

Sexual Misconduct & Sexual Harassment Policy

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I. STATEMENT OF NON-DISCRIMINATION

Florida Southern College (“the College”) adheres to all federal and state civil rights laws banning discrimination in institutions of higher education, including Titles VI and VII of the Civil Rights Act of 1964, Title IX of the Educational Amendments of 1972 (“Title IX”), and the Florida Educational Equity Act. The College does not discriminate against an employee, applicant for employment, student or applicant for admission on the basis of race, creed, color, national origin, gender, gender identity, sex, sexual orientation, marital status, pregnancy, religion, age, disability, political opinions or affiliations, genetic information, veteran or military status as protected under the Vietnam Era Veterans’ Readjustment Assistance Act, and any other protected category under applicable local, state, or federal law. The College’s Commitment to Non-Discrimination can be found in the Academic Catalog, the Student Handbook, and on the College’s website <https://www.flsouthern.edu/about-fsc/fsc-values/equal-opportunity-diversity-and-inclusion> .

The College is committed to the principles of equal opportunity and seeks to establish and maintain an environment which ensures equal access to education for all College community members including students, applicants for admission, employees, applicants for employment, guests, and visitors. The College does not discriminate on the basis of sex in any education program or activity operated by the College including, but not limited to, admissions, employment, recruitment, compensation, and athletics as well as access to housing and facilities, classes and schools, counseling, employment assistance to students, health and insurance benefits and services, and fringe benefits. The College is required by Title IX and the regulations thereunder not to discriminate in such a manner.

For additional information or inquiries about the application of Title IX and the regulations thereunder, contact the College’s Title IX Coordinator(s) and/or the Assistant Secretary of the United States Department of Education. The Title IX Co-Coordinators’ contact information is located in **Section III** of this Policy.

II. SCOPE OF POLICY AND GENERAL REPORTING INFORMATION

The College provides the following information on how to report sex discrimination, sexual misconduct, and sexual harassment to the College and outlines the College’s response to such reports.

Any person may experience sex discrimination, sexual misconduct, or sexual harassment, irrespective of the identity of the complainant or respondent, and is encouraged to report such incidents to the College. Any person, regardless of whether or not the person reporting the alleged incident is the person alleged to be victimized by the incident, may report sex discrimination, sexual misconduct, or sexual harassment to the Title IX Coordinator. Reports may be made person, by mail, by telephone, by email, or by using the College online report form which can be found at <https://www.flsouthern.edu/campus-offices/offices-directory/office-of-student-conduct/title-ix-just-ask> .

Reports may be made at any time, including during non-business hours, by using the telephone number or email address or by mail to the office address listed for the Title IX Coordinator (s). **(See Section III)**

When the Title IX Coordinator receives a report (either written or oral) of sexual misconduct or sexual harassment, they will contact the complainant to provide supportive measures. For more information about supportive measures, see **Section X**.

Upon receipt of a report, complaint, or formal complaint (as defined in Section XI of this Policy), the Title IX Coordinator will review the details of the alleged incident and conduct a preliminary assessment to determine which of the College's grievance procedures will be applied to address the report. Regardless of the type of incident, the College applies prompt and equitable grievance procedures to resolve complaints of sex discrimination, sexual misconduct, and sexual harassment. The College grievance procedures apply equally to all persons regardless of sex, gender, sexual orientation or gender identity.

Formal complaints of incidents of sexual harassment as defined under Title IX involving College students or employees will be addressed using the formal complaint and grievance process as described in **Sections XI and XIII** of this Policy.

Complaints regarding incidents of sexual harassment or sexual misconduct which fall outside of the Title IX definition of sexual harassment (see **Section IV for Definitions**) or which occurred outside of the College's own education programs or activities or outside of the United States will be addressed using the grievance procedures outlined in the College's [Student Handbook](#), the [Employee Handbook](#), or the College's [Policy on Non-Discrimination and Anti-Harassment](#).

Complaints of sex discrimination which do not involve sexual harassment as defined under Title IX or sexual misconduct will be addressed using the grievance procedures outlined in the College's [Student Handbook](#), the [Employee Handbook](#), or the College's [Policy on Non-Discrimination and Anti-Harassment](#).

When possible, the Title IX Coordinator(s) will notify the reporting party of the College's grievance procedures which correspond to the alleged incident.

III. TITLE IX COORDINATOR RESPONSIBILITIES

All educational institutions receiving federal financial assistance must designate and authorize at least one employee to coordinate its efforts to comply with its responsibilities under Title IX of the Education Amendment of 1972, which prohibits sex discrimination in education programs and activities. These designated employees are generally referred to as Title IX Coordinators.

The following College employees have been designated as the Title IX Co-Coordiators at the College:

Katherine Pawlak

Title IX Co-Coordinator, Assistant Vice President for Operations & Director of Human Resources
Raulerson Building, 111 Lake Hollingsworth Drive, Lakeland, FL 33801
Telephone: (863) 680-3964; Email: kpawlak@flsouthern.edu

Richard Gebauer

Title IX Co-Coordinator, Director of Student Conduct
Carlisle Rogers Building, 2nd Floor, 111 Lake Hollingsworth Drive, Lakeland, FL 33801
Telephone: (863) 680-6216; Email: rgebauer@flsouthern.edu

The Title IX Co-Coordiators are responsible for responding to reports, complaints, and formal complaints of sex discrimination, sexual misconduct, and sexual harassment on behalf of the College. The Title IX Coordinator's responsibilities include, but are not limited to:

- Receiving the required training in relevant state and federal laws and College policies and procedures;
- Advising an individual, including a complainant, third-party reporter, or respondent, about the College’s policies and procedures related to sex discrimination, sexual misconduct, and sexual harassment as well as explaining courses of action available at the College and the courses of action available externally regarding any such incidents, including reporting to law enforcement;
- Receiving incident reports of sex discrimination, sexual misconduct, and sexual harassment;
- Informing complainants and respondents of the availability of supportive measures;
 - Offering supportive measures to complainants designed to restore or preserve equal access to the College’s education program or activity;
 - Working with respondents to provide supportive measures, as appropriate;
 - Coordinating the effective implementation of both supportive measures (to one or both parties) and remedies to a complainant as well as disciplinary sanctions which may be imposed upon a respondent after the formal complaint process;
- Informing complainants of the process for filing a formal complaint under Title IX;
- Conducting Title IX investigations;
- Handling other tasks and responsibilities as determined by the Title IX Coordinator.

IV. DEFINITIONS

The following section defines sex discrimination, sexual misconduct, sexual harassment under Title IX, and other terms related to the Title IX grievance process.

- A. **Sex Discrimination:** Discrimination against an individual based on that person’s sex, gender, gender identity or sexual orientation.

- B. **Sexual Misconduct:** Sexual misconduct occurs in the absence of consent, including when the person is unable to refuse to participate, or despite a person’s refusal to participate in the activity. Sexual misconduct may be physical, verbal, non-verbal, or electronic. Sexual misconduct includes, but is not limited to:
 - Giving sedative or “date rape” drugs such as GHB or Rohypnol to someone;
 - Obscene or indecent behavior such as exposing one’s genitals/breasts without consent or despite refusal;
 - Deliberate observation, photography, or other forms of recording of others for sex-related reasons, including posting such images without consent or despite refusal;
 - Possessing or distributing illegal or unwanted pornographic images;
 - Intentional transmission of HIV or other sexually transmittable infections (STIs);
 - Prostitution;
 - Being an accomplice in the commission of sexual misconduct;
 - Attempting sexual misconduct.

- C. **Sexual Harassment Under Title IX:** Sexual Harassment is a form of sex discrimination. Title IX defines sexual harassment as conduct on the basis of sex that satisfies **one or more of the following three types of behavior:**

1) Quid Pro Quo Harassment

A College employee conditioning provision of an aid, benefit or service of the College on an individual's participation in unwelcome sexual conduct. For example, unwelcome sexual advances, requests for sexual favors and other verbal or physical conduct of a sexual nature by a person having power or authority over another constitutes sexual harassment when submission to such sexual conduct is made either explicitly or implicitly a term or condition of rating or evaluating an individual's educational or employment progress, development or performance. This includes when submission to such conduct would be a condition for access to receiving the benefits of or opportunities in any educational or employment program.

Quid pro quo harassment does not need to be severe and pervasive, as required under section 2 below, because the abuse of authority in the form of even a single instance is inherently offensive and serious enough to jeopardize equal educational access.

2) Denial of Equal Educational Access due to Severe, Pervasive, and Objectively Offensive Conduct (Davis Standard Supreme Court decision *Davis vs. Monroe County Board of Education* 526 U.S. 629 (1999))

Unwelcome conduct determined by a reasonable person to be so **severe, pervasive and objectively offensive** that it effectively denies a person equal access to the College's education program or activity.

Signs of enduring unequal educational access due to severe, pervasive, and objectively offensive sexual harassment may include absence or withdrawal from class to avoid a harasser, a decline in a student's grade point average, or having difficulty concentrating in class. However, no concrete injury is required to conclude that serious harassment would deprive a reasonable person in the complainant's position of the ability to access the College's education program or activity on an equal basis with persons who are not suffering such harassment.

3) Sexual Assault, Dating Violence, Domestic Violence, and Stalking

Sexual Assault: Forcible or non-forcible sex offenses under the FBI's Uniform Crime Reporting program (U.C.R.). Various forms of sexual assault include:

- i. **Sex Offenses, Forcible:** Any sexual act directed against another person, without the consent of the victim including instances where the victim is incapable of giving consent.
 - a) **Forcible Rape:** (Except Statutory Rape) The carnal knowledge of a person, forcibly and/or against that person's will or not forcibly or against the person's will in instances where the victim is incapable of giving consent because of his/her temporary or permanent mental or physical incapacity.

- b) **Forcible Sodomy:** Oral or anal sexual intercourse with another person, forcibly and/or against that person's will or not forcibly or against the person's will in instances where the victim is incapable of giving consent because of his/her youth or because of his/her temporary or permanent mental or physical incapacity.
 - c) **Sexual Assault with an Object:** To use an object or instrument to unlawfully penetrate, however slightly, the genital or anal opening of the body of another person, forcibly and/or against that person's will or not forcibly or against the person's will in instances where the victim is incapable of giving consent because of his/her youth or because of his/her temporary or permanent mental or physical incapacity.
 - d) **Forcible Fondling:** The touching of the private body parts of another person for the purpose of sexual gratification, forcibly and/or against that person's will or not forcibly or against the person's will in instances where the victim is incapable of giving consent because of his/her youth or because of his/her temporary or permanent mental or physical incapacity.
- ii. **Sex Offenses, Nonforcible:** (Except Prostitution Offenses) Unlawful, nonforcible sexual intercourse.
- a) **Incest:** Nonforcible sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.
 - b) **Statutory Rape:** Nonforcible sexual intercourse with a person who is under the statutory age of consent. In Florida, the age of consent is 18.

Dating Violence: Violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim and where the existence of such a relationship shall be determined based on a consideration of the following factors:

1. The length of the relationship
2. The type of relationship
3. The frequency of interaction between the persons involved in the relationship

Domestic Violence: Felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, 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. 34 *U.S.C. 12291 (a)(8)*

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.

Sexual assault, which includes rape, is referenced in the third prong of the definitions of sexual harassment. Note that any report of sexual assault, dating violence, domestic violence, or stalking is not subject to the Davis elements referenced in the second prong of definitions of sexual harassment, which consider whether the incident was “severe, pervasive, and objectively offensive.” A single act of sexual assault, dating violence, domestic violence, and stalking does not need to demonstrate severity, pervasiveness, objective offensiveness, or denial of equal access to education because denial of equal access is assumed. Therefore, complainants can feel confident reporting such incidents to the College and receive supportive measures without wondering whether sexual assault is ‘bad enough’ to report.

The College is required under Federal Title IX regulations to respond to incidents of sexual harassment as stated above. Additionally, conduct outlined in the above definitions of sexual harassment and sexual misconduct may be considered a violation of Florida law and subject to mandatory reporting and/or criminal investigation.

V. RELEVANT TERMS

The following terms are related to the grievance process required under Title IX to address incidents of sexual harassment. The grievance process is described in Section XIII of this Policy.

Actual Knowledge: Notice of sexual harassment or allegations of sexual harassment delivered to the College Title IX Co-Coordinators. Such notice includes reports sent to the Title IX Coordinator in person, by mail, by telephone, by email, telephone call, in-person, or by using the College’s online report form.

Advisor: An individual who provides support, guidance, and/or assistance to the complainant or responding party throughout the investigation, hearing, appeals, and/or informal resolution process. Complainants and respondents have the right to select an advisor of their choice. Additional information about the role of advisors can be found in Section XII of this Policy.

Child Abuse: When a crime has been committed against a minor. In the State of Florida, a child is anyone under the age of 18.

Complaint: A document that initiates the grievance process in the College’s [Student Handbook](#), the [Employee Handbook](#), or the College’s [Policy on Non-Discrimination and Anti-Harassment](#) or the **Policy on Sexual Misconduct & Sexual Harassment** against a respondent alleging sexual misconduct. For more information about how to file a complaint, see Section IX of this Policy.

Complainant: An individual who is alleged to be the victim of conduct that could constitute sexual harassment. A complainant may, but is not required to be, a student, employee, or other College community member.

Consent: “Consent” must be informed, voluntary, and mutual, and can be withdrawn at any time. There is no consent when there is force, expressed or implied, or when coercion, intimidation, threats, or duress is used. Whether a person has taken advantage of a position of influence over another person may be a

factor in determining consent. Consent can be expressed verbally or nonverbally. Consent must be active, not passive. Silence or absence of resistance does not imply consent.

Consent in terms of sexual conduct is freely and actively agreeing together, with clear understanding, to engage in mutually agreed-upon sexual activities. Persons who can never provide consent include:

- Minors (in Florida, this is anyone under the age of 18);
- People with cognitive or social limitations that render them incapable of providing consent;
- Incapacitated persons. Incapacitation can occur through excessive alcohol or drug use or for other reasons such as unconsciousness, being asleep, or being otherwise physically unable to respond fully and effectively to the environment, such that they cannot make a knowing agreement to sexual activity.

Consent is dynamic and ongoing throughout any given sexual encounter. It can be revoked by either party at any time. It does not “carry over” to future encounters. If one person’s response is unclear or ambiguous, it is the other person’s responsibility to confirm consent. Finally, intoxication is not the same as incapacitation. Being “drunk” doesn’t necessarily mean one is unable to give consent. Conversely, the use of alcohol or other drugs does not release anyone from the requirement to seek and provide consent.

Education Program or Activity: All of the operations of the College, which may be on or off campus, as well as locations, events, or circumstances over which the College exercises substantial control over both the respondent and the context in which an incident of sexual harassment occurs. Additionally, any building owned or controlled by student organizations which are officially recognized by the College are also considered to be part of the College’s education program or activity irrespective of whether the building is on or off campus and irrespective of whether the College exercises substantial control over the respondent and the context of the harassment other than the fact that the College officially recognizes the fraternity or sorority that owns or controls the building. Therefore, Title IX requires the College to investigate formal complaints alleging sexual harassment that occurred in a fraternity or sorority building (located on or off campus) owned by a fraternity or sorority that is officially recognized by the College as a Greek life organization.

The College’s education program or activity also extends to operations which include computer and internet networks, digital platforms, and computer hardware or software owned or operated by, or used in the operations of the College.

Formal Complaint: A document that initiates the grievance process outlined in Section XI of this Policy against a respondent alleging Title IX sexual harassment. A formal complaint must be filed by the complainant or signed by the Title IX coordinator alleging sexual harassment against a respondent and requesting that the College investigate the allegation of sexual harassment. At the time of filing a formal complaint, the complainant must be participating in or attempting to participate in an education program or activity at the College. A formal complaint may be a document or electronic submission sent via email or the College online reporting form that contains the complainant’s physical or digital signature, or otherwise indicates that the complainant is the person filing the complaint.

Submission of a formal complaint to the College is not equivalent to filing charges with local law enforcement and does not require a complainant to file charges with local law enforcement. For more information about reporting incidents of sexual misconduct or sexual harassment to local law enforcement see Section IX, part B of this Policy.

Report: Notice, either written or oral, provided to the Title IX Coordinator of an alleged incident of sex discrimination, sexual harassment, or sexual misconduct. Any person, regardless of whether or not the person reporting the alleged incident is the person alleged to be the victim the incident may report sex discrimination, sexual misconduct or sexual harassment. Reports may be made to the Title IX Coordinator in person, by mail, by telephone, by email, or by using the College’s online report form. Reports may be made at any time, including non-business hours, by using the telephone number or email address or by mail to the office address listed for the Title IX Coordinators (see Section III). A report is distinguished from a formal complaint or complaint as defined above.

Respondent: An individual who has been reported to be the perpetrator of conduct that could constitute sexual harassment or sexual misconduct.

Responsible Employees/Mandated reporters: All Florida Southern College employees, including students (and Residential Advisors) employed by the College and faculty, are considered Responsible Employees and have a duty to report observations or knowledge of sexual discrimination, including sexual harassment, sexual misconduct, and sexual violence, or other criminal acts including but not limited to dating violence, domestic violence, stalking, and child abuse (when a crime has been committed against a minor which, in Florida, is anyone under the age of 18). Employees should report their knowledge to their immediate supervisors and to a designated Title IX Officer. If the immediate supervisor is a potential responding party to a report of discrimination, report the information to Title IX Coordinator Katherine Pawlak or Vice President of Finance and Administration Terry Dennis if the incident involves an employee, or the Office of Student Conduct or to the Dean of Students if the incident involves a student.

Preponderance of the Evidence: The standard of evidence used to determine if a Title IX Policy violation occurred. The College uses a “preponderance of evidence” standard, which means that the evidence demonstrated in the grievance process demonstrates that it is more likely than not that the alleged conduct or policy violation occurred.

Supportive Measures: Non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the complainant or respondent before or after the filing of a formal complaint or where no formal complaint has been filed. Such measures are designed to restore or preserve equal access to the College’s education programs or activities without unreasonably burdening the other party, including measures designed to protect the safety of all parties or the College’s educational environment, or deter sexual harassment. Supportive measures are described in further detail in Section X of this Policy.

VI. JURISDICTION

Any person may experience sex discrimination, sexual misconduct, or sexual harassment anywhere. Therefore, any individual may report any incident to the Title IX Coordinator. However, the College’s response to such incidents is dependent upon the location of the alleged incident.

The Title IX grievance procedures described in this Policy must be applied when alleged incidents of sexual harassment as defined in Section IV of this Policy occur in the College’s own education program or activity as defined in Section V of this Policy and in the United States.

Alleged incidents of sexual harassment or sexual misconduct which occur outside of the College's own education program or activity or outside of the United States, for example on a study abroad program, will be addressed using the grievance process outlined in the College's [Student Handbook](#), the [Employee Handbook](#), or the College's [Policy on Non-Discrimination and Anti-Harassment](#).

The College's jurisdiction extends to electronic, digital, and online sexual harassment. Factual circumstances of electronic, digital, and online sexual harassment will be analyzed on a case by case basis to determine the context in which the harassment occurred. Such sexual harassment which occurs in an education program or activity as defined on Section V of this Policy (in which the College exercises substantial control over the respondent and the context in which the harassment occurs) will be addressed using the Title IX grievance process outlined in this Policy. Incidents of electronic, digital, and online sexual harassment or misconduct which occur outside of the College's own education program or activity are subject to the grievance procedures described in the College's [Student Handbook](#), the [Employee Handbook](#), or the College's [Policy on Non-Discrimination and Anti-Harassment](#).

For clarification regarding incidents which occur on-campus versus off-campus, see the definition of Education Program or Activity in Section V this Policy.

VII. CONFIDENTIALITY

The College will keep confidential the identity of any individual who has made a report or complaint of sex discrimination, including any individual who has made a report or filed a formal complaint of sexual harassment, any complainant, any individual who has been reported to be the perpetrator of sex discrimination, any respondent, and any witness, except as may be permitted by the FERPA statute or regulations, 20 U.S.C. 1232g and 34 CFR part 99, or required by law, or to carry out the purposes of 34 CFR part 106, including the conduct of any investigation, hearing, or judicial proceeding arising thereunder.

In compliance with federal, state, and local requirements and college policy, certain crimes shall be reported to the Director of Campus Safety and Security for *Clery* reporting and other tracking purposes and, when permissible, such reports may not include the reporting party's name unless authorization is granted by the offended party. When required, reporting will be made to other organizations such as the Florida Department for Children and Families at <https://reportabuse.dcf.state.fl.us> or 1-800-96-ABUSE.

VIII. AMNESTY PROVISION

The College encourages reporting of prohibited conduct. It is in the best interest of the College community that individuals come forward to make reports of prohibited conduct, regardless of whether they have engaged in conduct in violation of the College's rules of conduct, such as using drugs or alcohol at or near the time of the incident. To encourage reporting in these types of situations, a complainant or witness who participates in the investigation procedures outlined in this policy will not be subject to disciplinary sanctions for a violation of the College's behavior standards or other College policy (i.e. will grant the student amnesty) unless the College determines that the violation was egregious. Egregious violations include acts that: (1) place the health or safety of themselves or others at risk; or (2) involves plagiarism, cheating or academic dishonesty. The College reserves the right to require individuals who are granted amnesty under this section to participate in assessments, training, counseling, or educational programs,

including but not limited to topics such as health and safety, professionalism, or harassment/discrimination prevention.

IX. REPORTING SEX DISCRIMINATION, SEXUAL MISCONDUCT & SEXUAL HARASSMENT

Any person may [report an incident](#)(s) of sex discrimination, sexual misconduct, or sexual harassment to the Title IX Coordinator. The reporting party may be the person directly affected by the alleged incident (referred to as “complainant”) or a third party. Reports of sex discrimination, sexual misconduct, and sexual harassment may be written or verbal and may be made at any time (including non-business hours) in person, by using the telephone number or email address, or by mail to the office address, of the Title IX Coordinator.

The College’s Title IX Co-Coordinators’ contact information is as follows:

For incidents involving students:

Richard Gebauer

Title IX Co-Coordinator, Director of Student Conduct

Carlisle Rogers Building, 2nd Floor, 111 Lake Hollingsworth Drive, Lakeland, FL 33801

Telephone: (863) 680-6216; Email: rgebauer@flsouthern.edu

For incidents involving employees:

Katherine Pawlak

Title IX Co-Coordinator, Assistant Vice President for Operations & Director of Human Resources

Raulerson Building, 111 Lake Hollingsworth Drive, Lakeland, FL 33801

Telephone: (863) 680-3964; Email: kpawlak@flsouthern.edu

When one of the Title IX Coordinators receives notice through a report (either written or oral), complaint, or formal complaint of an alleged incident of sex discrimination, sexual misconduct, or sexual harassment, the Title IX Coordinator will promptly contact the complainant to:

1. Discuss the availability of supportive measures, as defined in Section X of this Policy;
2. Consider the complainant’s wishes with respect to supportive measures;
3. Inform the complainant of the availability of supportive measures with or without filing a complaint or formal complaint;
4. Explain to the complainant the:
 - a. College’s procedures for handling non-sexual harassment sex discrimination;
 - b. Process for filing a complaint under the College’s [Student Handbook](#), the [Employee Handbook](#), or the College’s [Policy on Non-Discrimination and Anti-Harassment](#) or ***Policy on Sexual Misconduct & Sexual Harassment***.
 - c. Process for filing a formal complaint under Title IX, as outlined in Section XI of this Policy.

The Title IX Coordinator will conduct a preliminary assessment of the report, complaint, or formal complaint to assist the complainant in determining which grievance process or procedures the complainant may initiate. For more information about the Preliminary Assessment, see Section XI part A of this Policy.

Online reporting forms are made available for formal and anonymous reports. Please visit the college's webpage for [Online Reporting](#).

In addition to reporting an incident of sex discrimination, sexual misconduct, or sexual harassment to the Title IX Coordinator, individuals have the following reporting options:

A. Reporting to a Responsible Employee

A person may report an alleged incident of sex discrimination, sexual misconduct, or sexual harassment to a College Responsible Employee, as defined Section IX Part A of this Policy. Responsible Employees must report the alleged incident to the Title IX Coordinator or appropriate College designees.

Reporting an alleged incident to College employees is not confidential as College employees are obligated to report alleged incidents of sex discrimination, sexual misconduct, and sexual harassment to the Title IX Coordinator.

B. Reporting to Local Law Enforcement: Lakeland Police Department

The College encourages anyone who has experienced sexual misconduct or sexual harassment to pursue criminal action for incidents that may also be crimes under applicable criminal statutes. Law enforcement officers are trained in handling sexual assault and other cases involving sexual misconduct and harassment. Reporting to law enforcement does not require prosecution of the offense and the reporting party's wishes will be taken into account by law enforcement. The police report and any supporting evidence may be turned over to **Clerk of the 10th Judicial Circuit Court of Polk Co. FL**, *Polk County Courthouse*: 255 N. Broadway St., Bartow FL, tel: (863) 534-4000, which decides whether there is sufficient evidence to prosecute. Information about the law enforcement process of reporting, the investigation, arrests, filing of charges, hearings, the trial and sentencing will be explained at the time of the report. College employees will assist the reporting party in contacting local law enforcement, if explicitly requested by the reporting party. However, reporting an incident of sexual misconduct or sexual harassment to the College does not in any way equate to reporting the incident to local law enforcement. An individual may decide to report an incident exclusively to the College, exclusively to local law enforcement, or to both the College and local law enforcement.

Should an individual report an incident of sexual misconduct or sexual harassment to both the College and local law enforcement, the College will comply with law enforcement requests for cooperation. Such cooperation may require the College to temporarily suspend its own investigation into the alleged incident while local law enforcement gathers evidence. During this time, the College will continue to offer supportive measures to the complainant. As soon as local law enforcement or the College determines that a delay is no longer necessary, the College will promptly resume its Title IX or Code of Conduct investigation.

College policy, definitions, and standard of proof differ from Florida criminal law. Neither law enforcement's determination whether to prosecute a respondent nor the outcome of any criminal prosecution will determine whether sexual misconduct or sexual harassment has occurred under this College policy. Proceedings under this Policy may be carried out prior to, simultaneously with or following civil or criminal proceedings off campus.

In compliance with federal, state, and local requirements and college policy, certain crimes shall be reported to the Director of Campus Safety and Security for *Clery* reporting and other tracking purposes and, when permissible, such reports may not include the reporting party's name unless authorization is granted by the offended party. When required, reporting will be made to other organizations such as the Florida Department for Children and Families at <https://reportabuse.dcf.state.fl.us> or 1-800-96-ABUSE.

C. Anonymous Reporting

The College permits anonymous parties to report alleged incidents of sex discrimination, sexual misconduct, and/or sexual harassment by telephone or by mail to the office of the Title IX Coordinator, or by using [online report form](#).

If the anonymous report contains the identity of the complainant, upon receipt of the report, the Title IX Coordinator will contact the complainant to offer supportive measures and explain the process for filing a formal complaint. However, if the anonymous report does not contain the identity of the complainant, the College will be unable to contact the complainant to offer supportive measures. While the Title IX Coordinator will keep confidential complainant's identity (unless disclosing the complainant's identity is necessary to provide supportive measures for the complainant, such as issuing no-contact orders), the Title IX Coordinator must know the identity of the complainant to offer such supportive measures.

X. SUPPORTIVE MEASURES

Supportive measures are non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the complainant and respondent without unreasonably burdening the other party.

Supportive measures are designed to:

- Restore or preserve equal access to the party's education at the College;
- Protect the safety of all parties or the College's educational environment; or
- Deter sexual harassment.

The College's supportive measures include, but are not limited to:

- Counseling services
- Extensions of deadlines or other course-related adjustments
- Modifications of work or class schedules
- Campus escort services
- Mutual restrictions on contact between the parties
- Changes in work or housing locations
- Leaves of absence
- Increased security and monitoring of certain areas of the campus
- Other similar measures as necessary

The College will offer supportive measures to every complainant when the Title IX Coordinator receives a report of an incident of sexual misconduct or sexual harassment. Examples of a report may include written or oral reports submitted by a complainant, Responsible Employee, anonymous reporting party, third-party reporter, or other College community member.

Upon receiving a report of an alleged incident of sexual harassment or sexual misconduct, the Title IX Coordinator will promptly contact the complainant to discuss the availability of supportive measures and explain the option for filing a formal complaint under this Policy as well as the formal complaint process under Title IX and/or the grievance process described in the College's [Student Handbook](#), the [Employee Handbook](#), or the College's [Policy on Non-Discrimination and Anti-Harassment](#), if applicable. The complainant will have the opportunity to express what they would like in the form of supportive measures, and the Title IX Coordinator will take into account the complainant's wishes in determining which supportive measures to offer. Supportive measures will be available to complainants regardless of whether or not they wish to file a formal complaint to initiate a grievance process.

Supportive measures remain available to the complainant before and after filing a formal complaint of sexual harassment or a complaint of sexual misconduct as well as when no formal complaint or complaint has been filed. Additionally, the College will provide supportive measures to complainants even when the alleged incident does not constitute sexual harassment under Title IX, fall within the jurisdictional conditions under Title IX, or constitute sexual misconduct under the College's [Student Handbook](#), the [Employee Handbook](#), or the College's [Policy on Non-Discrimination and Anti-Harassment](#).

For example, a complainant may still seek supportive measures when an incident of sexual harassment occurs outside of the College's education program or activity or outside of the United States. A complainant may also request supportive measures when the alleged conduct is considered to be sexual misconduct under this Policy but does not qualify as sexual harassment under Title IX.

Supportive measures may remain in place throughout an appeal process.

Regardless of the result of the Title IX grievance process, the College reserves the right to continue supportive measures. Therefore, if the College determines that a respondent is not responsible for violating Title IX under this Policy or the College's [Student Handbook](#), the [Employee Handbook](#), or the College's [Policy on Non-Discrimination and Anti-Harassment](#) the College may continue providing supportive measures to a complainant or respondent to restore or preserve equal access to their education.

The College adheres to Federal Title IX regulations, which require the equitable treatment of complainants and respondents. Equitable treatment under Title IX includes providing supportive measures and remedies for complainants and avoiding disciplinary action against respondents until the formal grievance process as outlined in this Policy is completed. While respondents will be offered supportive measures, Title IX does not require equality or parity with respect to the supportive measures provided to complainants and respondents.

- A. **Confidentiality & Supportive Measures:** The College will keep confidential any supportive measures provided to the complainant or respondent, to the extent that maintaining such confidentiality would not impair the ability of the College to provide the supportive measures. For example, where a no-contact order is appropriate, the respondent would need to know the identity of the complainant in order to comply with the no-contact order, or campus security is

informed about the no-contact order in order to help enforce its terms. For more information about confidentiality during the Title IX grievance process see Section X Part A.

In order for the College to provide supportive measures to the complainant, the College must know the identity of the complainant. Therefore, it is not possible for the complainant to remain anonymous and receive supportive measures because at least one school official (such as the Title IX Coordinator) must know the complainant's identity in order to offer and implement any supportive measures. A complainant or third party may desire to report sexual harassment without disclosing the complainant's identity—and may do so using the reporting options detailed in Section IX this Policy—but the College will be unable to provide supportive measures in response to the report without knowing the complainant's identity.

B. Implementation of Supportive Measures: The Title IX Coordinator is responsible for coordinating the effective implementation of supportive measures. Although supportive measures may require collaboration with various Departments on campus, the Title IX Coordinator will serve as the point of contact for complainants and respondents.

i. Emergency Removal

The College reserves the right to remove a respondent from a College education program or activity without undergoing a grievance process on an emergency basis in the event that the College undertakes an individualized safety and risk analysis and determines that an immediate threat to the physical health or safety of any student or other individual arising from the allegations of sexual harassment justifies removal.

In the event of emergency removal, the College will provide the respondent with post-removal notice and the opportunity to appeal the decision immediately following the removal.

ii. Administrative Leave

The College reserves the right to place a non-student employee respondent on administrative leave during the pendency of a grievance process outlined in this Policy.

XI. FILING A FORMAL COMPLAINT

A. Preliminary Assessment

Upon receiving a report, complaint or formal complaint of an alleged incident of sex discrimination, sexual misconduct, or sexual harassment, the Title IX Coordinator will conduct a preliminary assessment to determine the College's response using the following threshold criteria:

- i. Would the incident be considered "sexual harassment" under Title IX, as defined in Section IV of this Policy?
 - a. In assessing the type of incident, the Title IX Coordinator will determine if the alleged conduct was either:
 - i. Quid pro quo harassment (involving a College employee);
 - ii. Sexual Assault, Dating Violence, Domestic Violence, or Stalking; or

- iii. Unwelcome conduct that is so severe, pervasive, and objectively offensive that it effectively denies a person equal access to a College program or activity
- ii. Did the incident occur in the College’s education program or activity, as defined in section V of this Policy?
- iii. Did the incident occur in the United States?

If the answer is “no” to any of these questions, the alleged incident may be considered one or more of the following forms of conduct and addressed accordingly:

1. Non-sexual harassment sex discrimination: The College’s grievance procedures for handling incidents of sex discrimination can be found in the College’s [Student Handbook](#), the [Employee Handbook](#), or the College’s [Policy on Non-Discrimination and Anti-Harassment](#).
2. Sexual Misconduct: Incidents of sexual misconduct will be addressed using the grievance procedures outlined in the College’s [Student Handbook](#), the [Employee Handbook](#), or the College’s [Policy on Non-Discrimination and Anti-Harassment](#).
3. Non-actionable: Complainant may request, and the College may provide, supportive measures as appropriate.

If the answer is “yes” to all of the three threshold criteria, the incident may constitute sexual harassment under Title IX, and the complainant may file a formal complaint under Title IX to initiate an investigation and grievance process under this Policy

After conducting the assessment, the Title IX Coordinator will send a written notification of their preliminary assessment to the complainant.

The complainant may appeal the Title IX Coordinator’s preliminary assessment of the alleged incident to the appeal decision-makers within 5 calendar days of receiving written notice from the Title IX Coordinator. If a formal complaint or complaint is filed, the respondent may appeal the Title IX Coordinator’s preliminary assessment to the appeal decision-maker within 5 calendar days of receiving the complaint.

Complainants may request supportive measures or an investigation into allegations of conduct that do not meet Title IX jurisdictional conditions, under the College’s [Student Handbook](#), the [Employee Handbook](#), or the College’s [Policy on Non-Discrimination and Anti-Harassment](#).

Regardless of whether an alleged incident is determined to constitute sexual harassment, sexual misconduct, or sex discrimination, and regardless of whether or not the complainant files a formal complaint under Title IX or a complaint under the College’s [Student Handbook](#), the [Employee Handbook](#), or the College’s [Policy on Non-Discrimination and Anti-Harassment](#), the College will provide supportive measures to the complainant. For more information about Supportive Measures, see Section X of this Policy.

B. Filing the Complaint

Filing of a formal complaint (see Section XI) of an alleged incident of sexual harassment under Title IX initiates the investigation and grievance process outlined Section XIII of this Policy.

i. Who Can file a Formal Complaint?

The complainant or Title IX Coordinator must file the formal complaint.

Third parties cannot file formal complaints. Additionally, fundamental fairness and due process principles require that a respondent be informed of the details of the allegations made against them, to the extent that the details are known, to provide an adequate opportunity for the respondent to respond. Therefore, **a complainant cannot remain anonymous and file a formal complaint.** However, the Title IX Coordinator will keep confidential the identities of the complainant and respondent (and witnesses) from anyone not involved in the grievance process, except as permitted by FERPA, required by law, or as necessary to conduct the grievance process. For more information about confidentiality, see Section VII of this Policy.

While a formal complaint requires the complainant's identity, Title IX does not require a complainant to identify the respondent in a formal complaint. If a complainant does not know the respondent's identity and file a formal complaint, the College is still required to investigate the formal complaint because an investigation may reveal the respondent's identity. If the respondent's identity becomes known, the College will send both parties the written notice of allegations (see Section XIII, Part D), follow the grievance process outlined in this Policy, and may impose disciplinary sanctions against the respondent at the conclusion of the grievance process. However, if a respondent's identity remains unknown, the College will be unable to comply with the required grievance process outlined in this policy and therefore unable to impose disciplinary sanctions against the respondent.

Under certain circumstances, the Title IX Coordinator may determine that an investigation is necessary, even when the identity of the complainant is unknown or the complainant does not want an investigation. In this case, the Title IX Coordinator may choose to sign a formal complaint and initiate the grievance process. When this occurs, the Title IX Coordinator is not a complainant or otherwise considered a party included in the grievance process. The alleged victim will remain the complainant and be treated as a party in the grievance process. However, the complainant is not required to participate in the grievance process.

ii. How to File a Formal Complaint

Formal complaints may be submitted in writing either in person, by mail, or by email to the Title IX Co-Coordinators, whose contact information is listed in Section III of this Policy. Additionally, formal complaints may be submitted using the [online formal complaint form](#). Formal complaints cannot be filed by telephone.

iii. What is a Formal Complaint

A formal complaint is a document or electronic submission (such as an email or [online form](#)) that contains the complainant's physical or digital signature or otherwise indicates that the complainant is the person filing the complaint.

A formal complaint alleges sexual harassment against a respondent and requests that the College investigate the allegation of sexual harassment. Therefore, submitting a formal complaint indicates an intentional decision on behalf of the complainant to initiate the Title IX grievance process.

iv. When a Complaint Can be Filed

There is no time limit on a complainant's decision to file a formal complaint, so the decision to sign and file a formal complaint does not need to occur in the immediate aftermath of an alleged incident or reporting an incident.

However, at the time of filing a formal complaint, the complainant must be participating in or attempting to participate in a College education program or activity.

This requirement does not exclude a complainant who has graduated or is on a leave of absence if the complainant intends to apply to a different College program, intends to remain involved in College alumni programs and activities, or may intend to re-apply after a leave of absence.

v. Dismissal of a Formal Complaint

The investigation of the conduct alleged in the formal complaint may uncover new information about the incident. In accordance with Title IX, the College must dismiss the formal complaint of sexual harassment under Title IX if at any point during the investigation or hearing process it is determined that the conduct alleged in the formal complaint:

1. Would not constitute sexual harassment as defined under Title IX (defined in Section IV of this Policy), even if proven;
2. Did not occur in the College's education program or activity; or
3. Did not occur against a person in the United States.

Such dismissal does not indicate that a College policy violation did not occur. Therefore, the College may choose to address such incidents using the College's grievance procedures described in the College's [Student Handbook](#), the [Employee Handbook](#), or the College's [Policy on Non-Discrimination and Anti-Harassment](#).

The College reserves the right to dismiss a formal complaint or allegations therein, if at any time during the investigation or hearing:

1. A complainant notifies the Title IX Coordinator in writing that the complainant would like to withdraw the formal complaint or any allegations therein;
2. The respondent is no longer enrolled or employed by the College;
3. Specific circumstances prevent the College from gathering evidence sufficient to reach a determination as to the formal complaint or allegations therein.

Upon dismissal of a formal complaint (either as required or not), the College will promptly send a written notice of dismissal and reason(s) therefor simultaneously to both parties. The complainant and respondent have the right to appeal the College's dismissal of the formal complaint or any allegations therein on several bases. For more information about the bases of appeal, see Section XVI of this Policy.

vi. Consolidation of Formal Complaints

The College may consolidate formal complaints as to allegations of sexual harassment against more than one respondent, or by more than one complainant against one or more respondents, or by one party against another party, where the allegations of sexual harassment arise out of the same facts or circumstances. Where a grievance process involves more than one complainant or more than one respondent, references in this policy to the singular “party,” “complainant,” or “respondent” include the plural, as applicable.

XII. RIGHT TO AN ADVISOR

All parties are entitled to an advisor of their choosing to assist them throughout the Title IX grievance process. The advisor may be a friend, counselor, faculty member, family member, attorney or any other individual a party chooses to advise them who is eligible and available to serve during the grievance process. Any person who may be called as a witness may not serve as an advisor. Advisors are not eligible to be trained by the College. Parties may not select an advisor which creates a conflict of interest to other parties in the claim. For example, a witness may not be accompanied by an advisor who also advises the reporting party or responding party.

Parties are entitled to be accompanied by their advisor in all meetings, interviews, hearings, and appeals at which the party is entitled to be present during the grievance process. Advisors should help their advisees prepare for each meeting, and are expected to advise ethically, with integrity and in good faith. Parties are required to have an advisor present at the live hearing. If a party does not have an advisor available to be present at the live hearing, the College will provide the party with an advisor of the College’s choice in the College’s sole discretion, who may or may not be an attorney.

The College cannot guarantee equal advisory rights. Consequently, if one party selects an advisor who is an attorney, but the other party does not or cannot afford an attorney, the College is not obligated to provide an attorney or other advisor, except at the hearing. The College is not required to provide an attorney as an advisor at the hearing.

To locate an advisor, parties may wish to contact organizations such as Peace River Center Victim Services, 1860 S. Crystal Lake Drive, Lakeland, FL 33801; 863.413.2708; Lakeland Police Department Victims Assistance, 228 S. Massachusetts Ave. Lakeland, FL 33801, 863.834.6900; The Florida Bar, <https://www.floridabar.org/>.

All advisors are subject to the same College rules whether they are attorneys or not. Advisors may not present on behalf of their advisee in a meeting or interview. Advisors must conduct all cross-examination of the other party and all witnesses in a live hearing, even in the event that the advisee is not present at the live hearing.

Advisors should request or wait for a break in the interview, hearing, or meeting if they wish to interact with the College Title IX personnel. Advisors may confer quietly with their advisees as necessary, as long as they do not disrupt the process. For longer or more involved discussions, the parties and their advisors should ask for breaks or step out of meetings to allow for private conversation.

Advisors may be given an opportunity to meet in advance of any interview or hearing with the College Title IX personnel during the grievance process.

Any advisor who fails to follow the guidelines established by the College in the grievance process will be provided an oral warning. If the advisor continues to disrupt or otherwise fails to follow those guidelines, the advisor will be asked to leave the proceeding. If an advisor is asked to leave, the meeting, interview, hearing or other proceeding will be suspended until the party advisor is reinstated; the party secures another advisor to accompany them at that meeting, interview, hearing or proceeding; or the College provides the party with another advisor for the hearing.

If an advisor is asked to leave a proceeding, the Title IX Coordinator will determine whether the advisor may be reinstated or must be replaced by a different advisor for the remainder of the grievance process.

The parties must advise the Title IX Coordinator of the identity of their advisor at least two (2) business days before the date of their first meeting with investigators and scheduled hearing. The parties must provide subsequent timely notice to the Title IX Coordinator if they change advisors at any time. No audio or video recording of any kind other than as required by institutional procedure is permitted during meetings with College officials.

XIII. GRIEVANCE PROCESS FOR FORMAL COMPLAINTS

A. General Information

The following grievance process complies with 34 CFR § 106.45 of Title IX. All processes, provisions, and rules stated in this policy apply equally to both parties—complainants and respondents.

The College will treat complainants equitably by providing the complainant and respondent with supportive measures throughout the grievance process, following the grievance process before imposing any disciplinary sanctions (or other actions that are not supportive measures) against a respondent, and providing remedies to a complainant where a determination of responsibility for sexual harassment has been made against a respondent.

The College grievance process relies upon an objective evaluation of all relevant evidence—including both inculpatory and exculpatory evidence. The College applies the preponderance of the evidence standard which means that it is more likely than not that the alleged incident occurred. The College applies the same standard of evidence for formal complaints against students and employees, including faculty, and applies the same standard of evidence to all formal complaints of sexual harassment.

Determination of a party's credibility will not be based on a person's status as a complainant, respondent, or witness. The College presumes that the respondent is not responsible for the alleged conduct until a determination regarding responsibility at the conclusion of the grievance process.

All College employees involved in the Title IX investigation and grievance process have received the appropriate training to participate in the Title IX grievance process, and training materials have been made publicly available on the College's website: <https://www.flsouthern.edu/campus-offices/offices-directory/office-of-student-conduct/title-ix-just-ask>. Training topics include, but are not limited to, the definition of sexual harassment under Title IX, steps to conducting a Title IX investigation and grievance process, and how to serve impartially, including by avoiding prejudgment of facts, conflicts of interest, and bias.

If a complainant or respondent considers the College's treatment of a formal complaint of sexual harassment may constitute discrimination on the basis of sex under Title IX, they may file a report of sex discrimination with the Title IX Coordinator.

B. Conflicts of Interest

College employees participating in the Title IX grievance process including the Title IX Coordinator, investigators, decision-makers, and informal resolution facilitators as well as external parties employed by the College to complete Title IX investigation and adjudication functions (hearings, appeals, and informal resolution options) are prohibited from having a conflict of interest or bias for or against complainants or respondents generally or as an individual complainant or respondent.

In an effort to avoid potential conflicts of interest, the College may provide the names and titles of internal and external Title IX investigators and adjudicators to the parties at the initiation of the investigation, informal resolution process, or hearing. Such information will be provided no less than five (5) calendar days before any meeting or hearing between the party and the investigator or adjudicator. The complainant or respondent may request the removal of an investigator or adjudicator on the grounds of personal bias or other conflicts of interest by submitting a written statement to the Title IX Coordinator setting forth the basis for the request no more than three (3) calendar days after receiving notice of the identity of the individual involved in the Title IX grievance process. The Title IX Coordinator will review the written statement and make a determination if there is a conflict of interest. Appropriate steps will be taken to ensure that no conflict of interest exists on the part of anyone involved in the Title IX investigation, hearing, appeals, or informal resolution processes. If a conflict of interest exists, another individual will be assigned to the appropriate role. If a conflict of interest exists between the complainant or respondent and the Title IX Coordinator, reports should be directed to the Vice President for Finance and Administration for employee related complaints or the Vice President of Student Development for student related complaints.

C. Timelines for the Grievance Process

The College aims to complete the Title IX grievance process, including appeals and informal resolution processes, in a reasonably prompt time frame. Generally, the College will conclude the grievance process within **90** calendar days.

The College reserves the right to allow for the temporary delay of the grievance process or the limited extension of time frames for good cause with written notice to the complainant and the respondent of the delay or extension and the reasons for the action. Good cause may include

considerations such as the absence of the party, a party's advisor, or a witness; concurrent law enforcement activity; or the need for language assistance or accommodation of disabilities.

D. Written Notice

Upon receipt of a formal complaint, the College will provide a written notice of allegations to both parties, if known, simultaneously. The notice includes the following information:

1. Notice of the allegation of sexual harassment, as defined in Section IV of this policy, containing sufficient details known at the time, including:
 - a. Identities of the parties involved in the incident (if known);
 - b. Conduct allegedly constituting a policy violation;
 - c. Date and location of the alleged incident (if known).
2. Sufficient time for each party to prepare a response before any initial interview.
3. Explanation of each party's right to an advisor of their choice, who may be, but is not required to be, an attorney. The advisor may participate during the grievance process, subject to limitations established by the College. See Section XII of this Policy.
4. Explanation of each party's right to inspect and review all evidence gathered during the investigation.
5. Reference to the sections of this policy, and Student or Employee Handbook (if applicable) which prohibit knowingly making false statements or knowingly submitting false information during the grievance process.
6. Statement that the respondent is presumed not to be responsible for the alleged conduct unless and until a determination of responsibility is final.
7. Statement that a determination of responsibility will be made at the conclusion of the grievance process.
8. Provide a copy of the College's Policy on Sexual Misconduct & Sexual Harassment, which outlines the grievance process utilized to address alleged incidents of sexual harassment under Title IX.
9. List of on-campus and off-campus support resources for complainants.

If, during the course of the investigation, the College decides to investigate allegations about the complainant or respondent that are not included in the initial notice provided to the parties, the College will provide written notice of the additional allegations to the parties whose identities are known.

E. Investigation of Formal Complaints

The College is obligated to investigate formal complaints of sexual harassment. The College will intend to complete the Title IX investigation within **90** calendar days. The College will inform the

parties of the name and title of the assigned investigator in the written notices of investigative interview issued to the parties.

F. Role of the College and the Parties

During the investigation, the burden of proof and the burden of gathering evidence sufficient to reach a determination regarding responsibility rest on the College and not on the parties.

Both parties are provided with an equal opportunity to present witnesses, including fact and expert witnesses, and other inculpatory and exculpatory evidence during the grievance process. The College will not restrict the ability of either party to discuss the allegations under investigation or to gather and present relevant evidence.

The College is prohibited from accessing, considering, disclosing, or otherwise using a party's records that are made or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in the professional's or paraprofessional's capacity, or assisting in that capacity, and which are made and maintained in connection with the provision of treatment to the party, unless the College obtains the party's voluntary, written consent to do so for the grievance process outlined in this policy.

G. Participation of the Parties in the Investigation Process

The College will provide written notice to a party who is invited and expected to participate in any investigative interviews, hearings, or other meetings. This written notice will include the date, time, location, names of participants, and purpose of the meeting 5 calendar days prior to the meeting, providing the party with sufficient time to prepare.

Parties may not attend interviews of any other party or witness or any meeting or hearing related to the investigation, unless invited and expected to participate by the College.

Prior to completion of the investigative report at the conclusion of the investigation, all parties have the opportunity to have not more than 1 other present during any grievance proceeding, including the opportunity to be accompanied to any grievance-related meeting or proceeding by an advisor of their choice, who may be an attorney. A party may only be accompanied by their advisor during the live hearing. The College does not limit the choice or presence of advisor for either the complainant or respondent in any meeting or grievance proceeding, including investigative interviews. However, the College reserves the right to establish restrictions regarding the extent to which the advisor may participate in the proceedings, which will apply equally to both parties. For more information about rights to an advisor, see Section XII of this Policy.

All parties and their advisors will be given an equal opportunity to inspect and review all evidence gathered during the investigation that is directly related to the allegations raised in the formal complaint, including evidence upon which the College does not intend to rely in reaching a determination regarding responsibility as well as inculpatory and exculpatory evidence, regardless of the source. The evidence subject to inspection and review will be provided either in electronic format or hard copy to the parties and their advisors, if any. The parties will have 10

calendar days to submit a written response regarding the investigation evidence. The investigator will consider the parties' responses prior to completion of the investigative report.

The College may redact confidential portions of the investigation file or require the parties and their advisors to execute nondisclosure agreements to preserve the confidentiality of confidential information prior to release of the investigation file to the parties and their advisors.

All of the evidence which was provided to the parties for inspection and review will be made available at any hearing related to the formal complaint to provide each party the equal opportunity to refer to such evidence during the hearing, including for purposes of cross-examination.

The parties may submit any additional evidence prior to the investigator finalizing the investigative report with a copy provided to the other party and their advisor.

H. Investigative Report

The Title IX investigator will create an investigative report that fairly summarizes relevant evidence.

Upon completion, investigator will send the investigative report to each party and the party's advisor, if any, at least ten (10) calendar days prior to a scheduled hearing, in electronic format or hard copy. Upon review, the parties may submit a written response to the decision-maker not less than five (5) calendar days prior to the scheduled hearing, with a copy to the other party and their advisor. The other party may reply to the written response prior to or during the scheduled hearing.

The investigator may include recommended findings or conclusions in the investigative report, but the decision-maker is under an independent obligation to objectively evaluate relevant evidence in making a determination.

I. Hearing Process

Live hearings are a mandatory part of the Title IX grievance process. A single hearing officer or panel of hearing officers will act as the decision-maker(s) at the College Title IX hearings and must not be the same person as the Title IX Coordinator or investigator. The College will provide specific procedural rules for the live hearing to the parties and their advisors at least 10 (ten) calendar days prior to the scheduled hearing.

Live hearings may be conducted with all parties physically present in the same geographic location. In this instance, at the request of either party, the College will arrange for the live hearing to occur with the parties located in separate rooms with technology enabling the decision-maker(s) and the parties to simultaneously see and hear the part or witness answering the questions.

The College also reserves the right to require or permit any or all parties, witnesses and other participants to appear at the live hearing virtually, with technology enabling participants to simultaneously see and hear each other.

The College will create an audio recording, audiovisual recording, or transcript of any live hearing and make it available to the parties for inspection and review.

Both parties have the right to present relevant fact and expert witnesses as well as inculpatory and exculpatory evidence at the hearing. Any evidence not included in the investigation file should be provided to the decision-maker and the other party and their advisor no less than ten (10) calendar days prior to the hearing.

J. Cross Examination

During the live hearing, the decision-maker will permit each party's advisor to ask the other party and any witnesses any relevant questions and follow-up questions, including questions which challenge credibility.

Cross-examination at the live hearing must be conducted directly, orally, and in real time by the party's advisory, and cross-examination must never be conducted by a party personally.

Only relevant cross-examination and other questions may be asked of a party or witness. Before a complainant, respondent, or witness answers a cross-examination or other question, the decision-maker(s) must first determine whether the question is relevant and explain any decision to exclude a question as not relevant.

Questions and evidence about the complainant's sexual predisposition or prior sexual behavior are not relevant, unless: 1.) such questions and evidence about the complainant's prior sexual behavior are offered to prove that someone other than the respondent committed the conduct alleged by the complainant; or 2.) if the questions and evidence concern specific incidents of the complainant's prior sexual behavior with respect to the respondent and are offered to prove consent.

If a party or witness does not submit to cross-examination at the live hearing, the decision-maker(s) may not rely on any statement of that party or witness in reaching a determination regarding responsibility. However, the decision-maker(s) may not draw an inference about the determination regarding responsibility based solely on a party's or witnesses' absence from a live hearing or refusal to answer cross-examination or other questions.

K. Hearings and Advisors

Apart from the advisor's role in cross-examination, the College reserves the right to restrict the extent to which advisors may participate in the proceedings.

If a party does not have an advisor present at the live hearing, the College will provide, without fee or charge to that party, an advisor of the College's choice to conduct cross-examination on behalf of that party. The advisor may be, but is not required to be, an attorney.

The College will include details regarding the role of the advisors in the hearing procedural rules provided to the parties at least 10 (ten) calendar days prior to the scheduled hearing.

L. Determination Regarding Responsibility

Following the live hearing, the decision-maker(s) will issue a written determination. To reach the determination, the decision-maker(s) will apply the preponderance of the evidence standard of evidence, as defined in Section V of this Policy.

The decision-maker(s) will issue the written determination to the parties simultaneously no more than 15 calendar (fifteen) days after the conclusion of the live hearing. Copies will be sent to the parties and their advisors by email, certified mail, or overnight delivery service such as Federal Express, with receipt of acknowledgement.

The written determination will include the following information:

1. Identification of the allegations potentially constituting sexual harassment, as defined in Section IV of this Policy;
2. A description of the procedural steps taken from the receipt of the formal complaint through the determination, including any notifications to the parties, interviews with parties and witnesses, site visits, methods used to gather evidence, and hearings held;
3. Findings of fact supporting the determination;
4. Conclusions regarding the application of the College's [Student Handbook](#), the [Employee Handbook](#), or the College's [Policy on Non-Discrimination and Anti-Harassment](#) (if applicable) and/or this policy to the facts;
5. A statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility, any disciplinary sanctions to be imposed on the respondent, and whether remedies designed to restore or preserve equal access to the College's education program or activity will be provided by the College to the complainant; and
6. The College's procedures and permissible bases for the complainant and respondent to appeal.

The determination is final either:

1. On the date which the College provides the parties with the written determination of an appeal, if an appeal was filed; or
2. The date for filing an appeal expires without an appeal having been filed.

XIV. REMEDIES

Remedies are provided to the complainant and designed to restore or preserve their equal access to the College's education program or activity. Remedies may be the same individualized services as described in Section X as Supportive Measures. However, remedies do not need to be non-disciplinary or non-punitive and do not need to avoid burdening the respondent. Possible remedies include, but are not limited to:

- Improved campus lighting;
- Educational programming;
- Staff training;
- Campus climate assessments.

The Title IX Coordinator is responsible for implementation of any remedies.

XV. DISCIPLINARY SANCTIONS

Respondents found responsible for sexual harassment as defined in this policy may be subject to disciplinary sanctions at the conclusion of the grievance process. Disciplinary sanctions may include discharge, removal, suspension, or expulsion from the College. The range of possible sanctions includes, but is not limited to:

- Ongoing No Contact directive remains in place
- Written warnings
- Educational interventions
- Targeted community service
- Social, campus residential facilities, or other probations
- Suspension (for varying lengths of time)
- Expulsion
- Termination of employment or suspension

The respondent will be notified of the disciplinary sanctions in the written determination issued to both parties at the conclusion of the grievance process by the decision-maker(s) or appeal decision-maker.

XVI. APPEALS

Either complainant or respondent may file a written notice of appeal of a determination or dismissal of a formal complaint within **5 calendar days** after receiving the written determination or notice of dismissal. The notice of appeal must be delivered to the Title IX Coordinator within such **5-day** period by email, personal delivery, certified mail or overnight delivery service.

A party may appeal from a) determination regarding responsibility, and b) the College's dismissal of a formal complaint or any allegations therein, on the following bases:

- A. Procedural irregularity that affected the outcome of the process;

- B. New evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made, that could affect the outcome of the process; and
- C. The Title IX Coordinator, investigator(s), or decision-maker(s) had a conflict of interest or bias for or against complainants or respondents generally or the individual complainant or respondent that affected the outcome of the process.

In the event that a party files an appeal, the appeal decision-maker(s) will be Vice President of Student Development, Dr. Lauren Albaum for incidents involving students, and Vice President of Finance and Administration, Terry Dennis, for incidents involving employees.

The appeal decision-maker will be free of bias as well as conflict of interest and will not be the Title IX Coordinator, investigator involved in the investigation, or decision-maker who reached the determination regarding responsibility or dismissal. The appeal decision-maker will have received required training under Title IX.

The College will notify the other party in writing when an appeal is filed and implement appeal procedures equally for both parties, including a reasonable, equal opportunity to submit a written statement in support of, or challenging, the outcome.

The appealing party must submit a statement to the appeal decision-maker in support of the appeal within **5 calendar days** of filing the notice of appeal with a copy to the other party and their advisor. Although the other party is not obligated to respond to the appealing party, should the other party wish to respond, the other party must submit a written response to the statement filed by the appealing party to the appeal decision-maker within **5 calendar days** of receipt of the appealing party's statement with a copy to the other party and their advisor.

No oral arguments will be held on the appeal unless so directed by the appeal decision-maker, in which case both parties' advisors will be given an equal opportunity to present oral arguments.

The appeal decision-maker will issue a written decision simultaneously to both parties, describing the result and the rationale of the decision generally within **5 calendar days** of receiving the final written statements from the parties.

XVII. INFORMAL RESOLUTIONS

At any time following the filing of a formal complaint and prior to reaching a determination regarding responsibility, the College offers complainants and respondents informal resolution options such as mediation, restorative justice, or other forms of alternative dispute resolution, which do not involve or require a full investigator and adjudication (hearing process).

In order for the College to proceed with informal resolution options, the College will:

- A. Provide the parties with a written notice disclosing the following:
 - i. The allegations;

- ii. The requirements of the informal resolution process, including the circumstances under which the informal resolution process would preclude the parties from resuming a formal complaint arising from the same allegations, provided, however, that at any time prior to agreeing to a resolution, any party has the right to withdraw from the informal resolution process and resume the grievance process with respect to the formal complaint; and
- iii. Any consequences resulting from participating in the informal resolution process, including the records that will be maintained or could be shared;

B. Obtain voluntary, written consent from the parties to the informal resolution process

The College will provide the parties with the specific guidelines corresponding to the various informal resolution options prior to the parties signing a written consent to the informal resolution process.

The College is prohibited from offering informal resolution options in cases which involve a College employee's sexual harassment of a student.

The College is prohibited from requiring as a condition of enrollment or continuing enrollment, or employment or continuing employment, or enjoyment of any other right, waiver of the right to an investigation and adjudication of formal complaints of sexual harassment as outlined in this policy. Additionally, the College cannot require the parties to participate in an informal resolution process and cannot offer an informal resolution process unless a formal complaint has been filed.

XVIII. RETALIATION

The College prohibits any person from intimidating, threatening, coercing, or discriminating against any individual for the purpose of interfering with any right or privilege secured by Title IX or its implementing regulations, or because an individual has made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under Title IX and its implementing regulations.

This retaliation provision may apply to any individual who has made a report or complaint of sex discrimination, including any individual who has made a report or filed a formal complaint of sexual harassment, any complainant, any individual who has been reported to be the perpetrator of sex discrimination, any respondent, any witness, or any other individuals who participate (or refuse to participate) in any manner in an investigation, proceeding, or hearing of the College's Title IX grievance process. This policy includes protecting the complainant, respondent, and witnesses from being coerced, intimidated, threatened, or otherwise discriminated against based on their participation or refusal to participate in the Title IX grievance process.

Retaliation includes intimidation, threats, coercion, or discrimination, including charges against an individual for code of conduct violations that do not involve sex discrimination or sexual harassment, but arise out of the same facts or circumstances as a report or complaint of sex discrimination, or report or formal complaint of sexual harassment, for the purpose of interfering with any right or privilege secured by Title IX or its implementing regulations.

Charging an individual with a Code of Conduct violation for making a materially false statement in bad faith in the course of the grievance process does not constitute retaliation. However, a determination regarding responsibility, alone, is not sufficient to conclude that an individual made a materially false statement in bad faith. A complainant's allegations may not have been false even where the ultimate determination is that the respondent is not responsible and/or that the complainant may not have acted subjectively in bad faith (and conversely, that a respondent may not have made false, or subjectively bad faith, denials even where the respondent is found responsible).

Exercising rights protected under the First Amendment does not constitute retaliation.

The parties have the right to discuss the allegations under investigation, but this right does not preclude the College from warning the parties not to discuss or disseminate the allegations in a manner that constitutes retaliation or unlawful tortious conduct. It is unacceptable for any person to leak or disseminate information to retaliate against another person.

Complaints alleging retaliation may be filed with the College Title IX Co-Coordinators, which will be handled using the prompt and equitable grievance procedures available for non-sexual harassment sex discrimination complaints by students and employees, as referenced in the College's [Policy on Non-Discrimination and Anti-Harassment](#).

XIX. FALSE ACCUSATIONS

The College prohibits parties, including complainants, respondents, and witnesses, from knowingly making false statements or knowingly submitting false information during the grievance process.

The College reserves the right to charge an individual with a conduct violation for making a materially false statement in bad faith during the course of the grievance process. Such charges do not constitute retaliation on behalf of the College against the individual as the individual has violated the College's own policy. However, a determination regarding responsibility, alone, is not sufficient to conclude that an individual made a materially false statement in bad faith.

XX. RECORDKEEPING

The College will maintain for a period of seven years the following records:

- A. Each sexual harassment investigation, including any determination regarding responsibility, the audio recording, audiovisual recording, or transcript of the hearing, any disciplinary sanctions imposed on the respondent, as well as any remedies provided to the complainant designed to restore or preserve equal access to the College's education program or activity;
- B. Any appeal and the result therefrom;
- C. Any informal resolution and the result therefrom; and
- D. All materials used to train Title IX Coordinators, investigators, decision-makers, and informal resolution facilitators. The College will make these training materials publicly available on its

website at: <https://www.flsouthern.edu/campus-offices/offices-directory/office-of-student-conduct/title-ix-just-ask>.

For each response to a report or formal complaint of sexual harassment, the College will create and maintain for a period of seven years, records of any actions, including any supportive measures taken. In each instance, the College will document the basis for its conclusion that its response was not deliberately indifferent and document that it has taken measures designed to restore or preserve equal access to the College's education program or activity. If the College does not provide a complainant with supportive measures, then the College will document the reasons why such a response was not clearly unreasonable in light of the circumstances.



Resources for Reports of Discrimination, Harassment, or Retaliation;
Domestic Violence; Dating Violence; and Stalking

ON-CAMPUS RESOURCES

| | |
|---|---|
| Safety: Emergency/Sexual or Violent Crime Report <i>Corner of Ingraham Avenue and Duke Place</i> | (863) 680-4125 |
| Safety: Assistance, non-emergency reports | (863) 680-4305 (4305 if dialing from campus phone) |
| Counseling Center - <i>Thrift Building</i> | (863) 680-6236 (confidential) |
| Chaplain Tim Wright - <i>Fannin Campus Ministries Bldg.</i> | (863) 680-4297 (confidential) |
| Student Health Center <i>Thrift Building</i> (required to report incidents to the Title IX Officer or Student Support Intake Team member) | (863) 680-4292 |
| Employee Assistance Program for College staff and faculty | 1-800-96-HELPS (The Hartford) |

Discrimination/"Just Ask"/Title IX Assistance

Title IX Coordinators

For Employees

Assistant Vice President of Operations and Director of Human Resources Katherine Pawlak
(863) 680-3964 (3964 if dialing from a campus phone); kpawlak@flsouthern.edu ; *Raulerson Bldg, near Water Dome*

For Students

Director of Student Conduct Richard Gebauer
(863) 680-6216 (6216 if dialing from campus phone); fscjustask@flsouthern.edu
Carlisle Rogers Building, 2nd Floor

Dean of Students Mike Crawford

(863) 680-3967 (3967 if dialing from a campus phone); mcrawford@flsouthern.edu ; *Carlisle Rogers Building*

Associate Athletic Director and Senior Women’s Administrator Jill Stephens

(863)680-4474 (4474 if dialing from a campus phone); jstephens@flsouthern.edu ; *Jenkins Field House*

Vice President of Student Development Lauren Albaum

(863) 680- 5110 (5110 if dialing from a campus phone); lalbaum@flsouthern.edu ; *Student Development Offices, Rogers Building*

Vice President of Finance & Administration V. Terry Dennis

(863) 680-4148 (4148 if dialing from campus phone); vdennis@flsouthern.edu ; *Raulerson Bldg., next to Water Dome*



Resources for Reports of Sexual Discrimination, Harassment or Retaliation; Domestic Violence; Dating Violence; and Stalking

OFF-CAMPUS RESOURCES

Emergency

911 (9-911 from campus phone)

Will help you obtain medical attention for injuries and forensic examinations, in response to reported acts of violence. Hospital Emergency Rooms in the State of Florida are required to report sexual assault and other criminal acts of violence, and to provide forensic evidence to local law enforcement agencies.

Peace River Victim Services

(863) 413-2707 (confidential)

1860 S. Crystal Lake Dr., Lakeland FL

Provides 24-hour, 7 day/week confidential counseling and forensic examinations.

Your personal physician

(confidential in the State of Florida)

Known or Suspected Abuse of a Child or Vulnerable Adult State of Florida Department of Children and Families

Abuse Hotline: 1-800-962-2973

<https://reportabuse.dcf.state.fl.us/>

Follow-Up Assistance

Lakeland Police Dept. Victim Assistance

(863) 834-6900 (confidential)

219 N. Massachusetts Ave., Lakeland FL

Can provide “next steps” if you wish to file civil or criminal charges in response to a reported act of violence.

Polk County Clerk of the Court, Domestic Violence Department, to file civil Domestic Violence reports and obtain “Injunctions for Protection Against Domestic Violence” (no fee).

Lakeland Branch: 930 E. Parker St., Lakeland FL, tel: (863) 603-6412

Bartow Branch (Polk County Courthouse): 255 N. Broadway St., Bartow FL, tel: (863) 534-4184

Clerk of the 10th Judicial Circuit Court of Polk Co. FL, to file injunctions (“Orders of Protection” or “Restraining Orders”) in response to reported Domestic Violence, Dating Violence, Stalking, or Sexual Violence (no fee). *Polk County Courthouse:* 255 N. Broadway St., Bartow FL, tel: (863) 534-4000

Getting to a Safer Place

Safe Ride Home (Checker Cab)

(863) 665-8151

If you are using this service to get to a safer place or to get someplace more safely, you need your College student ID so the cab company can bill the College.

Legal Assistance

For questions regarding criminal or civil action please contact an attorney for legal counsel.