POLICY:

To fulfill our commitment to providing equal opportunity in education and employment, Southern Nazarene University strives to maintain an environment in which individuals are evaluated solely on the basis of relevant factors such as ability, prior experience, accomplishments, effort, and performance. The environment also should be one in which all employees and students can pursue their work free from coercion, intimidation, and exploitation. Sexual misconduct is a form of discriminatory misconduct that harms the environment we seek to maintain.

Therefore, conduct - on the part of any member of the university community - which inappropriately introduces sexuality into a teaching, learning, or working relationship will not be tolerated. Members of the community include administration, faculty, staff, and students. Any form of sexual misconduct, as defined below, or failure to carry out responsibilities specified below, may result in disciplinary action, up to and including separation from the university.

Outside contractors, vendors, and others who do business with the university or enter university premises are expected to comply with this policy, and ensure that their agents comply with this policy; the university will take appropriate action if they fail to do so. The university, for example, may suspend or terminate a contract if the contractor fails to correct a sexual misconduct problem that appropriate university officials have brought to its attention. Furthermore, the university, if it determines that the contractor has failed to take appropriate action or has shown a tolerance for any activity which in the belief of the university constitutes sexual misconduct, may be debarred from holding future contracts with the university.

Sexual misconduct, moreover, violates federal and state laws, including Title VII of the Civil Rights Act of 1964, Title IX of the Education Amendment of 1972, and The Violence Against Women Reauthorization Act (VAWA).

DEFINITIONS

The Equal Employment Opportunity Commission regulation defines sexual harassment as “unwelcome sexual advances, requests for sexual favors and other verbal or physical conduct of a sexual nature” and includes the following:

1. Seductive Behavior: Uninvited inappropriate and/or offensive physical or verbal advances of a sexual nature.
2. Sexual Bribery: Solicitation of sexual activity or other sex-linked behavior by promise of reward.
4. Peer Harassment: Sexual harassment by colleagues in a classroom, dormitory, work environment or social setting. Peer harassment, as well as harassment by faculty or staff members, “creates an environment that makes education and work less equal for women and men.”
Historically, “Sexual Assault” was also included in this list and defined as: “Assault and/or rape. This is the ultimate form of sexual harassment and is a criminal offense as well.”

However, recent legislation requires that Sexual assault, domestic violence, dating violence, and stalking be addressed separately.

The Violence Against Women Reauthorization Act (VAWA), specifically, The Campus Sexual Violence Elimination Act, or Campus SaVE Act (SaVE), a 2013 amendment to the federal Jeanne Clery Act provides these definitions:

A. Domestic Violence: Felony or misdemeanor crimes of violence committed by a current or former spouse of the victim, by a person with whom the victim shares a child in common, by a person who is cohabiting with or has cohabitated with the victim as a spouse, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction…or by any other person against an adult or youth victim who is protected from that person’s acts under the domestic or family violence laws of the jurisdiction.

B. Dating Violence: Violence committed by a person (A) who is or has been in a social relationship of a romantic or intimate nature with the victim; and (B) where the existence of such a relationship shall be determined based on a consideration of the following factors: (i) the length of the relationship (ii) the type of relationship (iii) the frequency of interaction between the persons involved in the relationship

C. Stalking: Engaging in a course of conduct directed at a specific person that would cause a reasonable person to (A) fear for his or her safety or the safety of others; or (B) suffer substantial emotional distress

D. Sexual Assault: The Campus SaVE Act defines sexual assault, which—unlike domestic violence, dating violence, or stalking—was previously included as a Clery-reportable crime, as an offense classified as a forcible or non-forcible sex offense under the uniform crime reporting system of the Federal Bureau of Investigation.

REPORTING PROCEDURES:
Any person enrolled in or employed by the university who believes (s)he has been a victim of some form of sexual misconduct is strongly encouraged to file a complaint in a timely manner following the occurrence to the appropriate person as follows:

- A student may report to the Vice-President of Student Development,
- A faculty member may report to the Vice-President of Academic Affairs,
- A staff employee may report to his/her supervisor and/or the Vice-President of Business and Finance,
Likewise, the student or employee may choose to present the complaint to any member of the Administrative Cabinet of the university with whom the employee feels comfortable. If a complainant or the respondent is an employee (excluding student employees) of the University, the administrative office shall immediately report the complaint to the Director of Human Resources.

The following elements are important in seeking resolution to the complaint:

- Complaints shall be in writing. The complainant should specify as clearly and in as much detail as possible the nature of the incident(s) and the date(s) when the incident(s) occurred.

- After seeing the written complaint, a member of the Human Resources team will complete a sexual misconduct intake form and a sexual misconduct action form with the complainant. These forms give victims the option to make a report to law enforcement and/or seek protective or disciplinary action directly with the University.

- Upon submittal of a complaint the complainant will be given a copy, or guided to an electronic copy of this policy, in a timely manner (whether or not they pursue any formal complaint or not). Doing so will serve as providing the complainant with a written notice of their rights.

Please Note: To the fullest extent of the law, complaints will not be disclosed except to the extent necessary to conduct a thorough and complete investigation, and the existence or substance of complaints will not be disclosed except on a strict need to know basis. Every effort will be made to keep the complainant’s identity confidential.

INVESTIGATIVE PROCEDURES:

After reading the written complaint, intake form, and action form, the Director of Human Resources will make a determination regarding the level of investigation necessary.

A. If the Director of Human Resources determines that the complaint would fall under the category of “sexual harassment” including seductive behavior, sexual bribery, sexual coercion, or peer harassment the following actions will be taken:

- All reports of sexual harassment will be investigated and resolved promptly, fairly, impartially, and as confidentially as possible by the Human Resources Director or another Human Resources team member.

- The standard of evidence used in internal investigations is “preponderance of the evidence” or more likely than not.
• Following the internal investigation, both the complainant and the respondent shall be simultaneously informed, in writing, of:
  1. The outcome of any institutional disciplinary proceeding
  2. The procedures for the complainant and the respondent to appeal the results of the proceeding
  3. Any change to the results
  4. And when such results become final

B. If the Director of Human Resources determines that the complaint would fall under the category of “sexual violence” including domestic violence, dating violence, stalking, or sexual assault, the following actions will be taken:

In a timely manner, the following will be addressed with the complainant:
• The importance of preserving evidence for proof in criminal proceedings.

• Options for reporting to law enforcement including the right to be assisted by campus authorities, the right to decline to report to law enforcement, and information about “no contact orders” issued by a court.

• Notification about existing counseling, health, mental health, victim advocacy, legal assistance and other services available on and off-campus.

• If requested and reasonably available, the University will make changes to the academic, living, transportation and working situations of any victim whether or not a formal report is made.

Sexual Violence Investigation Procedures:
• All reports of sexual violence will be investigated and resolved promptly, fairly, impartially, and as confidentially as possible by an investigative team created for such purpose by the Human Resources Director.

• The University will provide proceedings conducted by officials who receive annual sexual violence training. This training will include: how to conduct an investigation, protect the safety of victims and promote accountability.

• The standard of evidence used in internal investigations is “preponderance of the evidence” or more likely than not.

• Both the complainant and the respondent are entitled to the same opportunities to have others present during investigative interviews, including the opportunity to be accompanied to any related meeting or proceeding by an advisor of their choice (the university may not meet this requirement by denying both parties the right to an advisor)

• Following the internal investigation, both the complainant and the respondent shall be simultaneously informed, in writing, of:
  1. The outcome of any institutional disciplinary proceeding
2. The procedures for the complainant and the respondent to appeal the results of the proceeding
3. Any change to the results
4. And when such results become final

**DISCIPLINARY ACTION**
Sanctions may take different forms. Following a thorough investigation, in those situations where it is determined that a violation of this policy has occurred, disciplinary action will be taken. Appropriate disciplinary action will depend on the seriousness of the offense and may range from a verbal reprimand to separation from the university. Other intermediate steps, again depending on the offense, may include: written reprimands, monitoring for behavioral changes, written warning of potential separation, referral or counseling, suspension with pay, suspension without pay, or criminal prosecution. In those instances where a violation is found, reference to the violation as well as to the disciplinary action taken will be placed in the offender’s official university personnel file.

**RETAIATION**
The complainant and all witnesses are fully protected from retaliation of any kind for having participated in the investigation process.

**FALSE CHARGES**
Because of the nature of the problems, complaints of sexual misconduct cannot always be substantiated. Lack of corroborating evidence should not discourage complainants from seeking relief through the procedures outlined above. However, charges found to have been intentionally dishonest or made without regard for truth will subject complainants to disciplinary action.

**UNDERSTANDING CONSENT**
Consent is positive cooperation involving an act of free will, absent of coercion, intimidation, force, or the threat of force. A person cannot give effective consent if he/she is unable to appreciate the nature of the sexual act - as with a person who has a disability that would impair understanding of the act or if a person is impaired by the influence of drugs or alcohol.

There must always be active consent on both sides. Consent to one thing does not imply another. If limits are made clear and consent is not given, pressuring someone into changing their mind is not consent. → If you are unwilling to accept a "no", then "yes" has no meaning.

- **Consent is based on choice.**
- **It is active, not passive. Silence and passivity do not equal consent.**
- **Consent is possible only when there is equal power.**
- **Giving in because of fear is NOT consent.**
- **Giving in or going along with someone to gain approval or to avoid being hurt is NOT consent.**
• Consent means two people (or more) deciding together to do the same thing, at the same time, in the same way, with each other.

CONSENSUAL RELATIONSHIPS
Where a supervisory differential exists, it may be exceedingly difficult to defend against a charge of sexual misconduct on the grounds that the relationship was consensual. In internal investigative proceedings, the university generally will be unsympathetic to a defense based on consent when the facts establish that the respondent had the authority to affect the complainant’s academic or employment status or future prospects.

EXAMPLES OF PROHIBITED CONDUCT
Examples of conduct prohibited by this policy include, but are not limited to:

1. Unwelcome flirtation, advances and/or propositions of a sexual nature
2. Insults, humor, jokes and/or anecdotes that belittle or demean an individual’s or a group’s sexuality or gender
3. Unwelcome comments of a sexual nature about an individual’s body or clothing
4. Unwarranted displays of sexually suggestive objects or pictures
5. Unwelcome touching, such as patting, pinching, hugging or brushing against an individual’s body
6. Suggestions that submission to or rejection of sexual advances will affect decisions regarding such matters as an individual’s employment, work assignment or status, salary, academic standing, grades, receipt of financial aid, or letters of recommendation
7. Engaging in a sexual act with someone that is mentally impaired by the influence of drugs or alcohol