1.0 INTRODUCTION

1.1 Shawnee State University is committed to having an educational and working environment that is free from any form of sexual harassment or sexual misconduct, including sexual violence. This procedure serves to implement the provisions in Policy 5.01 that address sexual harassment. As such, this procedure addresses the definition of sexual harassment and consent; the role of SSU’s Title IX Coordinator and deputy coordinators; the role and duty of University employees, and the methods of reporting sexual harassment.

1.2 This procedure serves to promote compliance with federal and state laws prohibiting discrimination on the basis of sex, including Title VII, Title IX, and Ohio Revised Code Section 4112.02, as well as laws that serve to prevent sexual violence, including the Jeanne Clery Act and the Violence Against Women Reauthorization Act.

1.3 This procedure applies to all aspects of the University’s programs and operations and applies to all employees, students, visitors, agents and volunteers.

2.0 DEFINITIONS

2.1 Sexual Harassment/ Sexual Misconduct

2.1.1 Sexual harassment (also called “sexual misconduct”) is conduct that is: 1) sexual in nature; 2) unwelcome; and 3) denies or limits an individual’s ability to participate in or benefit from the University's education program or work environment.

2.1.2 Sexual harassment or sexual misconduct includes sexual violence and crimes based upon sex including dating violence, domestic violence, sexual assault and stalking. Both males and females can be victims of
sexual harassment, and the harasser and the victim can be of the same sex. The conduct can occur in any University program or activity and can take place in University facilities, on a University bus, or at other off-campus locations such as a University-sponsored field trip or a training program at another location. The conduct can be verbal, nonverbal or physical.

2.1.2.1 Dating Violence

2.1.2.1.1 Dating violence is violence by a person who is or has been in a social relationship of a romantic or intimate nature with the victim. Dating violence includes sexual or physical abuse or threat of such abuse. The existence of such a relationship is determined based on the reporting party’s statement with consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship.

2.1.2.2 Domestic Violence

2.1.2.2.1 Domestic violence is a felony or misdemeanor crime of violence by a current or former spouse or intimate partner of the victim or other individual similarly situated as a spouse.

2.1.2.3 Sexual Assault

2.1.2.3.1 Sexual assault is an offense that meets the definition of rape, fondling, incest or statutory rape.

2.1.2.4 Stalking

2.1.2.4.1 Stalking means engaging in a course of conduct directed at a specific person that would cause a reasonable person to: 1) fear for his/her safety or the safety of others; or 2) suffer substantial emotional distress.

2.2 Sexual harassment can take two forms: quid pro quo and hostile environment. Although they are distinct forms of harassment, the lines between the two can be blurred.
2.2.1 Quid Pro Quo Sexual Harassment

2.2.1.1 Quid pro quo sexual harassment occurs when submission or rejection of the harassing conduct is used as the basis for the employment or academic decisions affecting the victim of that harassment.

2.2.1.2 In an academic or other educational setting, quid pro quo harassment occurs when a University employee causes a student to believe that he or she must submit to unwelcome sexual conduct in order to participate in a University program or activity. It can also occur when an employee causes a student to believe that the employee will make an educational decision based on whether or not the student submits to unwelcome sexual conduct. For example, when a professor threatens to fail a student unless the student agrees to date the professor, it is quid pro quo harassment.

2.2.1.3 In an employment setting, quid pro quo harassment occurs when a supervisor or co-worker causes the employee to believe that he or she must submit to unwelcome sexual conduct as a condition of employment or employment opportunity.

2.2.2 Hostile Environment Sexual Harassment

2.2.2.1 Hostile environment sexual harassment occurs when the purpose or effect of the harassing conduct unreasonably interferes with a person's work or academic performance or ability to participate in an educational program or activity or when it creates an intimidating, hostile, or offensive environment for working, learning, or living on campus.

2.2.2.2 The determination of whether an environment is "hostile" is often contextual and is based upon the circumstances. Such circumstances could include the frequency of the conduct; the nature and severity of the conduct; and the relationship between the alleged harasser and subject of the alleged harassment.
2.3 Sexual harassment encompasses a wide range of conduct. Some examples include, but are not limited to:

2.3.1 Acts of sexual violence, such as rape, sexual assault, sexual battery, sexual coercion, stalking and intimidation, which may also be forms of dating violence or domestic violence

2.3.2 Making sexual propositions and/or pressuring for sexual favors

2.3.3 Sexually explicit statements, questions, jokes, or anecdotes regardless of the means of communication (oral, written, electronic)

2.3.4 Unwanted touching, patting, hugging, brushing against a person’s body or staring.

2.4 Consent

2.4.1 Consent must be informed, knowing and voluntary. Consent must be clear and unambiguous for each participant throughout any sexual encounter. Consent to some sexual acts does not imply consent to others, nor does past consent to a given act imply ongoing or future consent. Consent can be revoked at any time. For all of these reasons, sexual partners must evaluate consent in an ongoing fashion and should communicate clearly with each other throughout any sexual encounter.

2.4.2 Consent cannot be obtained from someone who is asleep or otherwise mentally or physically incapacitated, whether due to alcohol, drugs, or some other condition. Consent cannot be obtained by threat, coercion, or force. Agreement given under such conditions does not constitute consent.

2.4.3 In order to give effective consent, one must be of legal age (16 years or older in Ohio).

3.0 PROHIBITIONS

3.1 It is a violation of Policy 5.01, Equal Opportunity and Non-Discrimination/Harassment, and this procedure for any student, faculty or staff member, as well as any agent, volunteer or visitor to:

3.1.1 Engage in unlawful sexual harassment.
3.1.2 Engage in a prohibited relationship as described in the section of this procedure that addresses romantic and/or sexual relationships.

3.1.3 Retaliate against any member of the University community who files a complaint of sexual harassment.

3.1.4 Make or threaten to make a false accusation of unlawful sexual harassment, or to otherwise use policy 5.01 or this procedure in a manner inconsistent with its stated purpose.

4.0 COMPLAINTS AND REPORTS OF SEXUAL HARASSMENT

4.1 Complaints and reports of sexual harassment may be directed to the following University administrators or offices:

4.1.1 Any person (student, employee or visitor) may contact the Title IX Coordinator or any Deputy Title IX Coordinator. For contact information see: http://www.shawnee.edu/offices/title-IX/coordinator.aspx

4.1.2 Students may also direct a complaint or report to the Dean of Students, the Associate Director of Residence Life or VP of Student Affairs.

4.1.3 Employees may also direct a complaint to the EEO Coordinator or a supervisor or higher ranking administrator. Such individuals have a duty to report. (See Procedure 5.01:2, Reporting Complaints of Discrimination, Sexual Harassment/Misconduct & Retaliation.)

4.2 Procedures for filing complaints or reports of sexual harassment are addressed in Procedure 5.01:2, Reporting Complaints of Discrimination, Harassment and Retaliation.

5.0 TITLE IX COORDINATOR AND DEPUTY COORDINATORS

5.1 The Title IX Coordinator is primarily responsible for the review of all complaints and reports of sexual harassment and may assign such matters to a deputy coordinator or other appropriately trained employee for investigation that is prompt and equitable.

5.2 The Title IX Coordinator and deputy coordinators are responsible to ensure compliance with the University’s policy and procedures addressing sexual
harassment and applicable federal and state sexual harassment laws. They are further responsible to ensure that adequate training is conducted throughout the University regarding Title IX and sexual violence.

6.0 CONFIDENTIALITY AND NON-RETRALIATION

6.1 The University will make every reasonable effort to protect the confidentiality and privacy of all parties throughout the investigatory process, but it is not possible to guarantee absolute confidentiality. Information received in connection with the filing, investigation and resolution of allegations will be treated as confidential except to the extent it is necessary to disclose information in the course of the investigation, for purposes of addressing conduct or when required to do so by law.

6.2 The University will not tolerate retaliation in any form against any faculty, staff, agent, student, or visitor who files a sexual harassment complaint or participates in the investigation or resolution. Any employee or student determined to have committed retaliation is subject to discipline in accordance with the appropriate University process. Any visitor found to have retaliated is subject to available legal remedies.

7.0 RIGHTS OF ALLEGED VICTIMS AND COMPLAINANTS

7.1 Complainants and victims will be entitled to participate in the complaint process that is equitable to the rights and opportunities afforded to the accused. The complainant/victim and accused will be informed of relevant procedural steps for both the investigatory and hearing/determination stages. These parties may be accompanied by a support person (or, if applicable, union representative) for any meeting with the investigator and at any formal hearing.

7.2 Students who are alleged complainants and victims are also entitled to the rights provided in the “victim’s rights” section of the Student Conduct Code.

8.0 ROMANTIC AND SEXUAL RELATIONSHIPS IN SUPERVISORY AND INSTRUCTIONAL SETTINGS

8.1 Consensual, romantic and/or sexual relationships between individuals in a supervisory, teaching, evaluation, advising, coaching or counseling relationship constitute a conflict of interest. Individuals with direct supervisory, evaluative, grading, counseling, or academic advising responsibilities who are involved in
such relationships must bring those relationships to the attention of the individual’s supervisor. It is likely that the individual will be removed from that responsibility. If acceptable alternative arrangements are not feasible, the relationship will not be permitted to continue.

8.2 Individuals who do not notify their supervisors or do not make acceptable alternative arrangements are then in a prohibited relationship and are in violation of Policy 5.01 and this procedure.

9.0 CLASSROOM AND INSTRUCTIONAL SETTINGS

The classroom and other instructional setting may provide special circumstances since academic freedom protects the expression of ideas, even if controversial or offensive. However, conduct will not be exempt merely because it occurs in an instructional setting. The investigation relating to alleged offensive conduct will consider the legitimate pedagogical context and appropriate deference will be afforded to the presentation or discussion in an instructional setting of sexual topics that are mature, controversial, graphic or explicit and not considered sexual harassment, even if some persons find these topics offensive.

History:
Replaces Interim Procedure 5.01:2  (Eff. 9/13/13)