

**POLICY FOR CIVIL RIGHTS EQUITY RESOLUTION FOR ALL FACULTY,
STUDENTS AND EMPLOYEES TO INCLUDE
SEXUAL MISCONDUCT AND RELATIONSHIP VIOLENCE
Title IX**

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Title IX
June 2018 Revised**

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As used in this document, the term “reporting party” refers to the person impacted by alleged discrimination. The term “responding party” refers to the person who has allegedly engaged in discrimination.

A. Applicable Scope

Florida Coastal School of Law (referred to as “Coastal” or “School”) affirms its commitment to promote the goals of fairness and equity in all aspects of the educational enterprise. All policies below are subject to resolution using the School Equity Resolution Process (ERP), as detailed below. When the responding party is a member of the School community, the ERP is applicable regardless of the status of the reporting party who may be a member or non-member of the campus community, including students, student organization, faculty, administrators, staff, guest, visitors, vendors etc.

B. Title IX Coordinator

Stacy Scaldo, Associate Dean of Library, serves as the Title IX Coordinator and oversees implementation of the School’s Equal Opportunity Plan and the School’s policy on equal opportunity, harassment and nondiscrimination. The Title IX Coordinator acts with independence and authority free of conflicts of interest. To raise any concern involving a conflict of interest by the Title IX Coordinator, contact the School’s Dean, Scott DeVito at 904-680-7741. To raise concerns regarding a potential conflict of interest with any other administrator involved in the ERP, please contact the Title IX Coordinator.

Inquiries about the reports regarding this policy and procedure may be made internally to:

Stacy Scaldo, Associate Dean of Library, is the School’s Title IX Coordinator and can be reached in person in Room 348, by telephone at 904-680-7641, or by email at scaldo@fcsl.edu.

Jennifer Reiber, Dean of Academics, is the School’s Deputy Title IX Coordinator and can be reached in person in Room 375, by telephone at 902-256-1159, or by email at jreiber@fcsl.edu.

Inquires may be made externally to:

Office for Civil Rights (OCR)
U.S. Department of Education
400 Maryland Avenue, SW
Washington, DC 20202-1100

Customer Service Hotline: 800-421-3481

Facsimile: 202-453-6012

TDD: 877-521-2172

Email: OCR@ed.gov

Web: <http://www.ed.gov/ocr>

All reports are acted upon promptly while every effort is made by the School to preserve the privacy of reports. Such reports may also be anonymous. Anonymous reports will be investigated to determine if remedies can be provided. Additionally, all employees of the School are designated as mandated reporters and will share a report with the Title IX Coordinator promptly. Confidentiality and mandated reporting is addressed more specifically below. Reports of misconduct or discrimination committed by the Title IX Coordinator should be reported to the School Dean Scott DeVito at 904-680-7741.

C. Reporting Discrimination

Reports of discrimination, harassment and/or retaliation may be made using any of the following options. There is no time limitation on the filing of allegations. However, if the responding party is no longer subject to the School jurisdiction, the ability to investigate, respond and provide remedies may be more limited:

1. Report directly to the Title IX Coordinator (or deputy)

Stacy Scaldo, Associate Dean of Library, is the School's Title IX Coordinator and can be reached in person in Room 348, by telephone at 904-680-7641, or by email at scaldo@fcsl.edu.

Jennifer Reiber, Dean of Academics, is the School's Deputy Title IX Coordinator and can be reached in person in Room 375, by telephone at 902-256-1159, or by email at jreiber@fcsl.edu.

2. Report online, using the report form posted at <https://www.fcsl.edu/safety/incidentreporting>

D. Jurisdiction

This policy applies to behaviors that take place on the campus, at Schools' sponsored events and may also apply off-campus and to actions online when the Title IX Coordinator determines that the off-campus conduct affects a substantial School interest. A substantial School interest is defined to include:

1. Any action that constitutes a criminal offense as defined by law. This includes, but is not limited to single or repeat violations of any local, state or federal law;
2. Any situation where it appears that the responding party may present a danger or threat to the health or safety of self or others;
3. Any situation that significantly impinges upon the rights, property or achievements of self or others or significantly breaches the peace and/or causes social disorder; and or
4. Any situation that is detrimental to the educational interests of the School.

E. Florida Coastal Policy on Nondiscrimination

Coastal adheres to all federal and state civil rights laws prohibiting discrimination in private institutions of higher education. The School will not discriminate against any person on the basis of race, color, religion, national origin, sex, sexual orientation, age, disability, ethnicity, genetics, gender identity, gender expression, political affiliation, marital status, familial status, or veteran status shall be excluded from participation in, be denied the benefits of, or be subjected to discrimination in any of the programs and activities of Florida Coastal School of Law, including but not limited to admissions, retention, recruitment, and employment, consideration, or selection therefore, whether full-time or part-time. Coastal is an equal opportunity institution of higher education, conforms to all applicable law prohibiting discrimination and affirms its commitment to equal employment opportunity.

This policy covers nondiscrimination in employment and in access to educational opportunities. Therefore, any member of the campus community who acts to deny, deprive or limit the educational or employment access, benefits and/or opportunities of any member of the campus community, guest or visitor on the basis of their actual or perceived membership in the protected classes listed above is in violation of the School's policy on nondiscrimination. When brought to the attention of the School, any such discrimination will be appropriately addressed and remedied by the School according to the Equity Resolution Process described below. Nonmembers of the campus community who engage in discriminatory actions within the School's programs or on School's property are not under the jurisdiction of this policy, but can be subject to actions that limit their access and/or involvement with School's programs as the result of their misconduct. All vendors serving the School through third-party contracts are subject by those contracts to the policies and procedures, or to these policies and procedures, to which their employer has agreed to be bound.

The policy on accommodation of disabilities and the complaint process can be located at <https://www.fcsl.edu/content/ada-accommodations>.

F. Policy on Discriminatory Harassment

Students, staff, administrators, and faculty are entitled to a working environment and educational environment free of discriminatory harassment. Coastal's harassment policy is not meant to inhibit or prohibit educational content or discussions inside or outside of the classroom that include germane, but controversial or sensitive subject matters protected by academic freedom. The sections below describe the specific forms of legally prohibited harassment that are also prohibited under the School policy.

1. Discriminatory and Bias-Related Harassment

Harassment constitutes a form of discrimination that is prohibited by the School policy as well as the law. Coastal condemns and will not tolerate discriminatory harassment against any employee, student, visitor or guest on the basis of any status protected by policy or law. Coastal will remedy all forms of harassment when reported, whether or not the harassment rises to the level of creating a hostile environment. When harassment rises to the level of creating a hostile environment, the School may impose sanctions on the harasser through application of the Equity Resolution Process. The School's harassment policy explicitly prohibits any form of harassment, defined as unwelcome conduct on the basis of actual or perceived membership in a protected class, by any member or group of the community.

A hostile environment may be created by harassing verbal, written, graphic, or physical conduct that is severe or persistent/pervasive, and objectively offensive such that it interferes with, limits or denies the ability of an individual to participate in or benefit from educational programs or activities or employment access, benefits or opportunities.

The School reserves the right to address offensive conduct and/or harassment that 1) does not rise to the level of creating a hostile environment, or 2) that is of a generic nature not on the basis of a protected status. Addressing such behaviors may not result in the imposition of discipline under the School policy, but will be addressed through respectful confrontation, remedial actions, education and/or effective conflict resolution mechanisms. For assistance with conflict resolution techniques, employees should contact Shelly Powers in Human Resources, and students should contact Dr. James Artley in Student Affairs.

2. Sexual Harassment

The Department of Education's Office for Civil Rights (OCR), the Equal Employment Opportunity Commission (EEOC) and the State of Florida regard sexual harassment as a form of sex/gender discrimination and, therefore, as an unlawful discriminatory practice. Coastal has adopted the following definition of sexual harassment, in order to address the special environment of an academic community, which consist not only of employer and employees, but of students as well. Sexual harassment is:

- Unwelcome,
- Sexual, sex-based and/or gender-based
- Verbal, written, online and/or physical conduct

Anyone experiencing sexual harassment in any School program is encouraged to report it immediately to the Title IX Coordinator or Deputy. Remedies, education and/or training will be provided in response.

Sexual harassment may be disciplined when it take the form of *quid pro quo* harassment, retaliatory harassment and/or creates a hostile environment. A hostile environment is created when sexual harassment is:

- Severe, or
- Persistent or pervasive, and
- Objectively offensive, such that it
Unreasonably interferes with, denies or limits someone's ability to participate in or benefit from the School's education or employment opportunities.

Quid Pro Quo Sexual Harassment:

Unwelcome sexual advances, request 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 development or performance.

Some examples of possible Sexual Harassment include:

- A student repeatedly sends sexually oriented jokes around on an email list s/he created, even when asked to stop, causing one recipient to avoid the sender on campus.
- An ex-girlfriend widely spreads false stories about her sex life with her former boyfriend to the clear discomfort of the boyfriend, turning him into a social pariah on campus.
- Male students take to calling a particular brunette student “Monica” because of her resemblance to Monica Lewinsky. Soon, everyone adopts this nickname for her, and she is the target of relentless remarks about cigars, the president, “sexual relations” and Weight Watchers.
- A student grabbed another student by the hair, then grabbed her breast and put his mouth on it. While this is sexual harassment, it is also a form of sexual violence.

G. Policy Expectations with Respect to Consensual Relationships

There are inherent risks in any romantic or sexual relationship between individuals in unequal positions (such as faculty and student, supervisor and employee). As per the Staff Handbook: “Under no circumstances may an employee of Florida Coastal School of Law engage in a romantic relationship with a Florida Coastal School of Law student. If there is a pre-existing relationship with a student, the employee must notify Human Resources immediately or upon hire.”

Consensual romantic or sexual relationships in which one party maintains a direct supervisory or evaluative role over the other party are unethical and prohibited as per the Staff Handbook, page 29.

H. Sexual Misconduct

State law defines various violent and/or non-consensual sexual acts as crimes. While some of these acts may have parallels in criminal law, the School has defined categories of sex/gender discrimination as sexual misconduct, as stated below, for which action under this policy may be imposed. Generally speaking, Coastal considers Nonconsensual Sexual Intercourse violations to be the most serious of these offenses, and therefore typically imposes the most severe sanctions, including suspension or expulsion for students and termination for employees. However, Coastal reserves the right to impose any level of sanction, ranging from a reprimand up to and including suspension or expulsion/termination, for any act of sexual misconduct or other sex/gender-based offenses, including intimate partner (dating and/or domestic) violence, non-consensual sexual contact and/or stalking based on the facts and circumstances of the particular allegation. Acts of sexual misconduct may be committed by any person upon any other person, regardless of the sex, sexual orientation and/or gender identity of those involved.

Violations include:

1. Sexual Harassment (as defined in Section 2 above)

2. Non-Consensual Sexual Intercourse

Defined as:

- Any sexual intercourse
- However slight
- With any object
- By a person upon another person
- That is without consent and/or by force

Sexual Intercourse includes:

- Vaginal or anal penetration by a penis, tongue, finger or object, or oral copulation (mouth to genital contact) no matter how slight the penetration or contact.

3. Non-Consensual Sexual Contact

Defined as:

- Any intentional sexual touching
- However slight
- With any object
- By a person upon another person
- That is without consent and/or by force

Sexual touching includes:

- Intentional contact with the breasts, groin, or genitals, mouth or touching another with any of these body parts, or making another touch you or themselves with or on any of these body parts; or
- Any other bodily contact in a sexual manner.

4. Sexual Exploitation

Sexual Exploitation refers to a situation in which a person takes non-consensual or abusive sexual advantage of another, and that behavior does not otherwise fall within the definitions of Sexual Harassment, Non-Consensual Sexual Intercourse or Non-Consensual Sexual Contact. Examples of Sexual Exploitation include, but are not limited to:

- Sexual voyeurism (such as watching a person undressing, using the bathroom or engaged in sexual acts without the consent of the person observed)
- Invasion of sexual privacy
- Taking pictures or videos or audio recording another in a sexual act, or in any other private activity without the consent of all involved in the activity, or exceeding the boundaries of consent (such as allowing another person to hide in a closet and observe sexual activity, or disseminating sexual pictures without the photographed person's consent)

- Prostitution
- Sexual exploitation also includes engaging in sexual activity with another person while knowingly infected with human immunodeficiency virus (HIV), a sexually transmitted disease (STD) or infection (STI) without informing the other person of the infection
- Administering alcohol or drugs (such as “date rape” drugs) to another person without his or her knowledge or consent (assuming the act is not completed)
- Exposing one’s genitals in non-consensual circumstances
- Sexually-based stalking and/or bullying may also be forms of sexual exploitation

5. Force and Consent

Force: Force is the use of physical violence and/or imposing on someone physically to gain sexual access. Force also includes threats, intimidation (implied threats) and coercion that overcome resistance or produce consent (“Have sex with me or I’ll hit you.” “Okay, don’t hit me, I’ll do what you want.”).

Coercion is unreasonable pressure for sexual activity. Coercive behavior differs from seductive behavior based on the type of pressure someone uses to get consent from another. When someone makes clear to you that they do not want sex, that they want to stop, or that they do not want to go past a certain point of sexual interaction, continued pressure beyond that point can be coercive.

NOTE: Silence or the absence of resistance alone is not consent. There is no requirement on a party to resist the sexual advance or request, but resistance is a clear demonstration of non-consent. The presence of consent is not demonstrated by the absence of resistance. Sexual activity that is forced is by definition nonconsensual, but non-consensual sexual activity is not by definition forced.

Consent: Consent is knowing, voluntary, and clear permission by word or action to engage in mutually agreed upon sexual activity. Since individuals may experience the same interaction in different ways, it is the responsibility of each party to make certain that the other has consented before engaging in the activity. For consent to be valid, there must be a clear expression in words or action that the other individual consented to that specific sexual conduct. Consent can be withdrawn once given, as long as the withdrawal is clearly communicated.

Consent to some sexual contact (such as kissing or fondling) cannot be presumed to be consent for other sexual activity (such as intercourse). A current or previous dating relationship is not sufficient to constitute consent. The existence of consent is based on the totality of the circumstances, including the context in which the alleged incident occurred and any similar previous patterns that may be evidence.

Incapacitation: A person cannot consent if they are unable to understand what is happening or is disoriented, helpless, asleep or unconscious for any reason, including due to alcohol or other drugs. An individual who engages in sexual activity when the individual knows, or should know, that the other person is physically or mentally incapacitated has violated this policy.

It is not an excuse that the responding party was intoxicated and, therefore, did not realize the incapacity of the reporting party.

Incapacitation is defined as a state where someone cannot make rational, reasonable decisions because they lack the capacity to give knowing/informed consent (e.g., to understand the “who, what, when, where, why or how” of their sexual interaction). This policy also covers a person whose incapacity results from mental disability, involuntary physical restraint and/or from the taking of incapacitating drugs.

In Florida, a minor (meaning a person under the age of 18 years) cannot consent to sexual activity. This means that sexual contact by an adult with a person younger than 18 years old may be a crime, and a potential violation of this policy, even if the minor wanted to engage in the act.

I. Other Civil Rights Offenses

In addition to the forms of sexual misconduct described above, the following behaviors are also prohibited as forms of discrimination when the act is based upon the reporting party’s actual or perceived membership in a protected class.

- Threatening or causing physical harm, extreme verbal abuse, or other conduct which threatens or endangers the health or safety of any person;
- Discrimination, defined as actions that deprive, limit or deny other members of the community of educational or employment access, benefits or opportunities;
- Intimidation, defined as implied threats or acts that cause an unreasonable fear of harm in another;
- Hazing, defined as acts likely to cause physical or psychological harm or social ostracism to any person with the School community, when related to admission, initiation, pledging, joining, or any other group-affiliation activity;
- Bullying, defined as
 - Repeated and/or severe
 - Aggressive behavior
 - Likely to intimidate or intentionally hurt, control or diminish another person, physically or mentally
 - That is not speech or conduct otherwise protected by the 1st Amendment

1. Intimate Partner Violence (IPV)

Intimate Partner Violence, defined as violence or abuse between those in an intimate interaction and/or relationship to each other. Dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse. Dating violence does not include acts covered under the definition of domestic violence. Examples:

- A boyfriend shoves his girlfriend into a wall upon seeing her talking to a male friend. This physical assault based in jealousy is a violation of the Intimate Partner Violence Policy.
- An ex-girlfriend shames her female partner, threatening to out her as a lesbian if she doesn’t give the ex another chance.

2. Stalking

Stalking is defined as engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for his/her safety or the safety of others, or suffer substantial emotional distress. A course of conduct means two or more acts, including acts in which the stalker directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with a person's property. Reasonable person means a reasonable person under similar circumstances with similar identities to the victim. Substantial emotional distress means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling. This definition includes a person who willfully, maliciously, and repeatedly follows, harasses, or cyberstalks another person.

- Stalking 1
 - A course of conduct
 - Directed at a specific person
 - On the basis of actual or perceived membership in a protected class
 - That is unwelcome, AND
 - Would cause a reasonable person to feel fear

- Stalking 2
 - Repetitive and Menacing
 - Pursuit, following, harassing and/or interfering with the peace and/or safety of another

J. Retaliation

Retaliation is defined as an adverse action taken against a person participating in a protect activity because of their participation in that protected activity. Retaliation against an individual for alleging harassment, support a party bring an allegation or for assisting in providing information relevant to a claim of harassment is a serious violation of the School's policy and will be treated as another possible instance of harassment or discrimination. Acts of alleged retaliation should be reported immediately to the Title IX Coordinator and will be promptly investigated. Coastal is prepared to take appropriate steps to protect individuals who fear that they may be subjected to retaliation.

K. Remedial Action

Upon notice of alleged discrimination, the School will implement initial remedial, responsive and/or protective actions upon notice of alleged harassment, retaliation and/or discrimination. Such actions could include but are not limited to: no contact directives (orders), providing counseling and/or academic support, schedule adjustments, providing a campus escort, academic or work schedule and assignment accommodations, safety planning, referral to campus and community support resources.

The School will take additional prompt remedial and/or disciplinary action with respect to any member of the community, guest or visitor upon a finding that they have engaged in harassing or discriminatory behavior or retaliation.

The School will maintain as confidential any accommodations or protective measures, provided confidentiality does not impair the School's ability to provide the accommodations or protective measures.

Procedures for handling reported incidents are fully described below.

L. Confidentiality and Reporting of Offenses under this Policy

All School employees (faculty, staff administrators) are expected to report actual or suspected discrimination or harassment to appropriate officials immediately, though there are some limited exceptions. In order to make informed choices, it is important to be aware of confidentiality and mandatory reporting requirements when consulting campus resources. On campus, some resources may maintain confidentiality-meaning they are not required to report actual or suspected discrimination or harassment to appropriate university officials-thereby offering options and advice without any obligation to inform an outside agency or campus official unless a reporting party has requested information to be shared. Other resources exist for reporting parties to report crimes and policy violations and these resources will take action when an incident is reported to them. The following describes the reporting options at the School.

1. Confidential Reporting

If a reporting party would like the details of an incident to be kept confidential, the reporting party may speak with:

- Some campus resources are required to maintain near complete confidentiality; talking to them is sometimes called a "privileged communication." Professional, licensed counselors who provide mental health counseling to members of the school community are not required to report any information about an incident to the Title IX coordinator without a victim's consent. Exceptions to maintaining confidentiality are generally set by law; exceptions to this may involve mandatory reporting of abuse of a child or vulnerable adult, or if someone presents as a direct threat to themselves or others. SCHOOL offers the following professional counseling resource:

Coastal Law Counseling and Wellness Center
Room 151, 904-256-1120

- Other off-campus counselors, advocates, and health care providers will also generally maintain confidentiality and not share information with SCHOOL unless the victim requests the disclosure and signs a consent or waiver form. Other resources and referrals can be found on the Student Affairs webpage.

National Domestic Violence Hotline
<http://www.thehotline.org/>
1-800-799-7233 FREE | 1-800-787-3224 FREE (TTY)

Women's Center of Jacksonville and Rape Recovery Team
5644 Colcord Avenue, Jacksonville, Florida 32211
904.722.3000 | Rape Crisis Hotline: 904.721.7273
<http://www.womenscenterofjax.org/>

Jacksonville Sheriff's Office Victim Services Coordinator
Police Memorial Building
501 E. Bay Street, Jacksonville, FL 32202

Florida Council Against Sexual Violence
<http://www.fcasv.org/>

Rape Crisis Hotline
1-888-956-RAPE (7273)

Hubbard House in Jacksonville
904-354-3114
<http://www.hubbardhouse.org/>

All of the above-listed individuals will maintain confidentiality except in extreme cases of immediacy of threat or danger or abuse of a minor. Our campus counselor is available to help free of charge and can be seen on an emergency basis during normal business hours. Coastal's counselor will submit anonymous statistical information for Clery Act purposes unless they believe it would be harmful to their client.

2. Formal Reporting Options

All Coastal employees have a duty to report, unless they fall under the "Confidential Reporting" section above. Reporting parties may want to consider carefully whether they share personally identifiable details with non-confidential employees, as those details must be shared with the Title IX Coordinator. Employees must promptly share all details of the reports they receive. Generally, climate surveys, classroom writing assignments or discussions, or speak-outs do not provide notice that must be reported to the Coordinator by employees, unless the reporting party clearly indicates that they wish a report to be made. Remedial actions may result from such disclosures without formal College action.

If a reporting party does not wish for their name to be shared, does not wish for an investigation to take place, or does not want a formal resolution to be pursued, the reporting party may make such a request to the Title IX Coordinator, who will evaluate that request in light of the duty to ensure the safety of the campus and comply with federal law. Note that the School's ability to remedy and respond to a reported incident may be limited if the reporting party does not want the institution to proceed with an investigation and/or the Equity Resolution Process.

In case indicating pattern, predation, threat, weapons and/or violence, the School will likely be unable to honor a request for confidentiality. In cases where the reporting party request confidentiality and the circumstances allow the School to honor the request, the School will offer interim supports and remedies to the reporting party and the community, but will not otherwise pursue formal action. A reporting party has the right, and can expect, to have allegations taken seriously by the School when formally reported, and to have those incidents investigated and properly resolved through these procedures.

Formal reporting still affords privacy to the reporter, and only a small group of officials who need to know will be told, including but not limited to: Title IX Coordinator, Deputy Title IX Coordinator and Campus Security. Information will be shared as necessary investigators, witnesses and the responding party. The circle of people with this knowledge will be kept as tight as possible to preserve a reporting party's rights and privacy.

Failure of a non-confidential employee, as described in this section, to report an incident or incidents of sex/gender harassment or discrimination of which they become aware is a violation of School policy and can be subject to disciplinary action for failure to comply.

M. Federal Timely Warning Obligations

Parties reporting sexual misconduct should be aware that under the Clery Act, the School administrators must issue timely warning for incidents reported to them that pose a substantial threat of bodily harm or danger to members of the campus community. The School will ensure that a victim's name and other identifying information is not disclosed, while still providing enough information for community members to make safety decisions in light of the potential danger.

N. False Allegations

Deliberately false and/or malicious accusations under this policy, as opposed to allegations which, even if erroneous, are made in good faith, are a serious offense and will be subject to appropriate disciplinary action.

O. Amnesty for Reporting Party and Witnesses

The School's community encourages the reporting of misconduct and crimes by reporting parties and witnesses. Sometimes, reporting parties or witnesses are hesitant to report to School officials or participate in resolution processes because they fear that they themselves may be accused of policy violations, such as underage drinking at the time of the incident. It is in the best interests of this community that reporting parties choose to report to university officials, and that witnesses come forward to share what they know. To encourage reporting, the School pursues a policy of offering reporting parties and witnesses amnesty from minor policy violations related to the incident.

Students: Sometimes, students are hesitant to offer assistance to others for fear that they may get themselves in trouble (for example, a student who has been drinking underage might hesitate to help take a sexual misconduct victim to campus security). The School pursues a policy of amnesty for students who offer help to others in need. (While policy violations cannot be overlooked, the School will provide educational options, rather than punishment, to those who offer their assistance to others in need).

P. Federal Statistical Reporting Obligations

Certain campus officials-Those deemed Campus Security Authorities-have a duty to report sexual assault, domestic violence, dating violence and stalking for federal statistical reporting purposes (Clery Act). All personally identifiable information is kept confidential, but statistical information must be passed along to security regarding the type of incident and its general location (on or off-campus, in the surrounding area, but no addresses are

given) for publication in the Annual Security Report. This reports helps to provide the community with a clear picture of the extent and nature of campus crime, to ensure greater community safety. Mandated federal reports include: student affairs, human resources staff, advisors to student organizations and any other official with significant responsibility for student and campus activities. The information to be shared includes the date, the location of the incident (using Clery location categories) and the Clery crime category. This reporting protects the identity of the victim and may be done anonymously.

Q. Equity Resolution Process for Allegations of Harassment, Sexual Misconduct and other forms of Discrimination

The School will act on any formal or informal allegations or notice of violation of the policy on Equal Opportunity, Harassment and Nondiscrimination, that is received by the Title IX Coordinator or a member of the administration, faculty, or other employee.

The procedures described below apply to all allegations of harassment or discrimination on the basis of protected class involving students. These procedures may also be used to address collateral misconduct occurring in conjunction with harassing or discriminatory conduct (e.g.: vandalism, physical abuse of another, etc.). All other allegations of misconduct related to incidents covered by this policy will be addressed through the procedures elaborated in the respective student, faculty and staff handbooks.

Overview

Upon notice to the Title IX Coordinator, this resolution process involves a prompt preliminary inquiry to determine if there is reasonable cause to believe the nondiscrimination policy has been violated. If so, the School will initiate a confidential investigation that is thorough, reliable, impartial, prompt and fair. The investigation and the subsequent resolution process determines whether the nondiscrimination policy has been violated. If so, the School will promptly implement effective remedies designed to end the discrimination, prevent its recurrence and address its effects.

1. Equity Resolution Process (ERP)

Allegations under the policy on nondiscrimination are resolved using the ERP. Members of the ERP pool are announced in an annual distribution of this policy to campus, prospective students, their parents and prospective employees. Members of the ERP pool are trained in all aspects of the resolution process, and can serve in any of the following roles, at the direction of the Title IX Coordinator.

- To provide sensitive intake for and initial advice pertaining to allegations
- To serve in a mediation or restorative justice role in conflict resolution
- To investigate allegations
- To act as process advisors/advocates to those involved in the Equity Resolution Process
- To serve on appeal panels for allegations

ERP pool members also recommend proactive policies, and serve in an educative role for the community. The Dean, in consultation with the Title IX Coordinator, appoints the pool, which reports to the Title IX Coordinator. ERP pool members receive annual training organized by the Title IX Coordinator, including a review of the School policies and procedures as well as applicable federal and state laws and regulations so that they are able to appropriately address allegations, provide accurate information to members of the community, protect safety and

promote accountability. This training will include, but is not limited to: how to appropriately remedy, investigate, render findings and determine appropriate sanctions in reference to all forms of harassment and discrimination allegations; the School's Discrimination and Harassment Policies and Procedures (Including Sexual Misconduct); confidentiality and privacy; and applicable laws, regulations and federal regulatory guidance. All ERP pool members are required to attend this annual training to be eligible to serve.

The Equity Resolution Process pool includes:

- 2 Co-chairs; one representative from HR and one from Student Affairs, who are *ex officio* members and who respectively Chair resolution panel hearings for allegations involving student and employee responding parties
- At least three members of the administration/staff

ERP pool members are usually appointed to three-year terms. Appointments to the pool should be made with attention to representation of groups protected by the harassment and non-discrimination policy. Individuals who are interested in serving in the pool are encouraged to contact the Title IX Coordinator.

2. Reporting Misconduct

Any member of the community, guest or visitor who believes that the policy on Equal Opportunity, Harassment and Nondiscrimination has been violated should contact the Title IX Coordinator.

It is also possible for employees to notify a supervisor, or for students to notify an administrative advisor or faculty member. Any member of the community, including visitors, may contact Security to make a report. These individuals will in turn notify the Title IX Coordinator. The School's website also includes a report form at <https://www.fcsl.edu/form/2011/09/23/incidentbehavior-report-form> which may serve to initiate a resolution process.

All employees receiving reports of a potential violation of the School's policy are expected to promptly contact the Title IX Coordinator, within 24 hours of becoming aware of a report or incident. All initial contacts will be treated with privacy: specific information on any allegations received by any party will be reported to the Title IX Coordinator, but, subject to the School's obligation to redress violations, every effort will be made to maintain the privacy of those initiating an allegation. In all cases, the School will give consideration to the reporting party with respect to how the reported misconduct is pursued, but reserves the right, when necessary to protect the community, to investigate and pursue a resolution even when a reporting party chooses not to initiate or participate in the resolution process.

3. Preliminary Inquiry

Following receipt of notice or a report of misconduct, the Title IX Coordinator engages in a preliminary inquiry to determine if there is reasonable cause to believe the nondiscrimination policy has been violated. The preliminary inquiry is typically 1-3 days in duration. This inquiry may also serve to help the Title IX Coordinator to determine if the allegations evidence violence, threat, pattern, predation and/or weapon, in the event that the reporting party has asked for no action to be taken. In any case where violence, threat, pattern, predation, and/or weapon is not evidence, the Title IX Coordinator may respect a reporting party's request for no action, and will investigate only so far as necessary to determine appropriate remedies. As necessary, the School

reserves the right to initiate resolution proceedings without a formal report or participation by the reporting party.

In cases where the reporting party wishes to proceed or the School determines it must proceed, and the preliminary inquiry shows that reasonable cause exists, the Title IX Coordinator will direct a formal investigation to commence and the allegation will be resolved through one of the processes discussed briefly here and in greater detail below:

- Conflict Resolution-typically used for less serious offenses and only when both parties agree to conflict resolution
- Administrative Resolution-resolution by a trained administrator

The process followed considers the preference of the parties, but is ultimately determined at the discretion of the Title IX Coordinator. Conflict Resolution may only occur if selected by all parties, otherwise the Administrative Resolution Process applies.

If conflict resolution is desired by the reporting party, and appears appropriate given the nature of the alleged behavior, then the report does not proceed to investigation, unless a pattern of misconduct is suspected or there is an actual or perceived threat of further harm to the community or any of its members.

Once a formal investigation is commenced, the Title IX Coordinator will provide written notification of the investigation to the responding party at an appropriate time during the investigation. The notification will be made in writing and may be delivered by one or more of the following methods: in person; mailed to the local or permanent address of the parties as indicated in office School records; or emailed to the parties' School issued email account. Once mailed, emailed and/or received in-person, notice will be presumptively delivered. The reporting party is typically copied on such correspondence. The School aims to complete all investigations within a sixty (60) calendar day time period, which can be extended as necessary for appropriate cause by the Title IX Coordinator with notice to the parties as appropriate.

If, during the preliminary inquiry or at any point during the formal investigation, the Title IX Coordinator determines that there is no reasonable cause to believe that policy has been violated, the process will end unless the reporting party requests that the Title IX Coordinator makes an extraordinary determination to re-open the investigation. The decision lies in the sole discretion of the Title IX Coordinator.

4. Interim Remedies/Actions

The Title IX Coordinator may provide interim remedies intended to address the short-term effects of harassment, discrimination and/or retaliation i.e., to redress harm to the reporting party and the community and to prevent further violations. These remedies may include, but are not limited to:

- Referral to counseling and health services
- Referral to the Human Resources
- Education to the community
- Altering work arrangements for employees
- Providing campus escorts
- Implementing contact limitations between the parties
- Offering adjustments to academic deadlines, course schedules, etc.

The School may interim suspend a student, employee or organization pending the completion of ERP investigations and procedures, particularly when in the judgment of the Title IX Coordinator the safety or well-being of any member(s) of the campus community may be jeopardized by the presence on-campus of the responding party or the ongoing activity of a student organization whose behavior is in question. In all cases in which an interim suspension is imposed, the student, employee or student organization will be given the option to meet with the Title IX Coordinator prior to such suspension being imposed, or as soon thereafter as reasonably possible, to show cause why the suspension should not be implemented. The Title IX Coordinator has sole discretion to implement or stay an interim suspension and to determine its conditions and duration. Violation of an interim suspension under this policy will be grounds for expulsion or termination.

During an interim suspension or administrative leave, a student or employee may be denied access to School's campus/facilities/events. As determined by the Title IX Coordinator, this restriction can include classes and/or all other School activities or privileges for which the student might otherwise be eligible. At the discretion of the Title IX Coordinator alternative coursework options may be pursued to ensure as minimal an impact as possible on the responding party.

The institution will maintain as confidential any interim actions or protective measures, provided confidentiality does not impair the institution's ability to provide the interim actions or protective measures.

5. Investigation

Once the decision is made to commence a formal investigation, the Title IX Coordinator appoints ERP pool members to conduct the investigation usually within two (2) days of determining that an investigation should proceed. Investigations are completed expeditiously, normally within ten (10) days, though some investigations take weeks or even months, depending on the nature, extent and complexity of the allegations, availability of witnesses, police involvement, etc.

The School may undertake a short delay in its investigation (several days to weeks, to allow evidence collection) when criminal charges on the basis of the same behaviors that invoke this process are being investigated. The School will promptly resume its investigation and resolution processes once notified by law enforcement that the initial evidence collection process is complete. The School action will not typically be altered or precluded on the grounds that civil or criminal charges involving the same incident have been filed or that charges have been dismissed or reduced.

All investigations will be thorough, reliable, impartial, prompt and fair. Investigations entail interviews with all relevant parties and witnesses, obtaining available evidence and identifying sources of expert information, as necessary.

The investigators will typically take the following steps, if not already completed (not necessarily in order):

- In coordination with campus partners (e.g.: Title IX Coordinator), initiate or assist with any necessary remedial actions;
- Determining the identity and contact information of the reporting party;
- Identify all policies allegedly violated

- Assist the Title IX Coordinator with an immediate preliminary inquiry to determine if there is reasonable cause to believe the responding party has violated policy
 - If there is insufficient evidence to support reasonable cause, the inquiry should be closed with no further action;
- Commence a thorough, reliable and impartial investigation by developing a strategic investigation plan, including a witness list, evidence list, intended timeframe, and order of interviews for all witnesses and the responding party, who may be given notice prior to or at the time of the interview;
- Prepare the notice of allegation [charges] on the basis of the preliminary inquiry;
- Meet with the reporting party to finalize their statement, if necessary;
- If possible, provide written notification to the parties prior to their interviews that they may have the assistance of a ERP pool member or other advisor of their choosing present for all meetings attended by the advisee;
- Provide reporting party and responding party with a written description of the alleged violation(s), a list of all policies allegedly violated, a description of the applicable procedures and a statement of the potential sanctions/responsive actions that could result;
- Prior to the conclusion of the investigation, provide the reporting party and the responding party with a list of witnesses whose information will be used to render a finding;
- Allow each party the opportunity to suggest questions they wish the investigators to ask of the other party and witnesses.
- Provide parties with all relevant evidence to be used in rendering a determination and provide each with a full and fair opportunity to address the evidence prior to a finding being rendered;
- Complete the investigation promptly, and without unreasonable deviation from the intended timeline;
- Provide regular updates to the reporting party throughout the investigation, and to the responding party, as appropriate;
- Make, or recommend to the Title IX Coordinator, a finding, based on a preponderance of the evidence (whether a policy violation is more likely than not);
- Investigators and/or the Title IX Coordinator finalize and present the findings to the parties, without undue delay between notifications.

At any point during the investigation, if it is determined there is no reasonable cause to believe that the School policy has been violated, the Title IX Coordinator has authority to terminate the investigation and end resolution proceedings.

Witnesses (as distinguished from the parties) are expected to cooperate with and participate in the School's investigation and the Equity Resolution Process. Failure of a witness to cooperate with and/or participate in the investigation or Equity Resolution Process constitutes a violation of policy and may be subject to discipline. Witnesses may provide written statements in lieu of interviews during the investigation and may be interviewed remotely by phone, Skype (or similar technology), if they cannot be interviewed in person or if the investigators determine that timeliness or efficiency dictate a need for remote interviewing. Parties who elect not to participate in the investigation or to withhold information from the investigation do not have the ability to offer evidence later during the appeal if it could have been offered during the investigation. Failure to offer evidence prior to an appeal does not constitute grounds for appeal on the basis of new evidence.

No unauthorized audio or video recording of any kind is permitted during investigation meetings or other Equity Resolution Process proceedings.

6. Advisors

Each party is allowed to have an advisor of their choice present with them for all ERP meetings and proceedings, from intake through to final determination. The parties may select whomever they wish to serve as their advisor as long as the advisor is eligible and available, and usually otherwise not involved in the resolution process, such as serving as a witness. The advisor may be a friend, mentor, family member, attorney or any other supporter a party chooses to advise them who is available and eligible. Witnesses cannot also serve as advisors. The parties may choose advisors from inside or outside the campus community. The parties may choose their advisor from the ERP pool, choose a non-trained advisor from outside the pool, if preferred, or proceed without an advisor.

The parties may be accompanied by their advisor in all meetings and interviews at which the party is entitled to be present, including intake and interviews. Advisors should help their advisees prepare for each meeting, and are expected to advise ethnically, with integrity and in good faith. The School cannot guarantee equal advisory rights, meaning that if one party selects an advisor who is an attorney, but the other party does not, or cannot afford an attorney, the School is not obligated to provide one.

All advisors are subject to the same campus rules, whether they are attorneys or not. Advisors may not address campus officials in a meeting or interview unless invited to. The advisor may not make a presentation or represent the reporting party or the responding party during any meeting or proceeding and may not speak on behalf of the advisee to the investigators or hearing panelists. The parties are expected to ask and respond to questions on their own behalf, without representation by their advisor. Advisors may confer quietly with their advisees or in writing 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 will typically be given an opportunity to meet in advance of any interview or meeting with the administrative officials conducting that interview or meeting. This pre-meeting will allow advisors to clarify any questions they may have, and allows the School an opportunity to clarify the role the advisor is expected to take.

Advisors are expected to refrain from interference with the investigation and resolution. Any advisor who steps out of their role will be warned once and only once. If the advisor continues to disrupt or otherwise fails to respect the limits of the advisor role, the advisor will be asked to leave the meeting. When an advisor is removed from a meeting, that meeting will typically continue without the advisor present. Subsequently, the Title IX Coordinator will determine whether the advisor may be reinstated, may be replaced by a different advisor, or whether the party will forfeit the right to an advisor for the remainder of the process.

The School expects that the parties will wish to share documentation related to the allegations with their advisors. The School provides a consent form that authorizes such sharing. The parties must complete this form before the School is able to share records with an advisor, though parties may share the information directly with their advisor if they wish. Advisors are expected to maintain the privacy of the records shared with them. These records may not be shared with third parties, disclosed publicly, or used for purposes not explicitly authorized by the School. The School may seek to restrict the role of any advisor who does not respect the sensitive nature of the process or who fails to abide by the School's privacy expectations.

The School expects an advisor to adjust their schedule to allow them to attend School meetings when scheduled. The School does not typically change scheduled meetings to accommodate an advisor's inability to attend. The School will, however, make reasonable provisions to allow an advisor who cannot attend in person to attend a meeting by telephone, video and/or virtual meeting technologies as may be convenient and available.

A party may elect to change advisors during the process, and is not locked into using the same advisor throughout.

The parties must advise the investigators of the identity of their advisor at least one (1) day before the date of their first meeting with investigators (or as soon as possible if a more expeditious meeting is necessary or desired). The parties may provide timely notice to investigators if they change advisors at any time.

7. Resolution

Proceedings are private. All persons present at any time during the resolution process are expected to maintain the privacy of the proceedings in accord with School policy. While the contents of the hearing are private, the parties have discretion to share their own experiences if they so choose, and should discuss doing so with their advisors.

a. Conflict Resolution

Conflict Resolution is often used for less serious, yet inappropriate, behaviors and is encouraged as an alternative to the formal hearing process to resolve conflicts. The Title IX Coordinator will determine if conflict resolution is appropriate, based on the willingness of the parties, the nature of the conduct at issue and the susceptibility of the conduct to conflict resolution. In a conflict resolution meeting, a trained administrator will facilitate a dialogue with the parties to an effective resolution, if possible. Sanction are not possible as the result of a conflict resolution process, though the parties may agree to appropriate remedies. The Title IX Coordinator will keep records of any resolution that is reached, and failure to abide by the accord can result in appropriate responsive actions.

Conflict resolution will not be the primary resolution mechanism used to address reports of violent behavior of any kind or in other cases of serious violations of policy, though it may be made available after the formal process is completed should the parties and the Title IX Coordinator believe that it could be beneficial. Mediation will not be used in cases of sexual violence. It is not necessary to pursue conflict resolution first in order to pursue Administrative Resolution, and any party participating in conflict resolution can stop that process at any time and request a shift to Administrative Resolution.

b. Administrative Resolution

Administrative Resolution can be pursued for any behavior that falls within the policy on Equal Opportunity, Harassment and Nondiscrimination, at any time during the process.

In Administrative Resolution, the Resolution Administrator has the authority to address all collateral misconduct, meaning that they hear all allegations of discrimination, harassment and retaliation, but also may address any additional alleged policy violations that have occurred in concert with the discrimination, harassment or retaliation, even though those collateral allegations may not specifically fall within the policy on Equal Opportunity, Harassment and Nondiscrimination. Accordingly, investigations should be conducted with as wide a scope as necessary.

Administrative Resolution relies on the evidence, information and recommended findings within the investigation report to render a determination. Upon completion of the investigation, the investigator will provide the Resolution Administrator with a written report summarizing the evidence gathered and examined, including an assessment of credibility of the parties and witnesses, an analysis of the information and a recommended finding and sanction (if applicable). The Resolution Administrator will conduct any additional necessary inquiry and then finalize a determination in accordance with the procedures below. The Resolution Administrators will consider, but is not bound by, the recommendations of the investigation.

Any evidence that the Resolution Administrator believes is relevant and credible may be considered, including history and pattern evidence. The Resolution Administrator may exclude irrelevant or immaterial evidence and may choose to disregard evidence lacking in credibility or that is improperly prejudicial.

Unless the Resolution Administrator determines it is appropriate, the investigation and the finding will not consider: (1) incidents not directly related to the possible violation, unless they show a pattern, (2) the sexual history of the reporting party (though there may be a limited exception made in regards to the sexual history between the parties), (3) or the character of the reporting party. While previous conduct violations by the responding party are not generally admissible as information about the present allegation, the investigators will supply the Resolution Administrator with information about previous good faith allegations and/or findings to consider as evidence of pattern and/or predatory conduct. Neither the Resolution Administrator nor investigators will meet with character witnesses, but investigators will accept up to two (2) letters supporting the character of each of the parties.

The Resolution Administrator will base the determination(s) on the preponderance of the evidence, whether it is more likely than not that the responding party violated policy as alleged.

The responding party may choose to admit responsibility for all or part of the alleged policy violations at any point during the investigation or Administrative Resolution process. If the responding party admits responsibility, the Title IX Coordinator will render a determination that the individual is in violation of the School policy.

If the responding party admits the violation, or is found in violation, the Resolution Administrator, in consultation with the Title IX Coordinator and others as appropriate, will determine an appropriate sanction or responsive action, will implement it, and act promptly and effectively to stop the harassment or discrimination, prevent its recurrence and remedy the effects of the discriminatory conduct.

The Resolution Administrator will inform the parties of the final determination within three (3) days of the resolution, without significant time delay between notifications. Notification will be made in writing and may be delivered by one or more of the following methods: in person; mailed to the local or permanent address of the parties as indicated in official School records; or email to the parties School-issued email account. Once mailed, emailed and/or received in person, notice will be presumptively delivered. The notification of the outcome will specify the finding on each alleged policy violation, any sanctions that may result which the School is permitted to share according to state or federal law, and the rationale supporting the essential findings to the extent the School is permitted to share under state or

federal law. The notice will also include information on when the results are considered by the School to be final, any changes that occur prior to finalization, and any appeals options that are available.

c. Sanctions

Factors considered when determining a sanction/responsive action may include:

- The nature, severity of, and circumstances surrounding the violation
- An individual's disciplinary history
- Previous allegations or allegations involving similar conduct
- Any other information deemed relevant by the hearing panel
- The need for sanctions/responsive actions to bring an end to the discrimination, harassment and/or retaliation
- The need for sanctions/responsive actions to prevent future recurrence of discrimination, harassment and/or retaliation
- The need to remedy the effects of the discrimination, harassment and/or retaliation on the reporting party and the community

i. Student Sanctions (Examples)

The following are the usual sanctions that may be imposed upon students or organizations singly or in combination:

- *Warning*: A formal statement that the behavior was unacceptable and a warning that further infractions of any School policy, procedure or directive will result in more severe sanctions/responsive actions.
- *Probation*: A written reprimand for violation of the Code of Student Conduct providing the more severe disciplinary sanction in the event that the student or organization is found in violation of any School policy, procedure or directive within a specified period of time. Terms of the probation will be specified and may include denial of specified social privileges, exclusion from co-curricular activities, non-contact orders and/or other measures deemed appropriate.
- *Suspension*: Termination of student status for a definite period of time not to exceed two years, and/or until specific criteria are met. Students who return from suspension are automatically placed on probation through the remainder of their tenure at the School. This sanction may be noted as a Conduct Suspension on the student's official transcript, at the discretion of the Title IX Coordinator.
- *Expulsion*: Permanent termination of student status, revocation of rights to be on campus for any reason or attend School-sponsored events. This sanction will be noted as a Conduct on the student's official transcript.
- *Withholding Diploma*: The School may withhold a student's diploma for a specified period of time and/or deny a student participation in commencement activities if the student has an allegation pending, or as a sanction if the student is found responsible for an alleged violation.
- *Revocation of Degree*: The School reserves the right to revoke a degree awarded from the School for fraud, misrepresentation or other violation of School policies, procedures or directives in obtaining the degree, or for other serious violations committed by a student prior to graduation.

- *Organization Sanctions:* Deactivation, de-recognition, loss of all privileges (including School registration), for a specified period of time.
- *Other Actions:* In addition to or in place of the above sanctions, the School may assign any other sanctions as deemed appropriate.

ii. Employee Sanctions

Responsive actions for an employee who has engaged in harassment, discrimination and/or retaliation include:

- Warning-Verbal or Written
- Performance Improvement/Management Process
- Required Counseling
- Required Training or Education
- Probation
- Loss of any Annual Pay Increase
- Loss of Oversight or Supervisory Responsibility
- Demotion
- Suspension with pay
- Suspension without pay
- Termination
- Other Actions: In addition to or in place of the above sanctions, the School may assign any other sanctions as deemed appropriate.

d. Withdrawal or Resignation While Charges Pending

Students: The School does not permit a student to withdraw if that student has an allegation pending for violation of the policy on Equal Opportunity, Harassment and Nondiscrimination. Should a student decide to leave and/or not participate in the ERP, the process will nonetheless proceed in the student’s absence to a reasonable resolution and that student will not be permitted to return to the School unless all sanctions have been satisfied. The student will not have access to an academic transcript until the allegations have been resolved.

Employees: Should an employee resign with unresolved allegations pending, the records of the Title IX Coordinator and Human Resource Offices will reflect that status, and any School responses to future inquiries regarding employment references for that individual will indicate the former employee is ineligible for rehire.

e. Appeals

All requests for appeal consideration must be submitted in writing to the Title IX Coordinator within three (3) days of the delivery of the written finding of the Title IX Coordinator. Any party may appeal the findings and/or sanctions only under the grounds described, below

A three-member appeals panel chosen from the ERP pool will be designated by the Title IX Coordinator from those who have not been involved in the process previously. Any party may appeal, but appeals are limited to the following grounds:

- A procedural error or omission occurred that significantly impacted the outcome of the hearing (e.g. substantiated bias, material deviation from established procedures, etc.).
- To consider new evidence, unknown or unavailable during the original hearing or investigation, that could substantially impact the original finding or sanction. A summary of this new evidence and its potential impact must be included.
- The sanctions imposed fall outside the range of sanctions the School has designated for this offense and the cumulative record of the responding party.

The appeals panel will review the appeal request(s). The original finding and sanction/ responsive actions will stand if the appeal is not timely or is not based on the grounds listed above, and such a decision is final. The party requesting appeal must show that the grounds for an appeal request have been met, and the other party or parties may show the grounds have not been met, or that additional grounds are met. The original finding and sanction are presumed to have been decided reasonably and appropriately. When any party request an appeal, the Title IX Coordinator will share the appeal request with the other party(ies), who may file a response within three (3) days and/or bring their own appeal on separate grounds. If new grounds are raised, the original appealing party will be permitted to submit a written response to these new grounds within three (3) days. These response or appeal requests will be shared with each party.

Where the appeals panel finds that at least one of the grounds is met by at least one party, additional principles governing the hearing of appeals will include the following:

- Decisions by the appeals panel are to be deferential to the original decision, making changes to the finding only where there is clear error and to the sanction/ responsive action only if there is a compelling justification to do so.
- Appeals are not intended to be full re-hearings (de novo) of the allegation. In most cases, appeals are confined to a review of the written documentation or record of the investigation, and pertinent documentation regarding the grounds for appeal. An appeal is not an opportunity for appeals panelists to substitute their judgment for that of the original investigator(s) for reconsideration. Other appeals may be remanded at the discretion of the Title IX Coordinator or, in limited circumstances, heard by the three-member appeals panel.
- Sanctions imposed as the result of Administrative Resolution are implemented immediately unless the Title IX Coordinator or designee stays their implementation in extraordinary circumstances, pending the outcome of the appeal.
 - For students: Graduation, study abroad, internships/externships, etc. do NOT in and of themselves constitute exigent circumstances, and students may not be able to participate in those activities during their appeal.
- The Title IX Coordinator will confer with the appeals panel, incorporate the results of any remanded grounds, and render a written decision on the appeal to all parties within three (3) days of the resolution of the appeal or remand.
- Once an appeal is decided, the outcome is final: further appeals are not permitted, even if a decision or sanction is changed on remand.
- All parties will be informed in writing within three (3) days of the outcome of the Appeals Panel, without significant time delay between notifications, and in accordance with the standards for notice of outcome as defined above.

- In rare cases where a procedural (or substantive) error cannot be cured by the original investigator(s) and/or Resolution Administrator (as in cases of bias), the appeals panel may recommend a new investigation and/or Administrative Resolution process, including a new Resolution Administrator. The results of a remand cannot be appealed. The results of a new Administrative Resolution process can be appealed, once, on any of the three applicable grounds for appeals.
- In cases where the appeal results in reinstatement to the School or resumption of privileges, all reasonable attempts will be made to restore the responding party to their prior status, recognizing that some opportunities lost may be irreparable in the short term.

f. Long-Term Remedies/Actions

Following the conclusion of the Equity Resolution Process and in addition to any sanctions implemented, the Title IX Coordinator may utilize long-term remedies or actions to stop the harassment or discrimination, remedy its effects and prevent their reoccurrence. These remedies/actions may include, but are not limited to:

- Referral to counseling
- Referral to the Employee Assistance Program
- Education to the Community
- Permanently altering work arrangements for employees
- Providing campus escorts
- Climate surveys
- Policy modification
- Implementing long-term contact limitations between the parties
- Offering adjustments to academic deadlines, course schedules, etc.

At the discretion of the Title IX Coordinator, long-term remedies may also be provided even when the responding party is found not responsible.

The institution will maintain as confidential any long-term remedies/actions or protective measures, provided confidentiality does not impair the institution's ability to provide the actions or protective measures.

g. Failure to Complete Sanctions/Comply with Interim and Long-term Remedies/Responsive Actions

All responding parties are expected to comply with conduct sanctions, responsive actions and corrective actions within the timeframe specified by the Title IX Coordinator. Failure to abide by these conduct sanctions, responsive actions and corrective actions by the date specified, whether by refusal, neglect or any other reason, may result in additional sanctions/responsive/corrective actions and/or suspension, expulsion and/or termination from the School and may be noted on a student's official transcript. A suspension will only be lifted when compliance is achieved to the satisfaction of the Title IX Coordinator.

h. Records

In implementing this policy, records of all allegations, investigations, resolutions, and hearings will be kept by the Title IX Coordinator indefinitely.

i. Statement of the Rights of the Parties

Statement of the Reporting Party's rights:

- The right to investigation and appropriate resolution of all credible allegations of sexual misconduct or discrimination made in good faith to the School officials;
- The right to be informed in advance of any public release of information regarding the incident;
- The right not to have any personally identifiable information released to the public, without their consent;
- The right to be treated with respect by School officials;
- The right to have School policies and procedures followed without material deviation;
- The right not to be pressured to mediate or otherwise informally resolve any reported misconduct involving violence, including sexual violence;
- The right not to be discouraged by School officials from reporting sexual misconduct or discrimination to both on-campus and off-campus authorities;
- The right to be informed by School officials of options to notify proper law enforcement authorities, including on-campus security and local police, and the option to be assisted by campus authorities in notifying such authorities, if the reporting party so chooses. This also includes the right not to be pressured to report, as well;
- The right to have reports of sexual misconduct responded to promptly and with sensitivity by campus security and other campus officials;
- The right to be notified of available counseling, mental health, victim advocacy, health, legal assistance, student financial aid, visa and immigration assistance, or other student services, both on campus and in the community;
- The right to a campus no contact order (or a trespass order against a non-affiliated third party) when someone has engaged in or threatens to engage in stalking, threatening, harassing or other improper behavior that presents a danger to the welfare of the reporting party or others;
- The right to notification of and options for, and available assistance in, changing academic situations after an alleged sexual misconduct incident, if so requested by the reporting party and if such changes are reasonably available (no formal report, or investigation, campus or criminal, need occur before this option is available).

Accommodations may include:

- Exam (paper, assignment) rescheduling;
 - Taking an incomplete in a class;
 - Transferring class sections;
 - Temporary withdrawal;
 - Alternative course completion options.
- The right to have the School maintain such accommodations for as long as is necessary, and for protective measures to remain confidential, provided confidentiality does not impair the institution's ability to provide the accommodations or protective measures;

- The right to be fully informed of campus policies and procedures as well as the nature and extent of all alleged violations contained within the report;
- The right to ask the investigators to identify and question relevant witnesses, including expert witnesses;
- The right to be informed of the names of all witnesses whose information will be used to render a finding, in advance of that finding, except in cases where a witness's identity will not be revealed to the responding party for compelling safety reasons (this does not include the name of the reporting party, which will always be revealed);
- The right not to have irrelevant prior sexual history admitted as evidence;
- The right to regular updates on the status of the investigation and/or resolution;
- The right to have reports addressed by investigators and Resolution Administrators who have received [at least eight hours of] annual sexual misconduct training;
- The right to preservation of privacy, to the extent possible and permitted by law;
- The right to meetings and/or interviews that are closed to the public;
- The right to petition that any School representative in the process be recused on the basis of demonstrated bias or conflict-of-interest;
- The right to bring a victim advocate or advisor of the reporting party's choosing to all phases of the investigation and resolution proceeding;
- The right to have the School compel the participation of student, faculty and staff witnesses, and the opportunity (if desired) to provide the investigators with a list of potential questions to ask of witnesses, and the right to challenge documentary evidence;
- The right to submit an impact statement in writing to the Resolution Administrator following determination of responsibility, but prior to sanctioning;
- The right to be promptly informed of the outcome and sanction of the resolution process in writing, without undue delay between the notifications to the parties;
- The right to be informed in writing of when a decision by the School is considered final, any changes to the sanction to occur before the decision is finalized, to be informed of the right to appeal the finding and sanction of the resolution process, and the procedures for doing so in accordance with the standards for appeal established by the School.

Statement of the Responding Party's rights:

- The right to investigation and appropriate resolution of all credible reports of sexual misconduct and/or discrimination made in good faith to the School administrators;
- The right to be informed in advance, when possible, of any public release of information regarding the report;
- The right to be treated with respect by School officials;
- The right to have School policies and procedures followed without material deviation;
- The right to be informed of and have access to campus resources for counseling and advisory services;
- The right to timely written notice of all alleged violations, including the nature of the violation, the applicable policies and procedures and possible sanctions;

- The right to review all documentary evidence available regarding the report, subject to the privacy limitations imposed by state and federal law, prior to the finding by the Resolution Administrator;
- The right to be informed of the names of all witnesses whose information will be used to render a finding, prior to final determination, except in cases where a witness's identity will not be revealed to the responding party for compelling safety reasons (this does not include the name of the reporting party, which will always be revealed);
- The right not to have irrelevant prior sexual history admitted as evidence in a campus resolution process;
- The right to have reports addressed by investigators and Resolution Administrators who have received [at least 8 hours of] annual training;
- The right to petition that any School representative be recused from the resolution process on the basis of demonstrated bias and/or conflict-of-interest;'
- The right to meetings and interviews that are closed to the public;
- [The right to have the School compel the participation of student, faculty and staff witnesses, and the opportunity to provide the investigators with a list of potential questions to ask of witnesses, and the right to challenge documentary evidence];
- The right to have an advisor of their choice to accompany and assist throughout the campus resolution process;
- The right to a fundamentally fair resolution, as defined in these procedures;
- The right to provide an impact statement in writing to the Resolution Administrator following any determination of responsibility, but prior to sanctioning;
- The right to a decision based solely on evidence presented during the resolution process. Such evidence shall be credible, relevant, based in fact, and without prejudice;
- The right to be promptly informed of the outcome and sanction of the resolution process in writing, without undue delay between the notifications to the parties;
- The right to be informed in writing of when a decision of the School is considered final, any changes to the sanction to occur before the decision is finalized, to be informed of the right to appeal the finding and sanction of the resolution process, and the procedures for doing so in accordance with the standards for appeal established by the School.

9. Disability Accommodation in the Equity Resolution Process

The School is committed to providing qualified students, employees or others with disabilities with reasonable accommodations and support needed to ensure equal access to the Equity Resolution Process. Anyone needing such accommodations or support should contact the Associate Director of Student Affairs, who will review the request and, in consultation with the person requesting the accommodation, and the Title IX Coordinator, determine which accommodations are appropriate and necessary for full participation.

10. Revision

These policies and procedures will be reviewed and updated annually by the Title IX Coordinator. The School reserves the right to make changes to this document as necessary and once those changes are posted online, they are in effect. The Title IX Coordinator may make minor modifications to procedure that do not materially jeopardize the fairness owed to any party, such as to accommodate summer schedules, etc. The Title IX Coordinator may also vary procedures materially with notice (on the institutional web site, with appropriate date of effect identified) upon determining that changes to law or regulation require policy or procedural alterations not reflected in this policy and procedure. Procedures in effect at the time of the resolution will apply to resolution of incidents, regardless of when the incident occurred. Policy in effect at the time of the offense will apply even if the policy is changed subsequently but prior to resolution, unless the parties consent to be bound by the current policy. If government regulations changed in a way that impacts this document, this document will be construed to comply with government regulations in their most recent form.

This document does not create legally enforceable protections beyond the protection of the background state and federal laws which frame such codes generally.

This policy and procedure was implemented in September 2016 and revised in September 2017.