



SOUTHEAST MISSOURI STATE UNIVERSITY • 1873[®]

BOARD OF REGENTS MEETING 1:00 pm, Tuesday, August 11, 2020 Via Zoom Web Conference

Open Session Agenda

Welcome, Roll Call, and Call to Order

ACTION ITEMS:

Attachment

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Page #

1-O. Consideration of Motion for “Closed Session for Appropriate Considerations:” (Gargas)

- A. RSMo 610.021.1 – pertaining to legal actions, causes of action or litigation involving a public governmental body and confidential/privileged communications between the Board and its attorneys

ACTION ITEM:

2-O. Reconvene Open Session (*Gargas*)

3-O. Announcement of Actions Taken in Closed Session (*Martin*)

4-O. Consideration of Approval of Revised Business Policy Section, 01-02 Title IX Compliance, Sexual Discrimination, Sexual Harassment, Sexual Misconduct/Sexual Violence; and Rescind Section 03-05, Anti-harassment and replace with a revised policy 01-03 on Anti-Harassment and Non-Discrimination of the Business Policy and Procedures Manual (*Rucker*) A

5-O. Consideration of Approval of New Business Policy Statement, 01-19 Freedom of Expression (*Martin*) B

7-O. Consideration of Motion to Adjourn Board of Regents Meeting (*Gargas*)



SOUTHEAST MISSOURI
STATE UNIVERSITY · 1873®

BOARD OF REGENTS

MOTION CONSIDERATION FORM

August 11, 2020

Open Session

I. Motion to be Considered:

Approve the attached revised policy statements of section 01-02, Title IX Compliance Sexual Discrimination, Sexual Harassment, and Sexual Misconduct/Sexual Violence (**Attachment 1**) and rescind Section 03-05, Anti-harassment and replace with a revised policy 01-03 on Anti-Harassment and Non-Discrimination (**Attachment 2**) of the Business Policy and Procedures Manual.

II. Background:

The University Business Policies and Procedures incorporate federal and state law, and university standards into policies that guide the daily operations of the institution. Policies must be reviewed and updated as needed based on new legislation and court rulings which may directly or indirectly affect university policies.

In November 2018, the Department of Education (ED) published the official version of its proposed Title IX rule in the Federal Register. This was the first significant rule concerning sexual misconduct since 1975 and the first time the Department's Title IX regulations recognized that sexual harassment, including sexual assault, is unlawful sex discrimination. The ED opened the new rule for comments in November 2018 and closed the comment portal on January 28, 2019. On May 19, 2020, the ED published the official version of its final Title IX rule and indicated that August 14, 2020 as the effective date for institutions to incorporate the new guidance.

The newly revised Title IX guidelines replaces the extensive guidance offered by the ED's April 2011 Dear Colleague Letter (DCL). The May 2020 Final Title IX Rule determined that the 2011

Recommended By:

Student Government _____
Faculty Senate _____
Administrative Council _____
VP, Enroll. Man. & Stu. Suc. _____
VP, Finance & Admin. _____
VP, University Advancement _____

Chairperson _____
Dean *[Signature]* _____
Academic Council _____
Provost _____

President *[Signature]* _____

Board Action on: _____

Motion By: _____
Second By: _____
Vote: Yeas: _____ Nays: _____
Abstentions: _____

Postpone: _____
Amend: _____
Disapprove: _____
Approve: _____
Secretary: _____


DCL guidance did not provide appropriate standards for how recipients [collectively “schools”] must respond to incidents of sexual harassment and proposed regulations that address sexual harassment under Title IX that would better align the Department's regulations with the text and purpose of Title IX and Supreme Court precedent and other case law. The newly revised changes to Title IX, includes new rules that mandate how institutions of higher education must respond to reports of sexual harassment, sexual assault, and (dating and domestic violence, and stalking cases) previously referred to as VAWA (Violence Against Women Act) involving students, faculty, and staff.

Summary of the Major Provisions of the revised Title IX guidance:

The newly revised Final Rule on Title IX requires Southeast to incorporate language from the Final Title IX Rule including updating the definition of sexual harassment, to include sexual assault, as a form of unlawful discrimination; along with dating violence, domestic violence, or stalking (as those offenses are defined in the Cleary Act and the Violence Against Women Act {VAWA}). In addition, further changes will include revisions to how the University will investigate Title IX complaints in accordance with the Procedures for Defining and Adjudicating Title IX cases, the grievance process, and the hearing and appellate processes.

Attachment 1 is an updated Title IX Compliance policy statement for section 01-02 of the Business Policy and Procedures Manual which reflects the new Title IX Final Rule. Because the University’s current Anti-harassment Policy (03-05) includes a definition of sexual harassment and addresses other discriminatory behavior which is covered in section 01-03 Non-Discrimination, it is recommended that section 03-05 be rescinded. It is further recommended that section 01-03, be revised as Anti-Harassment and Non-Discrimination (**Attachment 2**) for approval for the University’s Business Policy and Procedures Manual.

If approved by the Board, both policies will be updated on the electronic version of the Business Policies and Procedures Manual maintained on the University website. In addition, any references to these policies in printed brochures or other materials will be updated at their next printing.

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| | | Section: ADMINISTRATION | | | |
| | | Subject: TITLE IX COMPLIANCE: SEX DISCRIMINATION, SEXUAL HARASSMENT, SEXUAL MISCONDUCT/SEXUAL VIOLENCE | | | |

GENERAL STATEMENT OF POLICY


Southeast Missouri State University is committed to fostering a safe, healthy and civil learning and working environment that is free from all forms of discrimination based on sex in accordance with Title IX of the Education Amendments Act of 1972, and to promoting a culture of mutual respect for all members of the University community. This policy has been developed to reaffirm these principles and to provide recourse for those individuals whose rights have been violated. This policy is intended to define community expectations and establish a mechanism for determining when those expectations have been violated. To this end, through this policy, the University provides means to address sex discrimination, sexual harassment, sexual misconduct, and other related misconduct, including retaliation for alleging claims under this Policy or participating in proceedings under this Policy. Other forms of discrimination on the basis of sex or gender are addressed through the University's Anti-Harassment and Non-Discrimination Policy. The goals of this policy are to prevent all forms of sex discrimination, sexual harassment and related misconduct, to promptly address and remedy such behavior if it occurs, and to prevent its recurrence.

Southeast Missouri State University upholds the tenets of Title IX, which states that *"No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance."* Title IX and this policy prohibit sex discrimination, sexual harassment, sexual violence, sexual assault, and related misconduct. Acts which do not fall within the Title IX definition of sexual harassment may still violate University policy. Further, acts of sex discrimination, sexual harassment, sexual misconduct, or sexual violence may also violate applicable criminal law.

The prohibition in Title IX and this policy against sex discrimination, sexual harassment, and sexual misconduct or violence applies to all students, administrators, faculty and staff, applicants for employment and admission, and to third party visitors to the campus. It extends to all aspects of the University's educational programs and activities, including, but not limited to, admission, employment, athletics, academics, housing, and student financial aid programs.

The University maintains policies and procedures for defining and resolving sex discrimination, sexual harassment, and sexual misconduct or violence claims in compliance with Title IX, pursuant to which the University promptly investigates all complaints of sex discrimination, sexual harassment, and sexual misconduct or violence of which it is put on notice, and takes appropriate steps to provide prompt and equitable resolution with due respect for the rights of all concerned. If it is determined that a violation of this policy has occurred, the University takes effective remedial action, and provides support and resources, as appropriate, to address the effects of the conduct.

Southeast Missouri State University, including its officers and employees, is responsible for maintaining a working and learning environment free from sex discrimination, sexual harassment, and sexual misconduct or violence. The University publishes and distributes information stating that sex discrimination, sexual harassment, and sexual misconduct or violence are prohibited, both legally and by this policy, and that appropriate procedures for reporting, investigating, and ending sex discrimination, sexual harassment, and sexual misconduct or violence are available. Reprisal or retaliation against an individual for making a complaint of sex discrimination, sexual harassment, and sexual misconduct or violence; asserted a claim regarding such conduct; or for using or

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participating in the informal or formal complaint and/or grievance process, is also prohibited and is considered a serious violation of this policy and Title IX and cause for disciplinary action.

The Title IX Coordinator and Dean of Students shall be responsible for issuing and maintaining operating procedures to implement this policy.

The University's Title IX policy is not meant to inhibit or prohibit educational content or discussions inside or outside of the classroom that include controversial or sensitive subject matters. Such discourse is protected by freedom of speech and academic freedom. Academic freedom extends to topics that are pedagogically appropriate and germane to the subject matter of courses or that touch on academic exploration of matters of public concern.


The University will investigate all Title IX complaints of which it is put on notice in accordance with the Procedures for Defining and Adjudicating Title IX Cases. All other complaints of discrimination or harassment against students, faculty, and staff, including, but not limited to, those based on race, ethnicity, religion, national origin, age, genetic information, disability, or protected veteran status, may be addressed and resolved using the University's Business Policy and Procedure 01-03: Nondiscrimination and Anti-Harassment.

If the University receives notice of sex/gender harassment, sex discrimination, sexual violence, or when an allegation of other forms of sexual misconduct are brought to the attention of the Office of Institutional Equity and Diversity, the University's Title IX Coordinator, or any other appropriate school designee, all reasonable steps to respond will be taken and all relevant details about the alleged misconduct which has been reported will be investigated. Supportive measures will be used to reasonably ensure that such conduct ends, is not repeated, and the effects on the parties and community are remedied, including imposing the appropriate sanctions when a Respondent is found to have violated this policy.

For complaints against faculty, staff, or third-party affiliates:

Sonia R. Rucker
Title IX Coordinator/Dean of Students
Office of Institutional Equity and Diversity
011 Academic Hall, MS 3375
Cape Girardeau, MO 63701
Office: (573) 651-2524
Email: equityissues@semo.edu

Trae Mitten
Title IX/Civil Rights Investigator/Assistant Dean of Students
Office of Institutional Equity and Diversity
010A Academic Hall, MS3375
Cape Girardeau, MO 63701
Office: (573) 651-2524
Email: lrnitten@semo.edu

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Individuals experiencing sex discrimination, sexual harassment, and sexual misconduct or violence also always have the right to file a formal grievance with government authorities:

Office of Civil Rights

Inquiries concerning the application of Title IX also may be referred to the United States Department of Education's Office for Civil Rights. For further information on notice of nondiscrimination, visit <http://wdcrobcolp01.ed.gov/CFAPPS/OCR/contactus.cfm>.

Office for Civil Rights

U.S. Department of Education
One Petticoat Lane
1010 Walnut, 3rd Floor, Suite 320
Kansas City, MO 64106
Telephone: 816-268-0550
FAX: 816-268-0599
TDD: 800-877-8339
Email: OCR.KansasCity@ed.gov.

In the event that an incident involves alleged misconduct by the Title IX Coordinator, reports should be made directly to:

Dr. Carlos Vargas

Office of the President
One University Plaza, MS3300
Academic Hall 144
Cape Girardeau, MO 63701
Email: president@semo.edu.

Additional Resources:

To file a complaint of sexual assault, you may also report to the following:


Southeast Missouri State University

Department of Public Safety
1401 N Sprigg St
Phone: (573) 651-2215
Email: dps@semo.edu

Cape Girardeau Police Department

40 S Sprigg St
911 or (573) 335-6621
Email: police@cityofcapegirardeau.org

The Assistant to the President for Equity & Diversity shall be responsible for maintaining operating procedures to implement this policy

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The University maintains policies and procedures for defining and resolving sex discrimination, sexual harassment, and sexual misconduct or violence claims in compliance with Title IX, pursuant to which the University promptly investigates all complaints of sex discrimination, sexual harassment, and sexual misconduct or violence ~~sexual harassment~~ of which it is put on notice, and takes appropriate steps to provide prompt and equitable resolution with due respect for the rights of all concerned. If it is determined that a violation of this policy has occurred, the University takes effective remedial action, and provides support and resources, as appropriate, to address the effects of the conduct.

Southeast Missouri State University, including its officers and employees, is responsible for maintaining a working and learning environment free from sex discrimination, sexual harassment, and sexual misconduct or violence ~~sexual harassment~~. The University publishes and distributes information stating that sex discrimination, sexual harassment, and sexual misconduct or violence ~~sexual harassment~~ are prohibited, both legally and by this policy, and that appropriate procedures for reporting, investigating, and ending sex discrimination, sexual harassment, and sexual misconduct or violence ~~sexual harassment~~ are available. Reprisal or retaliation against an individual for making a complaint of sex discrimination, sexual harassment, and sexual misconduct or

violencesexual harassment; asserted a claim regarding such conduct; or for using or participating in the informal or formal complaint and/or grievance process, is also prohibited and is considered a serious violation of this policy and Title IX and cause for disciplinary action.

The Title IX Coordinator and Dean of Students shall be responsible for issuing and maintaining operating procedures to implement this policy.

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If the University receives notice of sex/gender harassment, sexual discrimination, sexual violence, or when an allegation of other forms of sexual misconduct are brought to the attention of the Office of Institutional Equity and Diversity, the University's Title IX Coordinator, or any other appropriate school designee, all reasonable steps to respond will be taken and all relevant details about the alleged misconduct which has been reported will be investigated. Supportive measures will be used to reasonably ensure that such conduct ends, is not repeated, and the effects on the parties and community are remedied, including imposing the appropriate sanctions when a Respondent is found to have violated this policy.

For complaints against faculty, staff, or third-party affiliates:

Sonia R. Rucker
Title IX Coordinator/Dean of Students
Office of Institutional Equity and Diversity
011 Academic Hall, MS 3375
Cape Girardeau, MO 63701
Office: (573) 651-2524
Email: equityissues@semo.edu

Trae Mitten
Title IX/Civil Rights Investigator/Assistant Dean of Students
Office of Institutional Equity and Diversity
010A Academic Hall, MS3375
Cape Girardeau, MO 63701
Office: (573) 651-2524
Email: lrnitten@semo.edu

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Individuals experiencing sex discrimination, sexual harassment, and sexual misconduct or violence sexual harassment also always have the right to file a formal grievance with government authorities:

Office of Civil Rights

Inquiries concerning the application of Title IX also may be referred to the United States Department of Education's Office for Civil Rights. For further information on notice of nondiscrimination, visit <http://wdcrobcolp01.ed.gov/CFAPPS/OCR/contactus.cfm>.

Office for Civil Rights

U.S. Department of Education
One Petticoat Lane
1010 Walnut, 3rd Floor, Suite 320
Kansas City, MO 64106
Telephone: 816-268-0550
FAX: 816-268-0599
TDD: 800-877-8339
Email: OCR.KansasCity@ed.gov.

In the event that an incident involves alleged misconduct by the Title IX Coordinator, reports should be made directly to:

Dr. Carlos Vargas

Office of the President
One University Plaza, MS3300
Academic Hall 144
Cape Girardeau, MO 63701
Email: president@semo.edu.

Additional Resources:

To file a complaint of sexual assault, you may also report to the following:

Southeast Missouri State University


Department of Public Safety
1401 N Sprigg St
Phone: (573) 651-2215
Email: dps@semo.edu

Cape Girardeau Police Department

40 S Sprigg St

911 or (573) 335-6621

Email: police@cityofcapegirardeau.org

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| | | Subject: ANTI-HARASSMENT AND NON- DISCRIMINATION | | |


GENERAL STATEMENT OF POLICY

Southeast Missouri State University is committed to providing a safe, inclusive, civil, positive and respectful learning, living, and working environment for its students, faculty, staff, and visitors, free from harassment or discrimination in any form. Through this policy, the University provides means to address discrimination, discriminatory harassment, sexual harassment that does not fall within the scope of the University's jurisdiction under Title IX of the 1972 Education Amendments, and related misconduct. The primary goals of this policy are to prevent discrimination and harassment, to provide for prompt and appropriate remedial action to be taken to address to end such discrimination and harassment when it occurs, and to prevent its recurrence.

This policy prohibiting discrimination and harassment applies to all members of the University community, and to discrimination and harassment based on any classification protected by this policy and applicable law, including race, ethnicity, religion, national origin, sex, gender, sexual orientation, gender identity, age, genetic information, disability, or protected veteran status. Discrimination or harassment by members of the University community based on any of these classifications is reprehensible and will not be tolerated by the University. It subverts the mission of the University and threatens the careers, educational experience, and well-being of students, faculty, and staff.

This policy is intended to be consistent with the academic mission of the University and with the legal requirements of applicable federal and state laws prohibiting harassment or discrimination, including, but not limited to, Title IX of the 1972 Education Amendments, which prohibits discrimination based on sex/gender in the University's educational programs and activities, and requires equal and fair treatment based on sex; and Title VII of the Civil Rights Act of 1964, the Missouri Human Rights Act, the Age Discrimination in Employment Act, the Americans with Disabilities Act, the Rehabilitation Act of 1973, the Vietnam-Era Veterans Readjustment Act, the Genetic Information Nondiscrimination Act of 2008, and all amendments to the foregoing.

This policy also prohibits retaliation against anyone who asserts a claim of discrimination or harassment, participates in a discrimination or harassment investigation, or otherwise opposes unlawful harassment. Reprisal or retaliation against an individual for making a complaint of discrimination or harassment, or for using or participating in the informal or formal complaint process, is a violation of University policy, and any such action is cause for disciplinary action.

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DISCRIMINATION OR DISCRIMINATORY HARASSMENT

Discrimination is generally defined as a materially adverse action affecting the terms and conditions of employment or academic status that is taken because of an individual's race, color, national origin, age, religion, sex, gender, sexual orientation, gender identity or expression, veteran status, disability or genetic information.

Equal Employment Opportunities

The University's nondiscrimination policy and commitment to equal opportunity applies to all applicants for employment, to all phases of the employment process, and to all terms and conditions of employment with the University.

Access to Educational Opportunities

The University's prohibition against discrimination also applies to admission policies and practices, financial aid programs and to all other aspects of the University's educational programs and activities offered or sponsored by the University, in accordance with applicable law, including the requirements of Title IX of the Education Amendments of 1972, which requires the University not to discriminate based on sex in its education programs and activities.


HARASSMENT

Harassment is a form of discrimination. It is generally defined as unwelcome conduct, on or off campus, that is based on race, color, national origin, age, religion, sex, gender, sexual orientation, gender identity or expression, veteran status, disability or genetic information, that (1) is subjectively and objectively offensive, (2) is severe or pervasive, and (3) has the purpose or effect of unreasonably interfering with an individual's work or educational performance and creating an abusive, hostile or intimidating environment for work or learning. Whether conduct constitutes harassment often depends on the totality of the circumstances.

SEXUAL HARASSMENT

The Department of Education's Office for Civil Rights (OCR), the Equal Employment Opportunity Commission (EEOC), and the State of Missouri regard sexual harassment as an unlawful discriminatory practice. Southeast Missouri State University has adopted the following definition of sexual harassment to address the unique environment for our academic community.

Acts of sexual harassment may be committed by any person upon any person, regardless of the sex, sexual orientation, and/or gender identity of those involved. Sexual harassment can be addressed and resolved under the University's Policies and Procedures for Defining and Adjudicating Sexual Harassment. As those Policies and Procedures explain, certain conduct is considered sexual harassment under Title IX, and certain instances of sexual harassment may be adjudicated under the grievance procedures for alleged Title IX violations. Other instances of sexual harassment that do not fall within the Title IX definition of sexual harassment or are outside the scope of the University's Title IX jurisdiction may be addressed under this Policy, the Code of Student Conduct or the Faculty Handbook.

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Consistent with the University's intent to provide an atmosphere and environment conducive to education and professional activities, this policy also covers those activities which, in and of themselves, do not meet the legal definition of sexual harassment, but are inappropriate in professional settings or circumstances. Interpretation of this policy will give consideration to the principles of academic freedom and freedom of speech.

Students may obtain information about the University's sexual harassment policy and resolution procedures may be obtained from the Dean of Students Office, the Office of Institutional Equity & Diversity, the Office of Student Conduct or may be viewed online. Southeast employees may obtain information from the Office of Institutional Equity & Diversity; the Human Resources Offices; or may be viewed online.

A complaint of sexual harassment against an employee, undergraduate, or graduate student should be filed with the Title IX Coordinator regardless of the status of the complainant (i.e., student, faculty, or staff). The complaint will be investigated in accordance with the Procedures for Defining and Adjudicating Title IX Cases. In addition to University channels, a person who believes that she or he has been subjected to discrimination or harassment may file a charge with the Missouri Commission on Human Rights, the Equal Employment Opportunity Commission, or the U.S. Office of Civil Rights. Information on filing charges with any of these agencies may be obtained from the University's Office of Institutional Equity & Diversity.

The Assistant to the President for Equity & Diversity shall be responsible for maintaining operating procedures to implement this policy.


For complaints against faculty, staff or third-party affiliates:

Sonia R. Rucker

Assistant to the President for Equity & Diversity, Title IX Coordinator/Dean of Students
Office of Institutional Equity and Diversity
011 Academic Hall, MS 3375
Cape Girardeau, MO 63701
Office: (573) 651-2524
Email: equityissues@semo.edu

Trae Mitten


Title IX/Civil Rights Investigator/Assistant Dean of Students
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010A Academic Hall, MS3375
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Individuals experiencing harassment or discrimination also always have the right to file a formal grievance with government authorities:

Office for Civil Rights
U.S. Department of Education
One Petticoat Lane
1010 Walnut, 3rd Floor, Suite 320 Kansas
City, MO 64106 Telephone: 816-268-0550
FAX: 816-268-0599
TDD: 800-877-8339
Email: OCR.KansasCity@ed.gov

The Assistant to the President for Equity & Diversity shall be responsible for issuing and maintaining operating procedures to implement this policy.

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GENERAL STATEMENT OF POLICY

Southeast Missouri State University is committed to providing a safe, inclusive, civil, positive and respectful learning, living, and working environment for its students, faculty, staff, and visitors, free from harassment or discrimination in any form. Through this policy, the University provides means to address discrimination, discriminatory harassment, sexual harassment that does not fall within the scope of the University's jurisdiction under Title IX of the 1972 Education Amendments, and related misconduct. The primary goals of this policy are to prevent discrimination and harassment, to provide for prompt and appropriate remedial action to be taken to address to end such discrimination and harassment when it occurs, and to prevent its recurrence.

This policy prohibiting discrimination and harassment applies to all members of the University community, and to discrimination and harassment based on any classification protected by this policy and applicable law, including race, ethnicity, religion, national origin, sex, gender, sexual orientation, gender identity, age, genetic information, disability, or protected veteran status. Discrimination or harassment by members of the University community based on any of these classifications is reprehensible and will not be tolerated by the University. It subverts the mission of the University and threatens the careers, educational experience, and well-being of students, faculty, and staff.

This policy is intended to be consistent with the academic mission of the University and with the legal requirements of applicable federal and state laws prohibiting harassment or discrimination, including, but not limited to, Title IX of the 1972 Education Amendments, which prohibits discrimination based on sex/gender in the University's educational programs and activities, and requires equal and fair treatment based on sex; and Title VII of the Civil Rights Act of 1964, the Missouri Human Rights Act, the Age Discrimination in Employment Act, the Americans with Disabilities Act, the Rehabilitation Act of 1973, the Vietnam-Era Veterans Readjustment Act, the Genetic Information Nondiscrimination Act of 2008, and all amendments to the foregoing.

This policy also prohibits retaliation against anyone who asserts a claim of discrimination or harassment, participates in a discrimination or harassment investigation, or otherwise opposes unlawful harassment. Reprisal or retaliation against an individual for making a complaint of discrimination or harassment, or for using or participating in the informal or formal complaint process, is a violation of University policy, and any such action is cause for disciplinary action.

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DISCRIMINATION OR ~~DISCRIMINATORY HARASSMENT~~ e e e e e e e e e e

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Discrimination is generally defined as a materially adverse action affecting the terms and conditions of employment or academic status that is taken because of an individual’s race, color, national origin, age, religion, sex, gender, sexual orientation, gender identity or expression, veteran status, disability or genetic information.

Equal Employment Opportunities

The University’s nondiscrimination policy and commitment to equal opportunity applies to all applicants for employment, to all phases of the employment process, and to all terms and conditions of employment with the University.

Access to Educational Opportunities

The University’s prohibition against discrimination also applies to admission policies and practices, financial aid programs and to all other aspects of the University’s educational programs and activities offered or sponsored by the University, in accordance with applicable law, including the requirements of Title IX of the Education Amendments of 1972, which requires the University not to discriminate based on sex in its education programs and activities.

~~HARASSMENT~~ e e e e e e e e e e


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~~Harassment is a form of discrimination. It is generally defined as unwelcome conduct, on or off campus, that is based on race, color, national origin, age, religion, sex, gender, sexual orientation, gender identity or expression, veteran status, disability or genetic information, that (1) is subjectively and objectively offensive, (2) is severe or pervasive, and (3) has the purpose or effect of unreasonably interfering with an individual’s work or educational performance and creating an abusive, hostile or intimidating environment for work or learning. Whether conduct constitutes harassment often depends on the totality of the circumstances.~~

~~SEXUAL HARASSMENT~~

~~The Department of Education’s Office for Civil Rights (OCR), the Equal Employment Opportunity Commission (EEOC), and the State of Missouri regard Sexual sexual Harassment as an unlawful discriminatory practice. Southeast Missouri State University has adopted the following definition of Sexual sexual Harassment harassment to address the unique environment for our academic community.~~

~~Acts of sexual harassment may be committed by any person upon any person, regardless of the sex, sexual orientation, and/or gender identity of those involved. Sexual harassment can be addressed and resolved under the University’s Policies and Procedures for Defining and Adjudicating Sexual Harassment. As those Policies and Procedures explain, certain conduct is considered sexual harassment under Title IX, and certain instances of sexual harassment may be adjudicated under the grievance procedures for alleged Title IX violations. Other instances of sexual harassment that do not fall within the Title IX definition of sexual harassment or are outside the scope of the University’s Title IX jurisdiction may be addressed under this Policy, the Code of Student Conduct or the Faculty Handbook.~~

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Consistent with the University's intent to provide an atmosphere and environment conducive to education and professional activities, this policy also covers those activities which, in and of themselves, do not meet the legal definition of sexual harassment, but are inappropriate in professional settings or circumstances. Interpretation of this policy will give consideration to the principles of academic freedom and freedom of speech.

~~Students may obtain information about the University's sexual harassment policy and resolution procedures~~ may be obtained from the Dean of Students Office, the Office of Institutional Equity & Diversity, the Office of Student Conduct or may be viewed online. Southeast employees may obtain information from the Office of Institutional Equity & Diversity; the Human Resources Offices; or may be viewed online.

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A complaint of sexual harassment against an employee, undergraduate, or graduate student should be filed with the Title IX Coordinator regardless of the status of the complainant (i.e., student, faculty, or staff). The complaint will be investigated in accordance with the Procedures for Defining and Adjudicating Title IX Cases. In addition to University channels, a person who believes that she or he has been subjected to discrimination or harassment may file a charge with the Missouri Commission on Human Rights, the Equal Employment Opportunity Commission, or the U.S. Office of Civil Rights. Information on filing charges with any of these agencies may be obtained from the University's Office of Institutional Equity & Diversity.

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The Assistant to the President for Equity & Diversity shall be responsible for maintaining operating procedures to implement this policy.

~~For complaints against faculty, staff or third-party affiliates:~~

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Sonia R. Rucker

Assistant to the President for Equity & Diversity, Title IX Coordinator/Dean of Students
Office of Institutional Equity and Diversity
011 Academic Hall, MS 3375
Cape Girardeau, MO 63701
Office: (573) 651-2524
Email: equityissues@semo.edu

Trae Mitten

Title IX/Civil Rights Investigator/Assistant Dean of Students
Office of Institutional Equity and Diversity
010A Academic Hall, MS 3375
Cape Girardeau, MO 63701
Office: (573) 651-2524
Email: trmitten@semo.edu



**SOUTHEAST MISSOURI
STATE UNIVERSITY · 1873**

**BUSINESS
POLICY
AND
PROCEDURE
MANUAL**

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Individuals experiencing harassment or discrimination also always have the right to file a formal grievance with government authorities:

Office for Civil Rights
U.S. Department of Education
One Petticoat Lane
1010 Walnut, 3rd Floor, Suite 320 Kansas
City, MO 64106 Telephone: 816-268-0550
FAX: 816-268-0599
TDD: 800-877-8339
Email: OCR.KansasCity@ed.gov

~~The Vice President for Finance & Administration shall be responsible for issuing and maintaining operating procedures to implement this policy.~~

~~The Assistant to the President for Equity & Diversity shall be responsible for issuing and maintaining operating procedures to implement this policy.~~



**BOARD OF REGENTS
MOTION CONSIDERATION FORM**

August 11, 2020

Open Session

I. Motion to be Considered:

Approve the addition of a new policy statement 01-19 Freedom of Expression (Attachment 1) in Section 01, Administration of the Business Policy and Procedures Manual.

II. Background:

The exchange of ideas is critical to Southeast Missouri State University's mission and is central in the University's role to "challenge students to extend their intellectual capacities, interests, and creative abilities; develop their talents; and acquire a lifelong enthusiasm for learning" (Southeast Mission Statement, 2015). This policy affirms that University students, faculty, staff, and others have a fundamental right to Free Speech and encourages them to exercise the right of peaceful assembly, free speech and expression consistent with the First Amendment to the United States Constitution and the Missouri Campus Free Expression Act. This objective of this policy is to give students, faculty, staff and others the broadest possible latitude to speak, write, listen, challenge, learn, and discuss any issue, subject to limitations set forth in the policy or in local, state or federal law.

The content of this policy was informed by freedom of expression policies adopted at other public four-year institutions of higher education in Missouri; approximately 75 institutions across the United States that have adopted the "Chicago Statement," including two schools in Missouri and two schools in the Ohio Valley Conference, which is a free speech policy that emphasizes the importance of freedom of speech at institutions of higher learning; and HB 576, which was approved by the Missouri House of Representatives during the 2019 legislative session. This bill would have required the governing board of each public institution of higher education in Missouri to develop and adopt a policy on free expression, incorporating language

Recommended By:

Student Government _____
Faculty Senate _____
Administrative Council _____
VP, Enroll. Man. & Stu. Suc. _____
VP, Finance & Admin. _____
VP, University Advancement _____

Chairperson _____
Dean _____
Academic Council _____
Provost _____

President _____


Board Action on: _____

Motion By: _____
Second By: _____
Vote: Yeas: _____ Nays: _____
Abstentions: _____

Postpone: e _____
Amend: _____
Disapprove: _____
Approve: _____ e e e e e
Secretary: e _____

similar to what is included in the “Chicago Statement.” The language was refiled and considered again during the 2020 legislative session as HB 2696.

This policy has been developed with legal counsel. The University President is responsible for maintaining operating procedures associated with this policy, which will likely include, but, may not be limited to, procedural guidelines addressing outdoor expressive activity, indoor expressive activity, posting on campus, and other topics as may be recommended or required to implement Business Policy 01-19 Freedom of Expression and to ensure legal compliance.

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GENERAL STATEMENT OF POLICY

The exchange of ideas is critical to Southeast Missouri State University's mission and is central in the University's role to "challenge students to extend their intellectual capacities, interests, and creative abilities; develop their talents; and acquire a lifelong enthusiasm for learning" (Southeast Mission Statement, 2015). The University affirms that students, faculty, and staff have a fundamental right to Free Speech and encourages them to exercise the right of peaceful assembly, free speech and expression consistent with the First Amendment, the Missouri Campus Free Expression Act, this Policy, its associated Procedures, and other applicable University policies and guidelines.

Southeast Missouri State University ("Southeast") is committed to giving students, faculty, and staff the broadest possible latitude to speak, write, listen, challenge, learn, and discuss any issue.

Southeast is committed to maintaining a campus as a marketplace of ideas for all Students, Faculty and Staff in which the free exchange of ideas is not to be suppressed because the ideas put forth are thought by some or even by most members of the University's community to be offensive, unwise, disagreeable, conservative, liberal, traditional, or radical.

Students, Faculty, and Staff of the University's community are allowed to make judgments about ideas for themselves and to act on those judgments not by seeking to suppress Free Speech, but by openly and vigorously contesting the ideas they oppose.

It is not Southeast's role to attempt to shield individuals from Free Speech, including ideas and opinions they find offensive, unwise, disagreeable, conservative, liberal, traditional, or radical.


Although Southeast greatly values civility and mutual respect, the University will not use concerns about civility and mutual respect as justification for closing off the discussion of ideas, however offensive, unwise, disagreeable, conservative, liberal, traditional, or radical those ideas may be to some or members of the University community.

Although all Students, Faculty, and Staff are free to state their own views about and contest the views expressed on campus, and to state their own views on Southeast's campus, they may not substantially obstruct or otherwise substantially interfere with the freedom of others to express views they reject. To this end, Southeast promotes a lively and fearless freedom of debate and deliberation and protects that freedom.

Southeast is committed to providing an atmosphere that is most conducive to speculation, experimentation, and creation by all Students, Faculty, and Staff, who are always free to inquire, to study, and to evaluate, and to gain new understanding.

Under this policy, the primary responsibility of Faculty is to engage in an honest, courageous, and persistent effort to search out and communicate the truth that lies in the areas of their competence.

Although Faculty are free in the classroom to discuss subjects within areas of their competence, Faculty shall be cautious in expressing personal views in the classroom and shall be careful not to introduce controversial matters that have no relationship to the subject taught, and especially matters in which they have no special competence.

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or training; provided, no Faculty will face adverse employment action for classroom speech, unless it is not reasonably germane to the subject matter of the class as broadly construed, and comprises a substantial portion of classroom instruction.

Southeast will not deny student activity fee funding to a student organization based on the viewpoints that the student organization advocates.

Southeast will not charge Students security fees or costs based on the content of their speech, the content of guest speakers invited by students, or the anticipated reaction or opposition of listeners to speech. However, the University may charge student security fees or require insurance based on published content-neutral and viewpoint-neutral criteria, such as the anticipated size of the invited audience; the time, length, and location of the event; and whether alcohol will be served.

Southeast will allow all students, faculty and staff to invite guest speakers to campus to engage in free speech regardless of the views of the guest speaker; and the University will not disinvite a speaker invited by a Student, student organization, or Faculty or Staff Member, or engage in any prior restraint of a speaker because of the anticipated content or viewpoint of the speaker, or because the speaker's anticipated speech may be considered offensive, unwise, disagreeable, conservative, liberal, traditional, or radical by Students, Faculty, administrators, government officials, or members of the public, unless the University has a lawful reason for doing so.

The University President is responsible for maintaining any operating procedures related to this policy.