alter academic schedules, and withdraw from or retake a class without penalty. Moreover, the university may be able to provide additional accommodations for a Complainant while an investigation is pending.

At the outset of an investigation, students alleging policy violations involving violence, including but not limited to Sexual Assault, Domestic Violence, Dating Violence, or Stalking, and who are enrolled in the

same course with a Respondent, may withdraw from the course without any academic penalty as an interim measure. This same option is available to the Respondent.

## **FORMAL COMPLAINT AND INVESTIGATION**

### **Formal Complaint**

To begin the investigation process, the Complainant or Reporting Party should submit a signed, written statement providing the details of the conduct that is the reason for the reported policy violation, including the Complainant's or Reporting Party's name, signature, and contact information; the name of the person(s) directly responsible for the alleged violation; a detailed description of the conduct or event that is the basis of the alleged violation; the date(s) and location(s) of the occurrence(s); the names of any witnesses to the occurrence(s); the resolution sought; and any documentation or information that is relevant to the reported policy violation. The university may initiate an investigation regardless of the manner in which a reported policy violation is received; however a detailed written complaint may enhance the investigation. If the complaint is not in writing, the investigator should prepare a statement of what he or she understands the reported violation to be after the initial interview and ask the Complainant to verify that statement.

### **Investigation and Findings**

- A. An investigator will be assigned to investigate the reported policy violation.
- B. As part of the investigation process, the Complainant and the Respondent will be provided notice of the reported policy violation and be allowed five (5) business days to respond in writing. If the Complainant or Respondent has evidence that there is a conflict of interest or other bias between them and the Title IX coordinator or investigator assigned to the investigation, such individual should describe and provide the evidence of the conflict of interest or bias in their response. Substantiated conflicts of interest or other bias will be handled in accordance with Section 8.3 of the SFA Sexual Misconduct policy (2.13).
- C. As part of their response, the Complainant and the Respondent may present any document or information that is believed to be relevant to the reported policy violation.
- D. Persons thought to have information relevant to the reported policy violation will be interviewed and those interviews will be appropriately documented. Both the Respondent and the Complainant may recommend witnesses for interview and suggest questions that should be asked. Neither the Complainant nor the Respondent will normally attend these interviews or the gathering of evidence; however, if either one is permitted to attend, the other shall have the same right.

- E. After the investigation is complete, a written report<sup>1</sup> will be issued to the Title IX coordinator and the appropriate administrator. The appropriate administrator will depend on the status of the Respondent (i.e., student, faculty, employee, or third party). The report shall include a summary of the reported policy violation and investigation, factual findings, and a conclusion regarding whether a policy violation occurred (based on a Preponderance of the Evidence standard).
- F. Prior to completing the final written report, the Complainant and Respondent will be provided an opportunity to review a preliminary report outlining the reported policy violation and investigation process, including relevant evidence and factual findings. The Complainant and Respondent will be provided an opportunity to review this information and respond to the investigator if any relevant information or evidence has not been included or is misrepresented in the preliminary report. If necessary, additional investigation or clarifications will be made before completing the final written report, which will include a conclusion regarding whether a policy violation occurred based on preponderance of the evidence.
- G. The Complainant and Respondent shall be informed concurrently in writing, of the finding(s). Each will be allowed to inspect the report or, at the university's discretion, be provided letters summarizing the findings in the report in keeping with FERPA and Texas Education Code, Section 51.971 to the extent applicable.
- H. If the Respondent is found responsible for violation of this policy, after the appeal process in has concluded (see the following subsection, APPEAL), the matter will be referred to the appropriate administrator who will impose disciplinary action or sanction(s) in accordance with applicable policies and procedures dependent on the status of the Respondent (i.e. student, faculty, or employee).

### **Provisions Applicable to the Investigation**

#### **Assistance**

During the investigation process, a Complainant or Respondent may be assisted by an advisor of their choosing, however, the advisor may not actively represent the Complainant or Respondent in any meeting or interview. Failure to abide by this policy may result in the advisor being dismissed from the meeting or interview.

#### **Documentation**

The university shall document reported policy violations and their resolution and retain copies of all materials in accordance with state and federal records laws and university policy.

#### **Conflicts of Interest**

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<sup>1</sup> Appropriate report redactions will be made to comply with Texas Education Code, Section 51.971, to the extent applicable.

In the event a conflict of interest (or related bias) exists between a Complainant/Respondent and a university official responsible for any part of the investigation or disposition of the reported policy violation, the university will determine if a conflict of interest (or other related bias) exists, and, if so, make appropriate substitutions for that individual's role in the process.

### **STANDARD OF PROOF**

All investigations under this policy will use the Preponderance of the Evidence standard to determine violations of this policy.

### **TIMELINES**

Barring any unforeseen and reasonable delays, the university will make a good faith effort to conduct a thorough, fair, reliable, and impartial investigation in a timely manner. If an investigation and resolution goes beyond sixty (60) calendar days after the initial report was received and the Respondent was placed on notice, the university will notify all appropriate parties in writing of the reason for the delay and the expected time frame adjustment. Best efforts will be made to complete the process in a timely manner by balancing principles of thoroughness and fundamental fairness with promptness.

At the request of law enforcement, the university may defer its fact-gathering until after the initial stages of a criminal investigation. The university will nevertheless communicate with the Complainant regarding their rights, procedural options, the status of the investigation, and the implementation of interim measures to ensure the safety and well-being of the Complainant. The university will also communicate with the Respondent regarding the rights, procedural options and information regarding the status of the investigation as they relate to the Respondent. The university will promptly resume its fact-gathering as soon as law enforcement has completed its initial investigation, or if the fact-gathering is not completed in a reasonable time.

The university will not wait for the outcome of a concurrent criminal or civil justice proceeding to take action. The university has an independent duty to investigate reported policy violations of Sexual Misconduct.

The filing of a complaint under this policy does not excuse the Complainant from meeting time limits imposed by outside agencies. Likewise, the applicable civil or criminal statute of limitations will not affect the university's investigation of the reported policy violation.

### **APPEAL**

Each party will have five (5) business days from the date the report/letter is issued via e-mail to each party to submit a written appeal of the finding(s) using the "Sexual Misconduct Appeal of Investigation Findings" online form to the Title IX coordinator. An appeal is not intended to re-hear or re-argue the matter and is limited to the following grounds:

- a) substantive procedural error that resulted in preventing a fair, impartial, or proper investigation. Deviations from the designated procedures will not be a basis for sustaining an appeal unless material harm or prejudice results;

- b) discovery of substantial new evidence that was unavailable at the time of the investigation and which reasonably could have affected the findings of the investigator; and/or
- c) finding(s) not supported by the evidence.

If an appeal is filed, the other party will have two (2) business days to file a response to the appeal.

Appeals will be reviewed within seven (7) business days after being received. The Title IX coordinator will submit all appeal materials to an appeal panel consisting of three (3) members from a pool of trained individuals, typically deputy Title IX coordinators or investigators not affiliated with the matter.

The appeal panel may:

- a) affirm or uphold the determination,
- b) request further investigation into the reported violation, or
- c) take such other action as may be warranted under the circumstances.

The Complainant and the Respondent shall be informed concurrently in writing of the decision.

### **REMEDIES**

In addition to sanctions that may be imposed pursuant to the appropriate disciplinary policy, the university will take appropriate action(s), including but not limited to those below to resolve reported policy violations of Sexual Misconduct, prevent any recurrence and, as appropriate, remedy any effects:

- a) Imposing sanctions against the Respondent, including attending training, suspension, termination or expulsion;
- b) Ensuring the Complainant and Respondent do not share classes, working environments, or extracurricular activities;
- c) Making modifications to the on campus living arrangements of the Respondent or Complainant (if the Complainant requests to be moved);
- d) Providing comprehensive, holistic support services including medical, counseling, and academic support services, such as tutoring;
- e) Providing the Complainant extra time to complete or re-take a class or withdraw from a class without academic penalty, and minimizing any financial implications to the extent permitted by applicable law or regulation;
- f) Determining whether Sexual Misconduct adversely affected the Complainant's university standing;
- g) Conducting, in conjunction with university leaders, a university climate check to assess the effectiveness of efforts to ensure that the university is free from Sexual Misconduct, and using that information to inform future proactive steps that the university will take;
- h) Providing targeted training for a group of students or employees if, for example, the Sexual Misconduct created a Hostile Environment in a residence hall, department, student organization, or on an athletic team. Bystander intervention and Sexual Misconduct prevention programs may be appropriate;

- i) Issuing policy statements or taking other steps to clearly communicate that the university does not tolerate Sexual Misconduct and will respond to any incidents and to any individual who reports such incidents.

These remedies are separate from, and in addition to, any interim measures that may have been provided before the end of the university's investigation. If the Complainant did not take advantage of a specific service (e.g., counseling) when offered as an interim measure, the Complainant should still be offered, and is still entitled to, appropriate final remedies that may include services the Complainant declined as an interim measure. A refusal at the interim stage does not mean the refused service or set of services should not be offered as a remedy.

### **SANCTIONS AND DISCIPLINE**

Disciplinary action against faculty and employees will be handled under the university's policies for discipline and dismissal of faculty and employees. Disciplinary actions may include, but are not limited to, written reprimands, the imposition of conditions, reassignment, suspension, and dismissal. The vice president for university affairs, or designee, will impose disciplinary action, if any, against a student under the university's student disciplinary procedures. Student disciplinary actions may include, but are not limited to, probation, suspension, or expulsion.

In accordance with federal law, when disciplinary action is commenced because of a violation of this policy, both parties will have equal opportunities in all aspects of the sanctioning process including notices and advisor assistance. Further, the standard of proof in determining the outcome will be the Preponderance of the Evidence, as defined in this policy.

### **Additional Conduct Violations**

#### **Retaliation**

Any administrator, faculty member, student, or employee who knowingly and intentionally engages in any retaliatory action or behavior as outlined in this policy against any individual(s) involved in a case or investigation is subject to additional disciplinary action, up to and including expulsion and/or termination from the university. Individuals considered involved in a case or investigation include, but are not limited to, the Complainant(s); Reporting Party(ies); Respondent(s); any witness(es); and anyone who has provided information in connection with a violation, and/or participated in an investigation or disciplinary process of a reported violation.

#### **Interference with an Investigation**

Any person who knowingly and intentionally interferes with an ongoing investigation conducted under this policy is subject to disciplinary action up to and including dismissal or separation from the university. Interference with an ongoing investigation may include, but is not limited to:

- a) attempting to coerce, compel, or prevent an individual from providing testimony or relevant information;
- b) removing, destroying, or altering documentation relevant to the investigation; or
- c) providing false or misleading information to the investigator, or encouraging others to do so.

### **No Effect on Pending Personnel or Academic Actions Unrelated to the Reported Violation**

The filing of a report under this policy will not stop or delay any action unrelated to the report, including: (1) any evaluation or disciplinary action relating to a Complainant who is not performing up to acceptable standards or who has violated university rules or policies; (2) any evaluation or grading of students participating in a class, or the ability of a student to add/drop a class, change academic programs, or receive financial reimbursement for a class; or (3) any job-related functions of a university employee. Nothing in this section shall limit the university's ability to take interim action.

### **False Reports**

A charge of filing a false report may be made by the university against any person who knowingly and intentionally files a false report under this policy. An individual found responsible is subject to disciplinary action up to and including dismissal or separation from the university. A finding of non-responsibility does not indicate a report was false.

Complete details regarding the reporting and investigation process can be found in the Sexual Misconduct policy ([www.sfasu.edu/policies](http://www.sfasu.edu/policies)). SFA is committed to creating an environment free of all forms of gender discrimination. Should you have any questions about your rights and responsibilities under this policy, you may contact the Title IX coordinator or go to [www.sfasu.edu/Lumberjacks-care](http://www.sfasu.edu/Lumberjacks-care) for more information.

### **Self-Care During the Investigation Process**

Going through the investigation process can be a stressful experience. Gathering and presenting documentation, writing a response, identifying witnesses, being interviewed, reviewing the report or letter once a decision is made, and waiting can all have an impact on one's stress level and daily functioning. The following information is offered to help you manage any stress you may be feeling during the process.

**Consider talking to someone.** Confiding in a trusted friend or family member can be very helpful at a stressful time. This person would be someone who would not share your information with anyone else, who makes you feel believed and supported, who will not ask you a lot of questions, and who can be an excellent, empathic listener. Your friends want to support you at a time like this so do not be concerned about burdening them. Students can also contact SFA Counseling Services (936.468.2401) and schedule an appointment. All information shared is confidential.

**Surround yourself with positive, supportive people.** Even those who do not know about your experience can be a source of support or discouragement during this process. Spend time with people that help you feel optimistic and hopeful. Also, limit your social media exposure to only those sites that are positive and uplifting.

**Learn more about resources.** Talk to the Family Crisis Center advocate at SFA to learn more about what to expect from the process and the services they can provide to support you (936.468.7233).

**Consider having a confidential advisor with you at meetings or interviews.** While your confidential advisor will not actively participate in the process, their presence can be comforting and supportive during the experience. An advisor can be anyone you choose such as a trusted friend or family member.

**Attend to your physical wellness.**

- Do what you can to get enough sleep. It might be difficult but engaging in a supportive sleep ritual can help in the restoration and maintenance of your body and mind.
- Healthy and well-balanced meals. Even if you do not have an appetite, do what you can to nourish your body.
- Consider engaging in some form of physical activity. Physical activity is one of the best things one can do for stress management. Walking, gentle stretching, or yoga can be enough to encourage the release of stress management neurotransmitters in the brain.
- Stick with your routine. What were your start of day and end of day habits before the investigation process? Try to maintain those habits in your daily life.
- Limit or eliminate alcohol or drug use. Alcohol and other drugs (including caffeine, nicotine, and sugar) can seem like an escape but can, in fact, contribute to greater feelings of stress, anxiety, and depression.

**Definitions-Policy 2.13**

Complainant – refers to the individual(s) who are alleged to have been impacted by a violation of this policy.

Respondent – refers to the individual(s) who is accused of violating this policy.

Reporting Party—refers to the individual(s) who submitted/made the report alleging a violation of this policy. The Reporting Party and Complainant may or may not be the same person, for example reports submitted by anyone designated as a Responsible Employee under this policy.

Preponderance of the Evidence – The greater weight of the credible evidence. Preponderance of the Evidence is the standard for determining allegations of Sexual Misconduct under this policy. This standard is satisfied if the action is deemed more likely to have occurred than not.

Sexual Misconduct – A broad term encompassing a range of non-consensual sexual activity or unwelcome behavior of a sexual nature. The term includes Sexual Assault, Sexual Exploitation, sexual intimidation, Sexual Harassment, domestic violence, Dating Violence, Stalking, and Other Inappropriate Sexual Conduct. Sexual Misconduct can be committed by men or women, strangers or acquaintances, and can occur between or among people of the same or opposite sex.

Sexual Assault – Refers to any sexual contact or intercourse with a person without the person’s Consent, including sexual contact or intercourse against the person’s will or in a circumstance in which the person is incapable of Consenting to the contact or intercourse and includes but is not limited to any offense that meets the definition of Rape, Fondling, Incest, or statutory Rape:

- a) Rape: 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 person.
- b) Fondling: The touching of the private body parts of another person for the purpose of sexual gratification without the Consent of the person, including instances where an individual is incapable of giving Consent because of the person’s age or because of a temporary or permanent mental incapacity.
- c) Incest: Sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.
- d) Statutory Rape: Sexual intercourse with a person who is under the statutory age of Consent.

Sexual Exploitation – Occurs when an individual takes non-consensual or abusive sexual advantage of another for his or her own benefit, or to benefit anyone other than the one being exploited. Examples of Sexual Exploitation include, but are not limited to, engaging in voyeurism; forwarding of pornographic or other sexually inappropriate material by email, text, or other channels to non-Consenting students/groups; and any activity that goes beyond the boundaries of Consent, such as recording of sexual activity, letting others watch consensual sex, or knowingly transmitting a sexually transmitted infection (STI) to another.

Sexual Harassment – Unwelcome conduct of a sexual nature including but not limited to unwelcome sexual advances, requests for sexual favors, or other verbal or physical conduct of a sexual nature, when submission to such conduct is made either explicitly or implicitly a term or condition of a person's student status, employment, or participation in university activities; such conduct is sufficiently severe or pervasive that it interferes with an individual’s education, employment, or participation in university activities, or creates an objectively Hostile Environment; or such conduct is intentionally directed towards a specific individual and has the effect of unreasonably interfering with that individual’s education, employment, or participation in university activities, or creating an intimidating, hostile, or offensive environment. Sexual Harassment is a form of sex discrimination that includes:

- a) Sexual Violence, Sexual Assault, Stalking, domestic violence and Dating Violence as defined herein.
- b) Physical conduct, depending on the totality of the circumstances present, including frequency and severity, including but not limited to:
  - i. unwelcome intentional touching; or
  - ii. deliberate physical interference with or restriction of movement.
- c) Verbal conduct not necessary to an argument for or against the substance of any political, religious, philosophical, ideological, or academic idea, including oral, written, or symbolic expression, including but not limited to:
  - i. explicit or implicit propositions to engage in sexual activity;

- ii. gratuitous comments, jokes, questions, anecdotes or remarks of a sexual nature about clothing or bodies;
- iii. gratuitous remarks about sexual activities or speculation about sexual experiences;
- iv. persistent, unwanted sexual or romantic attention;
- v. subtle or overt pressure for sexual favors;
- vi. exposure to sexually suggestive visual displays such as photographs, graffiti, posters, calendars, or other materials; or
- vii. deliberate, repeated humiliation or intimidation based upon sex.

Consent – involves a voluntary, ongoing, mutual understanding among all participants that indicates a willingness through words or clear unambiguous actions that demonstrate a knowing, intentional agreement to engage in each instance of sexual activity. Knowledge of Consent is the responsibility of each person involved in every instance of sexual activity and Consent can be withdrawn at any time.

#### Examples of Ineffective or Absence of Consent

The following list provides examples of when Consent has not been obtained or is not effective. This list is not exhaustive:

Consent is not effective when any participant in the sexual activity is unsure if a knowing, intentional, voluntary agreement to engage in each act of sexual activity has been demonstrated.

Consent is not effective if one person knew or reasonably should have known that another person involved was incapacitated.

Consent to one act does not imply Consent to another.

past Consent does not imply future Consent.

Consent to engage in sexual activity with one person does not imply Consent to engage in sexual activity with another.

any expression of an unwillingness to engage in any instance of sexual activity establishes a presumptive lack of Consent.

Consent is not effective if it results from: (a) the use of physical force, (b) a threat of physical force, (c) intimidation, (d) Coercion, (e) Incapacitation or (f) any other factor that would eliminate an individual's ability to exercise their own free will to choose whether or not to have sexual activity.

a current or previous dating or sexual relationship, by itself, is not sufficient to constitute Consent. Even in the context of a relationship, there must be a voluntary, mutually understandable agreement that clearly demonstrates a willingness to engage in each instance of sexual activity.

The definition of Consent for the crime of Sexual Assault in Texas can be found in Section 22.011(b) of the Texas Penal Code.

Coercion - the practice of compelling another party to act by use of intimidation or threats.

Dating Violence – includes abuse or violence, or a threat of abuse or violence, against a person with whom the actor has or has had a social relationship of a romantic or intimate nature. The existence of such a relationship shall be determined by the individual subjected to the violence with consideration of the following factors:

- a) The length of the relationship;
- b) The type of relationship; and
- c) The frequency of interaction between the persons involved in the relationship.

Dating Violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse. It does not include acts covered under the definition of domestic violence.

Domestic (Family) Violence– includes felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the individual subjected to the violence, by a person with whom the individual subjected to the violence shares a child in common, by a person who is cohabitating with or has cohabitated with the individual subjected to the violence as a spouse or intimate partner, by a person similarly situated to a spouse of the individual subjected to the violence under the domestic or family violence laws of the state of Texas, or by any other person against an adult or youth subjected to the violence who is protected from that person’s acts under the domestic or family violence laws of the state of Texas.

Stalking – Engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for his or her safety or the safety of others, or suffer substantial emotional distress. For the purposes of this definition—

- a) 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.
- b) *Reasonable person* means a reasonable person under similar circumstances and with similar identities to the person subjected to the Stalking behavior.
- c) *Substantial emotional distress* means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling.

### **Sexual Misconduct Prevention and Education at SFA**

In the spirit of the SFA way and to promote a culture of respect and understanding among all Lumberjacks, SFA offers a variety of sexual misconduct and violence prevention and education activities available to those who would like to learn more about sexual misconduct and sexual violence prevention as well as those who would like to be more involved in prevention and education.

### **SFA SWAT (Student Wellness Action Team)**

SFA SWAT is made up of SFA students who are trained to provide education through presentations, outreach, and advocacy in sexual violence prevention, bystander empowerment, alcohol education, comprehensive wellness, and mental health and stress management. To schedule a presentation or event or if you are interested in joining SWAT please contact them at [sfaswat@gmail.com](mailto:sfaswat@gmail.com)

### **Lumberjacks Care**

The sexual violence prevention and education program through Lumberjacks Care can provide education and training to educate students and employees about sexual violence prevention and support response, gender-based discrimination and prevention, and how to support a survivor.

### **Voices for Change by Get Inclusive**

All incoming students are required to complete an online, interactive training that covers information about preventing and responding to sexual misconduct, including how to identify and intervene in a potentially harmful situation.

To access this and other trainings:

Click on the link in the email sent to your .jacks account from Get Inclusive

or follow these instructions:

1. Go to [www.sfasu.edu](http://www.sfasu.edu) on your web browser (we recommend you use Google Chrome or Firefox)
3. Click on **My SFA** at the top right hand side of the page
4. **Enter** your user name and password and click login to access your **My SFA account**
5. Once you have logged in, scroll down the page to the Student Training section on the right side
6. Click on the **red Student Training link, which will open another website.**
7. Click the **Student Empower Plus link** to start the training.

## **Additional Information about Sexual Misconduct and Violence**

More information about Title IX at SFA:

[www.sfasu.edu/Lumberjacks-care](http://www.sfasu.edu/Lumberjacks-care)

The complete Sexual Misconduct policy (2.13):

[www.sfasu.edu/policies](http://www.sfasu.edu/policies)

The complete Discrimination Complaint policy (2.11):

[www.sfasu.edu/policies](http://www.sfasu.edu/policies)

University Police Department:

<http://www.sfasu.edu/dps/>

(936) 468-2608 (non-emergency)

Lumberjack Guardian Mobile App:

<http://www.sfasu.edu/dps/lumberjack-guardian.asp>

Family Crisis Center of East Texas:

<http://www.familycrisiscenterofeasttexas.com/sfasu-campus-office/>

24 hour crisis Line (800) 828-7233

## **National Resources**

The National Domestic Violence Hotline

<http://www.thehotline.org/>

1-800-799-7233

1-800-787-3224 (TTY)

The Rape, Abuse, and Incest National Network

<https://www.rainn.org/>

1-800-656-HOPE(4673)

Learn About Dating Violence

<http://www.breakthecycle.org/learn-about-dating-violence>