

# Title IX Sexual Harassment Policy

August 2020

**Title IX of the Education Amendments of 1972** is a Federal civil rights law that prohibits discrimination on the basis of sex in educational programs and activities that receive Federal funds. It states:

*"No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance."* 20 U.S.C. §1681 et seq.

Florida Coastal School of Law ("Florida Coastal" or "Coastal Law" or the "Law School") does not tolerate sexual misconduct, including sexual harassment. Such conduct is harmful to the well-being of our community members, our learning and working environments, and the collegial relationships among students, faculty, and staff that characterize the culture of Florida Coastal. All forms of prohibited conduct under this policy are regarded as serious Law School offenses, and violations may result in discipline, including the possibility of dismissal from the Law School and/or termination of employment. State and federal laws also address conduct that may meet the Law School's definitions of prohibited conduct, and criminal prosecution may take place independently of any disciplinary action instituted by the Law School.

This Title IX Sexual Harassment policy is based on definitions, procedures, and other requirements set forth in regulations promulgated by the U.S. Department of Education under Title IX (85 Fed. Reg. 30026 (May 19, 2020); 34 C.F.R. §106). This policy limits the scope of Title IX Sexual Harassment to, among other things, conduct that occurs within the United States and conduct that occurs within Florida Coastal's education program or activities (a concept further defined and discussed below).

In order to address incidents of sexual misconduct that do not fall within the definition of Title IX Sexual Harassment, Florida Coastal also has a Student Code of Conduct, a Faculty Handbook, and an Employee Handbook. If the allegations forming the basis of a formal complaint (defined below), if substantiated, would constitute prohibited conduct under more than one of these policies, then the grievance process set forth in this Title IX Sexual Harassment policy will be applied in the investigation and adjudication of all of the allegations.

The Law School will respond to reports or formal complaints (as defined in Section II) of conduct prohibited under this policy with measures designed to stop the prohibited conduct, prevent its recurrence, and remediate any adverse effects of such conduct on campus or in Law School-related programs or activities.

The Law School will not deprive an individual of rights guaranteed under federal and state law (or federal and state anti-discrimination provisions; or federal and state law prohibiting discrimination on the basis of sex) when responding to any claim of Title IX Sexual Harassment.

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## I. The Law School Title IX Coordinator

The Title IX Coordinator is appointed by the President of the Law School and coordinates the Law School's compliance with Title IX and all Law School conduct policies related to sexual misconduct.

The Title IX Coordinator will be informed of all reports or formal complaints of violations of this policy and oversees the Law School's centralized response to ensure compliance with Title IX. The Title IX Coordinator's responsibilities include, but are not limited to:

- Communicating with all members of the Law School community regarding Title IX, and providing information about how individuals may access their rights;
- Reviewing applicable Law School policies to ensure institutional compliance with Title IX;
- Monitoring the Law School's administration of its own applicable policies, including this policy and all related record keeping, timeframes, and other procedural requirements;
- Coordinating training regarding Title IX, and prohibited conduct defined in this policy and related policies; and
- Responding to any report or formal complaint regarding conduct that violates this policy. For any report of which the Law School has actual knowledge (and any formal complaint), the Title IX Coordinator shall oversee and implement the explanation and provision of any supportive measures. For any formal complaint, the Title IX Coordinator oversees the investigation and resolution of such alleged misconduct, directs the provision of any additional supportive measures, and monitors the administration of any related appeal.

The Title IX Coordinator may delegate certain responsibilities under this policy to designated administrators, who will be appropriately trained.

The Title IX Coordinator's contact information is as follows:

Karen Eubanks, keubanks@fcsl.edu, 904-516-8749

The Law School provides the contact information of the Title IX Coordinator to students, faculty, staff, applicants for admission, and applicants for employment.

## II. Definitions

The following definitions clarify key terminology as used in this policy.

**Actual Knowledge** means notice of sexual harassment or allegations of sexual harassment to the Title IX Coordinator or any official of Florida Coastal who has authority to institute corrective measures on behalf of the Law School.

**Consent** is a voluntary, informed, un-coerced agreement through words or actions freely given, which could be reasonably interpreted as a willingness to participate in mutually agreed-upon sexual acts. Consensual sexual activity happens when each partner willingly and affirmatively chooses to participate.

Indications that consent is not present include: when physical force is used or there is a reasonable belief of the threat of physical force; when duress is present; when one individual overcomes the physical limitations of another individual; and when an individual is incapable of making an intentional decision to participate in a sexual act, which could include instances in which the individual is in a state of incapacitation.

Important points regarding consent include:

- Consent to one act does not constitute consent to another act.
- Consent on a prior occasion does not constitute consent on a subsequent occasion.
- The existence of a prior or current relationship does not, in itself, constitute consent.
- Consent can be withdrawn or modified at any time.
- Consent is not implicit in an individual's manner of dress.
- Accepting a meal, a gift, or an invitation for a date does not imply or constitute consent.
- Silence, passivity, or lack of resistance does not necessarily constitute consent.
- Initiation by someone who a reasonable person knows or should have known to be deemed incapacitated is not consent.

**Complainant** refers to the individual(s) who is alleged to be the victim of conduct that could constitute Title IX Sexual Harassment.

**Force** (Forced) means words and/or conduct that, viewed from the perspective of a reasonable person, substantially impair(s) a person's ability to voluntarily choose whether to take an action or participate in an activity. Examples of Force include, without limitation:

- Physical force (e.g., hitting, punching, slapping, kicking, restraining, choking, kidnapping, using a weapon, blocking access to an exit);
- Words and/or conduct that would cause a reasonable person to fear: or Physical force or other harm to the person's health, safety, or property, or a third person's health, safety, or property;
  - Loss or impairment of an academic benefit, employment benefit, or money;
  - Disclosure of sensitive personal information or information that would harm a person's reputation;
  - Disclosure of video, audio, or an image that depicts the person's nudity or depicts the person engaging in a sexual act(s); or
  - Other immediate or future physical, emotional, reputational, financial, or other harm to the person or a third person.

**Formal complaint** refers to a document filed by a complainant (meaning a document or electronic submission) that contains the complainant's physical or digital signature, or otherwise indicates that the complainant is the individual filing the formal complaint, alleging Title IX Sexual Harassment against a respondent and requesting that the Law School investigate the allegation of Title IX Sexual Harassment. At the time of filing a formal complaint, a complainant must be participating in or attempting to participate in the education program or activity of the Law School. A formal complaint may be filed with the Title IX Coordinator in person, by mail, or by electronic mail, by using the contact information provided in this policy, and by any additional method identified in this policy.

**Formal complaint** may also refer to a document signed by the Title IX Coordinator alleging Title IX Sexual Harassment against a respondent. Where the Title IX Coordinator signs a formal complaint, the Title IX Coordinator is not a complainant or otherwise a party.

**Incapacitation** (or incapacity) is the state in which an individual's perception or judgment is so impaired that the individual lacks the cognitive capacity to make or act on conscious decisions. The use of drugs or alcohol can cause incapacitation. An individual who is incapacitated is unable to consent to a sexual activity. Engaging in sexual activity with an individual who is incapacitated (and therefore unable to consent), where an individual knows or ought reasonably to have understood that the individual is incapacitated, constitutes Title IX Sexual Harassment as defined by this policy.

**Official with Authority** refers to administrators who have authority to institute corrective measures on behalf of the Law School.

**Party or parties** refer to the complainant(s) and the respondent(s).

**Report** refers to information brought to the attention of an Official with Authority alleging conduct prohibited under this policy; a report is not considered to be a formal complaint. A party may bring a report and then subsequently file a formal complaint.

**Respondent** refers to the individual(s) who has been alleged to be the perpetrator of conduct that could constitute Title IX Sexual Harassment.

**Third party** refers to any individual who is not a Law School student, a faculty member, or a staff member (e.g., vendors, alumni/ae, or local residents).

**Witness** refers to any individual who shares information relating to an allegation of prohibited conduct under this policy.

### III. Prohibited Conduct

This policy addresses Title IX Sexual Harassment, which encompasses all of the prohibited conduct described below that occurs on the basis of sex and meets all of the following requirements:

- Occurs within the United States; and

- Occurs within the Law School’s education program or activity, meaning locations, events, or circumstances over which the Law School exercises substantial control over both the respondent and the context in which the Title IX Sexual Harassment occurs; and
- At the time of filing a formal complaint, a complainant is participating in or attempting to participate in the education program or activity at the Law School.

Allegations of sexual misconduct that do not fall under this policy because they do not constitute prohibited conduct as defined in this section may constitute violations of the Law School Student Conduct Code, Faculty Handbook or Employee Handbook.

In determining whether alleged conduct violates this policy, the Law School will consider the totality of the facts and circumstances involved in the incident, including the nature of the alleged conduct and the context in which it occurred. Any of the prohibited conduct defined in this policy can be committed by individuals of any gender, and it can occur between individuals of the same gender or different genders. It can occur between strangers or acquaintances, as well as people involved in intimate or sexual relationships.

The prohibited behaviors listed below are serious offenses and will result in Law School discipline. Prohibited conduct involving force, duress, or inducement of incapacitation, or where the perpetrator has deliberately taken advantage of another individual’s state of incapacitation, will be deemed especially egregious and may result in expulsion or termination of employment. The respondent’s consumption of alcohol or the use of illegal substances does not constitute a mitigating circumstance when it contributes to a violation under this policy.

Prohibited behaviors are:

- **Quid Pro Quo Sexual Harassment:** An employee of the Law School conditioning the provision of an aid, benefit, or service of the Law School on an individual’s participation in unwelcome sexual conduct;
- **Sexual Harassment:** Unwelcome sexual conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies an individual equal access to the Law School’s education program or activity;
- **Sexual Assault:** Any sexual act directed against another person, without the consent of the victim, including instances where the victim is incapable of giving consent. Sexual assault can occur between individuals of the same or different sexes. This includes the following:
  - **Rape:** The carnal knowledge of a person, without the consent of the victim, including instances where the victim is incapable of giving consent because of their age or because of their temporary or permanent mental or physical incapacity;
  - **Sodomy:** Oral or anal sexual intercourse with another person, without the consent of the victim, including instances where the victim is incapable of

- giving consent because of their age or because of their temporary or permanent mental or physical incapacity;
  - **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, without the consent of the victim, including instances where the victim is incapable of giving consent because of their age or because of their temporary or permanent mental or physical incapacity;
  - **Fondling:** The touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the victim, including instances where the victim is incapable of giving consent because of their age or because of their temporary or permanent mental or physical incapacity;
  - **Incest:** Sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law; or
  - **Statutory Rape:** Sexual intercourse with a person who is under the statutory age of consent.
- **Domestic Violence** [as defined by Violence Against Women Act (VAWA); 34 U.S.C. §12291(a)(8)]: A felony or misdemeanor crime of violence committed: (a) by a current or former spouse or intimate partner of the victim; (b) by an individual with whom the victim shares a child in common; (c) by an individual who is cohabitating with, or has cohabitated with, the victim as a spouse or intimate partner; (d) by an individual similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction in which the felony or misdemeanor crime of violence occurred; (e) by any other individual against an adult or youth victim who is protected from that individual's acts under the domestic or family violence laws of the jurisdiction in which the felony or misdemeanor crime of violence occurred. For purposes of this policy, an intimate partner is defined as an individual with whom one has or had a short- or long-term relationship that provides romantic and/or physical intimacy or emotional dependence. Intimate relationships can occur between individuals of the same sex or different sexes and may include (but are not limited to) marriages, civil unions, dating relationships, "hook-up" relationships, relationships in which partners are characterized as "girlfriends" or "boyfriends," and relationships between individuals with a child in common.
- **Dating Violence** [as defined by VAWA; 34 U.S.C. §12291(a)(10)]: Violence committed by an individual who is or has been in a social relationship of a romantic or intimate nature with the victim. The existence of such a relationship shall be determined based on the reporting individual's statement and with consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the individuals involved in the relationship. This 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.

- **Stalking** [as defined by VAWA; 34 U.S.C. §12291(a)(8)]: Engaging in a course of conduct directed at a specific individual that would cause a reasonable person to: (a) fear for the individual’s safety or the safety of others; or (b) suffer substantial emotional distress. For the purposes of the Stalking definition: *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 an individual, or interferes with an individual’s property. *Reasonable person* means a reasonable person under similar circumstances and 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.
- **Retaliation under this policy:** No individual may intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by this policy or because an individual has made a report or formal complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under this policy.

The Law School retains the right to charge an individual for making a materially false statement in bad faith during the course of an investigation, proceeding, or hearing under this policy, but will not conclude that any individual has made a materially false statement in bad faith solely based on the determination regarding responsibility.

Complaints alleging retaliation under this Title IX Sexual Harassment policy, including for the exercise of rights under this policy, must be filed in accordance with this policy and will be addressed promptly and equitably. Where the individual allegedly retaliating is not affiliated with the Law School and not otherwise subject to its policies, the Law School will process the complaint and take appropriate measures.

Notwithstanding the above, the exercise of rights protected under the First Amendment does not constitute retaliation prohibited under this policy; and charging an individual with a code of conduct violation for making a materially false statement in bad faith in the course of a grievance proceeding under this policy does not constitute retaliation; provided, however, that a determination regarding responsibility, alone, is not sufficient to conclude that any party made a materially false statement in bad faith.

#### **IV. Assessment and Dismissal of Formal Complaints**

Upon receipt of a report of sexual harassment or a formal complaint, the Title IX Coordinator will respond to any immediate health or safety concerns raised. The Title IX Coordinator must promptly contact the Complainant to discuss the availability of supportive measures, such as those set forth in Section VII herein. The Title IX Coordinator will then conduct an initial assessment for the sole purpose of determining whether the alleged conduct, if substantiated, would constitute prohibited conduct under this policy. The Law School will seek to complete this initial assessment within ten (10) business days of receipt of the formal complaint. Following the initial assessment, the Title IX Coordinator may take any of the following actions:

- If the allegations forming the basis of the formal complaint would, if substantiated, constitute prohibited conduct as defined in this policy, the Title IX Coordinator shall implement any appropriate supportive measures, not already in place. In addition, the Title IX Coordinator shall initiate an investigation of the allegations under this policy in a formal complaint, as described in Section IV. However, if the Title IX Coordinator deems the formal complaint appropriate for the informal resolution process, upon the consent of both parties, the Title IX Coordinator may instead refer the matter to the informal resolution process, as described in Section IV.
- If the allegations forming the basis of the formal complaint would not, if substantiated, constitute prohibited conduct as defined in this policy, the Title IX Coordinator shall dismiss the formal complaint from the Title IX grievance process (and either party may appeal this dismissal, as discussed below). However, if appropriate, the Title IX Coordinator may refer the matter to the Associate Dean for Student Affairs for review pursuant to the Student Conduct Code or to the Dean for review pursuant to relevant employee policies. In addition, at any time prior to the hearing, the Law School may dismiss a formal complaint if:
  - The complainant notifies the Title IX Coordinator in writing that the complainant wishes to withdraw the formal complaint or any allegations therein;
  - The respondent is no longer enrolled in or employed by the Law School; or
  - Specific circumstances prevent the Law School from gathering sufficient evidence to reach a determination as to the formal complaint or the allegations therein.
- Upon dismissal, the Law School shall promptly send written notice of the dismissal and reason(s) therefor simultaneously to the parties via electronic format. Both parties will have equal right to appeal the dismissal through the appeal process described in Section XII.

The determination regarding dismissal becomes final either on the date that the parties are provided with the written determination of the result of an appeal, if an appeal is filed, or if an appeal is not filed, the date on which an appeal would no longer be considered timely. Once final, a complainant cannot file a formal complaint under this policy concerning the same alleged conduct.

## **V. Confidentiality, Privacy, and Related Responsibilities**

Issues of privacy and confidentiality play important roles in this and may affect individuals differently. Privacy and confidentiality are related but distinct terms that are defined below.

In some circumstances, the reporting responsibilities of Law School employees, or the Law School's responsibility to investigate, may conflict with the preferences of the complainant and/or respondent with regard to privacy and confidentiality. Therefore, all individuals are

encouraged to familiarize themselves with their options and responsibilities, and make use of Confidential Resources, if applicable, in determining their preferred course of action.

Requests for confidentiality or use of anonymous reporting may limit the Law School's ability to conduct an investigation.

### **1. Confidentiality Rights of Complainants and Respondents**

While complainants, respondents, and witnesses involved in the grievance process under this policy are strongly encouraged to exercise discretion in sharing information in order to safeguard the integrity of the process and to avoid the appearance of retaliation, complainants and respondents are not restricted from discussing the allegations under investigation.

Medical, psychological, and similar treatment records are privileged and confidential documents that cannot be accessed or used for a grievance process under this policy without the relevant party's voluntary, written consent.

### **2. Privacy**

The term "privacy" refers to the discretion that will be exercised by the Law School in the course of any investigation or grievance processes under this policy.

In all proceedings under this policy, the Law School will take into consideration the privacy of the parties to the extent possible.

In accordance with federal regulations, the Law School will keep confidential the identity of any individual who has made a report or formal complaint under this policy, including any complainant, any individual who has been reported to be the perpetrator, any respondent, and any witness, except as may be permitted by Family Educational Rights and Privacy Act (FERPA), or as required by law, or to carry out the purposes of conducting any investigation or hearing under this policy.

Any additional disclosure by the Law School of information related to the report or formal complaint may be made if consistent with FERPA or the Title IX requirements. In addition, governmental agencies may mandate certain reporting related to prohibited conduct under this policy involving Law School employees or students.

### **3. Confidential Resources**

The Law School provides access to a comprehensive confidential student assistance program through Teladoc, a student virtual care program that provides telemedicine and counseling on a 24/7 basis. The 24-hour emergency hotline for counseling is 1-855-354-1800.

## **VI. Options for Complainants, Respondents, and Other Reporting Individuals**

A complainant, respondent, or witness has many options, including counseling and support services. Information regarding contact information for local law enforcement as well as contact information for Confidential Resources that are available to provide support to parties and witnesses are described in further detail in Appendix A.

After consulting a Confidential Resource as appropriate, a complainant may:

- Request supportive measures from the Title IX Coordinator (see Section VII);
- File a formal complaint with the Title IX Coordinator, thereby invoking the Law School's internal grievance process (see Section II);
- and/or
- Contact local law enforcement to file a criminal complaint (see Appendix A). At the complainant's request, the Law School will assist the complainant in contacting local law enforcement and will cooperate with law enforcement agencies if a complainant decides to pursue a criminal process.

An individual may pursue some or all of these steps at the same time. When initiating any of the above, an individual does not need to know whether they wish to request any particular course of action, nor how to label what happened. Before or during this decision-making process, complainants and other reporting individuals are encouraged to consult a Confidential Resource (see Appendix A).

### **1. Employees' Responsibility to Report**

In emergency situations, if there is a suspected crime in progress or imminent or serious threats to the safety of anyone, employees must immediately contact the Jacksonville Sheriff's Office by dialing 911.

In non-emergency situations, employees must promptly report suspected violations of this policy to the Title IX Coordinator.

Students are encouraged to report any suspected violation of this policy.

### **2. Anonymous Reporting**

If a reporting individual makes an anonymous report, the Title IX Coordinator will consider how to proceed, taking into account the individual's articulated concerns; the best interests of the Law School community; fair treatment of all individuals involved; and the Law School's obligations under Title IX.

A complainant cannot file a formal complaint anonymously.

### **3. Timeliness of Report**

Complainants and other reporting individuals are encouraged to report any violation of this policy as soon as possible in order to maximize the Law School's ability to respond

promptly and effectively. Reports and formal complaints may be made at any time without regard to how much time has elapsed since the incident(s) in question. If the respondent is no longer a student or employee at the time of the report or formal complaint, the Law School may not be in a position to gather evidence sufficient to reach a determination as to the formal complaint and/or the Law School may not be able to take disciplinary action against the respondent. However, the Law School will still seek to provide support for the complainant and seek to take steps to end the prohibited behavior, prevent its recurrence, and address its effects.

#### **4. Amnesty**

Florida Coastal strongly encourages students to report instances of sexual harassment involving students, and to cooperate in investigations of such incidents. Therefore, students reporting such incidents, or who provide information during the investigation of an alleged incident, will not be disciplined for any violation of the Law School's drug or alcohol policies which they acknowledge in the course of such a report or investigation.

### **VII. Supportive Measures for Complainants and Respondents**

Upon receipt of a report or formal complaint of a violation of this policy, the Law School, through the Title IX Coordinator, will promptly contact the complainant to discuss the availability of supportive measures, consider the complainant's wishes with respect to supportive measures, inform the complainant of the availability of supportive measures with or without the filing of a formal complaint, and explain to the complainant the process for filing a formal complaint. The Law School will also consider supportive measures, as appropriate and reasonably available, for the respondent.

These supportive measures are designed to restore or preserve equal access to the Law School's educational and working programs or activities without unreasonably burdening the other party, including measures designed to protect the safety of all parties and the broader Law School community, or deter sexual harassment. While a supportive measure may impose some restrictions on a party, it will not unreasonably burden them. The Law School may provide supportive measures to the complainant or respondent, as appropriate, as reasonably available, and will do so without fee or charge, regardless of whether the complainant seeks formal disciplinary action. Once supportive measures are approved, the parties or affected individuals will be notified in writing of the supportive measures. The Law School will maintain any supportive measures provided to the complainant or respondent as confidential to the extent possible.

Supportive measures may include:

- counseling;
- 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 locations;
- leaves of absence;

- increased security and monitoring of certain areas of the campus; and/or
- any other measure that can be used to achieve the goals of this policy.

Requests for supportive measures may be made by or on behalf of the complainant or respondent to any Law School official, including the Title IX Coordinator. The Title IX Coordinator is responsible for ensuring the implementation of supportive measures and coordinating the Law School's response with the appropriate offices on campus.

All individuals are encouraged to report concerns about the failure of another to abide by any restrictions imposed by a supportive measure. The Law School will take immediate action to enforce a previously implemented measure and disciplinary sanctions can be imposed for failing to abide by a Law School-imposed measure.

### **VIII. Emergency Removal**

In connection with this policy, whether or not a grievance process is underway, the Law School may summarily remove an individual from an education program or activity on an emergency basis, after undertaking an individualized safety and risk analysis, and upon the determination that the individual poses an immediate threat to the physical health or safety of any student or other individual (including themselves, the respondent, the complainant, or any other individual). In these situations, the Law School will provide the individual with notice and an opportunity to challenge the decision immediately following the removal.

### **IX. Informal Resolution Process**

Subject to the consent of the parties and the approval of the Title IX Coordinator, the Law School permits informal resolution processes in cases in which a formal complaint has been filed with the Title IX Coordinator. Subject to approval by the Title IX Coordinator, the informal resolution process is available in matters involving a student complainant and a student respondent as well as in matters involving a faculty/staff complainant and a faculty/staff respondent; the informal resolution process is not available in matters involving a student and an employee.

The informal resolution process is a voluntary, remedies-based process designed to provide parties with an option to resolve disputes with other students in a forum that is separate and distinct from the Law School's formal grievance processes under the Title IX Sexual Harassment policy. The purpose of the informal resolution process is to address the conduct which has been reported by the complainant, and place the parties in a position to pursue their academic and non-academic interests in a safe, respectful, and productive educational and working environment. Under this process, there will be no disciplinary action taken against a respondent, and the resolution will not appear on the respondent's disciplinary record.

The Law School may facilitate the informal resolution process prior to conducting a hearing. Before the informal resolution process is used, both parties must provide voluntary, written consent to the informal resolution process and must receive written notice disclosing: the allegations, the requirements of the informal resolution process (including the circumstances under which it precludes the parties from resuming a formal complaint arising from the same allegations), and any outcomes resulting from participating in the informal resolution process

(including the records that will be maintained or could be shared). At any time prior to agreeing to a resolution, any party has the right to withdraw from the informal resolution process and resume the Title IX Sexual Harassment grievance process with respect to the formal complaint.

The Law School will not require 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 Title IX Sexual Harassment. Similarly, the Law School will not require, encourage, or discourage the parties from participating in the informal resolution process. The Law School will not offer the informal resolution process unless a formal complaint is filed.

See Appendix B for additional information regarding the informal resolution process.

## **X. Grievance Procedures for Title IX Sexual Harassment Complaints, In General**

The Law School is committed to providing a prompt and impartial investigation and adjudication of all formal complaints alleging violations of this policy. During the grievance process, both parties (complainant and respondent) have equal rights to participate.

### **1. Conflict of Interest**

All individuals who have responsibilities in administering the grievance process under this policy must be free of any conflict of interest or bias for or against complainants or respondents generally or an individual complainant or respondent and will be trained as provided by federal regulations. Parties will be notified at the appropriate junctures of the identities of the individuals serving as investigators, Decision Maker, Sanction Officers, and Appeal Panel members. A party who has concerns that one or more of the individuals performing one of the aforementioned roles has a conflict of interest or is biased must report those concerns to the Title IX Coordinator within 48 hours of being notified of their identities and include a brief explanation of the basis for the conflict or bias concern. The Title IX Coordinator will assess the allegations of conflict or bias to determine whether or not the identified individual(s) can fulfill their duties in an impartial way. If the Title IX Coordinator concludes that the facts and circumstances support the claim of conflict or bias, the pertinent individual(s) will not participate in the case.

### **2. Responsibility to Review Reports and Formal Complaints**

In order to protect the safety of the campus community, the Title IX Coordinator may review reports of violations of this policy even absent the filing of a formal complaint, or under certain circumstances, even if a formal complaint has been withdrawn. The Title IX Coordinator may need to themselves file a formal complaint and proceed with an investigation even if a complainant specifically requests that the matter not be pursued. In such a circumstance, the Title IX Coordinator will take into account the complainant's articulated concerns, the best interests of the Law School community, fair treatment of all individuals involved, and the Law School's obligations under Title IX.

Proceedings under this policy may be carried out prior to, simultaneously with, or following civil or criminal proceedings off campus. Neither a decision by law enforcement regarding prosecution nor the outcome of any criminal proceeding will be considered determinative of whether a violation of this policy has occurred.

### **3. Presumption of Good Faith Reporting**

The Law School presumes that reports of prohibited conduct are made in good faith. A finding that the alleged behavior does not constitute a violation of this policy or that there is insufficient evidence to establish that the alleged conduct occurred as reported does not mean that the report was made in bad faith.

### **4. Presumption of Non-Responsibility**

The respondent is presumed to be not responsible for the alleged conduct unless and until a determination regarding responsibility is made at the conclusion of the grievance process.

### **5. Honesty and Cooperation during Grievance Process**

The Law School expects all members of the Law School community to be honest and cooperative in their official dealings with the Law School under this policy. In this regard, individuals are expected to acknowledge requests from Law School officials for information in a timely fashion and to make themselves available for meetings with Law School officials or any officials acting on behalf of the Law School; any student or member of the faculty or staff who fails to do so may be subject to discipline. However, parties and witnesses may choose not to attend the hearing or may choose not to participate in cross examination at the hearing (see Section XI (3)(b)).

### **6. Advisors**

Throughout the grievance process, each party may have an advisor of their choice; parties may change their advisor at any time during the grievance process. An advisor is an individual chosen by a complainant or a respondent to provide guidance during the grievance process. An advisor may be a member or non-member of the Coastal Law community and may be an attorney. If a party is unable to select an advisor, the Law School will provide without fee or charge to that party an advisor selected by the Law School (who may be, but is not required to be, an attorney) to be present at any interviews or meetings. In addition, the advisor will participate in any hearing for the purpose of conducting cross-examination of the other party and/or any witnesses.

The role of the advisor is narrow in scope: the advisor may attend any interview or meeting connected with the grievance process, but the advisor may not actively participate in interviews and may not serve as a proxy for the party. The advisor may attend the hearing and may conduct cross-examination of the other party and any witnesses at the hearing; otherwise, the advisor may not actively participate in the hearing.

Any individual who serves as an advisor is expected to make themselves available for meetings and interviews throughout the investigation process, as well as the hearing, as scheduled by the Law School. The Law School (including any official acting on behalf of the Law School such as an investigator or a hearing panelist) has the right at all times to determine what constitutes appropriate behavior on the part of an advisor and to take appropriate steps to ensure compliance with this policy.

## **7. Prior Sexual Behavior**

The complainant's predisposition or prior sexual behavior are not relevant and will not be used during the grievance process, unless offered to prove that someone other than the respondent committed the conduct alleged by the complainant, or 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.

## **8. Consolidation**

The Title IX Coordinator has the discretion to consolidate multiple formal complaints as to allegations of Title IX Sexual Harassment against more than one respondent, or by more than one complainant against one or more respondents, or by one party against the other party, where the allegations of Title IX Sexual Harassment arise out of the same facts or circumstances.

## **9. Investigation of Allegations of Violations of Other Law School Policies**

When an initial assessment or investigation under this policy identifies additional related possible violations of Law School policies by the same party(ies) that would normally be handled by another responsible office, the Title IX Coordinator, with the approval of that responsible office, may direct investigators under this policy to investigate such other possible violations at the same time that they investigate the allegations covered by this policy. Under such circumstances, the records from the investigation of the non-Title IX Sexual Harassment matter shall be provided to the office responsible for adjudicating that non-Title IX Sexual Harassment matter in accordance with applicable Law School policies and procedures.

## **10. Procedures Where One Party Is a Member of the Law School Community and the Other Party Is a Non-Member of the Law School Community**

When a third party, (i.e., a non-member of our Law School community, which could include, for example, alumni) is a party under this policy, the Law School will use disciplinary procedures that are generally consistent with the disciplinary procedures described in this policy, appropriately modified based on the particular circumstances of the case and taking into account privacy requirements and the like. In no case will a member of Florida Coastal community (i.e., current student, faculty member, or staff member) be afforded lesser rights or lesser opportunities to participate in the disciplinary proceeding than the non-member of the Law School community.

## **XI. Investigation and Adjudication**

### **1. Timing**

The Law School will seek to complete the investigation and adjudication within ninety (90) business days after the investigators' first interview of the complainant. Investigations will proceed according to the aforementioned timeframe during the summer and at other times when the Law School is not in session. Timeframes for all phases of the grievance process, including the investigation, the hearing, and any related appeal, apply equally to both parties.

There may be circumstances that require the extension of time frames for good cause. Time frames may be extended to ensure the integrity and completeness of the investigation or adjudication, comply with a request by external law enforcement, accommodate the absence of a party, advisor, or witness, or for other legitimate reasons, including the complexity of the investigation and the severity and extent of the alleged misconduct. The Law School will notify the parties in writing of any extension of the time frames for good cause, and the reason for the extension.

In accordance with Law School policy, the Law School will review requests for language assistance and accommodation of disabilities throughout the investigation and adjudication process.

Although cooperation with law enforcement may require the Law School to temporarily suspend the fact-finding aspect of an investigation, under such circumstances the Law School will promptly resume its investigation as soon as it is notified by the law enforcement agency that the agency has completed the evidence gathering process. The Law School will not, however, wait for the conclusion of a criminal proceeding to begin its own investigation and, if needed, will take immediate steps to provide supportive measures for the complainant or respondent. Neither a decision by law enforcement regarding prosecution nor the outcome of any criminal proceeding will be considered determinative of whether a violation of this policy has occurred.

### **2. Investigation**

If the Title IX Coordinator has determined, following an initial assessment, that an investigation is appropriate, the Title IX Coordinator will refer the matter for investigation to an investigator or investigators.

#### **a. Notice of Investigation**

Following the receipt and review of the formal complaint by the Title IX Coordinator, and it being determined that the matter properly falls under this Title IX Sexual Harassment policy, the parties will be informed in writing of the initiation of the investigation. The written information shall include:

- The identities of the parties, if known.

- A concise summary of the alleged conduct at issue (including when and where it occurred, if known).
- Notice of the allegations potentially constituting Title IX Sexual Harassment.
- A statement that the respondent is presumed not responsible and that a determination regarding responsibility is made at the conclusion of the grievance process.
- A statement informing the parties that they may have an advisor of their choice, who may be, but is not required to be, an attorney.
- A statement informing the parties that they may request to inspect and review evidence.
- A statement informing the parties that knowingly making false statements or knowingly submitting false information during the grievance process may constitute a violation of Law School policy.
- Information regarding the applicable grievance procedures, including the informal resolution process.

If, during the investigation, additional information is disclosed that may also constitute prohibited conduct under this policy, the respondent and complainant will be informed in writing that such additional information will be included in the grievance process.

#### **b. Collection of Evidence**

The investigators will collect information from each party. While the complainant and the respondent are not restricted from gathering and presenting relevant evidence, the investigators are responsible for gathering relevant evidence to the extent reasonably possible. However, each party will be given an equal opportunity to suggest witnesses; provide other relevant information, such as documents, communications, photographs, and other evidence; and suggest questions to be posed to the other party or witnesses. Parties and witnesses are expected to provide all available relevant evidence to the investigators during the investigation. If a party or witness fails to provide available relevant evidence during the investigation, such evidence may, at the discretion of the Decision Maker (see Section XI (3)), be excluded from consideration at the hearing. While parties are not restricted from presenting information attesting to the parties' character, such evidence generally is not considered relevant.

The investigators will provide to a party written notice of the date, time, location, participants, and purpose of all investigative interviews to which they are invited or expected, with sufficient time (generally no less than three (3) business days, absent exigent circumstances) for the party to prepare to participate.

Parties will be interviewed separately and will be interviewed by the investigator. The investigator will interview witnesses as necessary and may, at their discretion, delegate witness interviews to two investigators. The investigator will record all interviews, or notes of the interviews will be taken by the investigator. Any other recording of interviews is prohibited and violations may result in discipline.

In general, a party's medical and counseling records are confidential. The investigator will not access, consider, disclose, or otherwise use 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 investigator obtains that party's voluntary, written consent to do so.

The investigator will not require, allow, rely upon, or otherwise use questions or evidence that constitute, or seek disclosure of, information protected under a legally recognized privilege (e.g., attorney-client, doctor-patient, marital), unless the individual holding such privilege has waived the privilege.

**c. Case File**

After each party has been interviewed and had the opportunity to identify witnesses and other potentially relevant information and evidence, and the investigator has completed any witness interviews and any gathering of evidence, the investigator will prepare a case file. The case file will include all collected evidence that is directly related to the allegations raised in the formal complaint, including the evidence upon which the Law School does not intend to rely in reaching a determination regarding responsibility and any inculpatory or exculpatory evidence, whether obtained from a party or other source as part of the investigation. The case file may include, as applicable, transcripts or summaries of party and witness interviews and other collected documents and evidence. The investigator will provide the case file, redacted of personally identifiable information in accordance with privacy regulations, to each party and their advisor in electronic form or hard copy. In all cases, any information relied on in adjudicating the matter will be provided to the parties and their advisors. The investigator will also provide an updated Notice of the Allegations, as appropriate.

Within ten (10) business days of receiving the case file, each party may respond in writing, which may include a request that the investigators collect additional evidence. If the investigator believes that further information is needed following receipt of any responses from the parties, the investigator will pursue any additional investigative steps as needed. The parties and their advisors will be provided with each party's written responses to the case file, if any, as well as any additional information collected by the investigator, in electronic format or hard copy.

**d. Investigative Report**

Following their review of the parties' responses (if any) to the case file, the investigator will create a written investigative report that summarizes all relevant evidence; the report will not contain irrelevant information.

At least ten (10) business days prior to the hearing, the investigative report will be provided to the parties and their advisors via electronic format.

The parties may choose to provide a written response to the investigative report, which must be submitted at least five (5) business days prior to the start of the hearing. The response may consist of a written statement not to exceed 2500 words. At least 48 hours prior to the hearing, the parties and their advisors will be provided with the other party's written response to the investigative report, if any, in electronic format.

### **3. Hearing**

A Decision Maker, appointed by the Title IX Coordinator, will hear every case.

The Decision Maker will have absolute discretion with respect to administering the hearing. The Decision Maker will decide whether evidence and witnesses are relevant or irrelevant, with the understanding that the introduction of relevant evidence and witnesses will always be permitted. The Decision Maker will be responsible for maintaining an orderly, fair, and respectful hearing and will have broad authority to respond to disruptive or harassing behaviors, including adjourning the hearing or excluding the offending individual, including a party, witness, or advisor.

Prior to the hearing, the Decision Maker will be provided with the case file, investigative report, and any responses to the investigative report. She/he shall review the case file (including the parties' responses), ask questions during the hearing as deemed appropriate, and deliberate the adjudication of responsibility (as described in Section XI(3)(e)).

At least five (5) business days prior to the hearing, the parties and their advisors will be notified of the hearing date, time, and location (or relevant electronic information, if the hearing will be conducted remotely).

In advance of the hearing, parties will be required to identify witnesses to be called at the hearing, as well as to provide a brief written explanation of the information each witness would be asked to provide, such that the Decision Maker can determine their relevance. The Decision Maker has the discretion to exclude from the hearing evidence/witnesses/questions deemed irrelevant.

At the Decision Maker's discretion, pre-hearing meetings may be scheduled with each of the parties and their advisors to explain the hearing protocol.

#### **a. Standard of Proof**

The standard of proof under this policy is preponderance of the evidence. A finding of responsibility by a preponderance of the evidence means that it is more likely than not, based on all the relevant evidence and reasonable inferences from the evidence, that the respondent violated this policy.

#### **b. Expectation regarding the Complainant, the Respondent, and the Witnesses regarding the Hearing**

In all proceedings under this policy, including at the hearing, the complainant, the respondent, and the witnesses and other individuals sharing information are expected to provide truthful information.

If the complainant, the respondent, or a witness informs the Law School that they will not attend the hearing (or will refuse to be cross-examined), the hearing may proceed, as determined by the Title IX Coordinator. The Decision Maker may not, however: (a) rely on any statement or information provided by that non-participating individual in reaching a determination regarding responsibility; or (b) draw any adverse inference in reaching a determination regarding responsibility based solely on the individual's absence from the hearing (or their refusal to be cross-examined).

Each party may make requests related to the format or the nature of their participation in the hearing. The Decision Maker will accommodate requests by either party for the hearing to occur with the parties located in separate locations with technology enabling the Decision Maker and the parties to simultaneously see and hear the party answering questions. As appropriate and/or at the discretion of the Decision Maker, hearings may be conducted in person or by video conference or any other means of communications by which all individuals participating are able to see and hear each other.

#### **c. Case Presentation**

While the hearing is not intended to be a repeat of the investigation, the parties will be provided with an equal opportunity for their advisors to conduct cross examination of the other party and/or of relevant witnesses. A typical hearing may include brief opening remarks by the Decision Maker; questions posed by the Decision Maker to one or both of the parties; questions posed by the Decision Maker to any relevant witnesses; and cross-examination by either party's advisor of the other party and relevant witnesses.

The parties' advisors will have the opportunity to cross examine the other party (and witnesses, if any). Such cross examination must be conducted directly, orally, and in real time by the party's advisor and never by a party personally. Only relevant cross examination questions may be asked of a party or witness. Before a party or witness answers a cross-examination question that has been posed by a party's advisor, the Decision Maker must first determine whether the question is relevant and explain any decision to exclude a question as not relevant.

Other Law School administrators may attend the hearing at the request of or with the prior approval of the Decision Maker, but the parties will be notified in advance of anyone else who will be in attendance.

#### **d. Record of Hearing**

The Law School shall create an official record in the form of a recording or transcript of any live (or remote) hearing and make it available to the parties for

inspection and review. Any other record of the hearing or any other recording is prohibited and violations may result in discipline.

**e. Written Determination**

Following the hearing, the Decision Maker will consider all of the relevant evidence and deliberate regarding responsibility. The Decision Maker shall make a determination, by a preponderance of the evidence, whether the respondent has violated the policy. The Decision Maker shall write a written determination, which will contain: (1) the allegations potentially constituting Title IX sexual harassment; (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 (if any), methods used to gather other information, and the hearing); (3) findings of fact supporting the determination; (4) conclusions regarding the application of this policy to the facts; (5) a statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility (i.e., whether a policy violation occurred), any disciplinary sanctions imposed if there has been a finding of responsibility (as described in Section XI(4)), and whether any remedies designed to restore or preserve equal access to the Law School's education program or activity or working environment will be implemented; and (6) relevant appeal information for the parties. Disciplinary sanctions and remedies will be determined in accordance with the procedures listed below.

The parties and their advisors will simultaneously be provided with the written determination via electronic format.

**4. Disciplinary Sanctions and Remedies (to be included in the Written Determination)**

Sanctions will take into account the seriousness of the misconduct as compared to like cases in the past, the respondent's previous disciplinary history (if any), and institutional principles. Remedies, which may include supportive measures, will be designed to restore or preserve equal access to the Law School's education program or activity.

See Appendix C for the range of sanctions under this policy.

**XII. Appeal**

Appeals under this policy will be heard by an appeal panel ("Appeal Panel") comprised of three individuals. The Appeal Panel will be appointed by the Title IX Coordinator. One member shall serve as the chair of the Appeal Panel ("Appeal Chair"). The Appeal Panel shall decide appeals by majority vote.

Both parties have equal rights to an impartial appeal at the following junctures:

- A. Upon the dismissal of a formal complaint or any allegations therein.
- B. Upon receiving the Presiding Hearing Panelist's written determination regarding responsibility and, when applicable, sanction and remedies.

Appeals may be submitted on the following bases: (1) procedural irregularity that affected the outcome of the matter; (2) new evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made which could affect the outcome of the matter; (3) the Title IX Coordinator or their staff, investigator(s), or the Decision Maker 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 matter; and/or (4) the sanctions (or recommended sanctions) are not commensurate with the violation.

To appeal, a party must electronically submit a written appeal statement to Title IX Coordinator within five (5) business days of receipt of the written determination or dismissal. The Appeal Panel Chair may deem a late submission reasonable only under extenuating circumstances, and the Appeal Panel Chair may decide in their sole discretion what constitutes valid extenuating circumstances. The appeal shall consist of a written statement not to exceed 2500 words, outlining the basis for appeal and the relevant information to substantiate the appeal. The non-appealing party will be provided with a copy of the appealing party's written statement and may submit a written response, not to exceed 2500 words, to the associate secretary of the Law School within five (5) business days of receipt of the appealing party's written statement. The non-appealing party's statement will be provided to the appealing party. No further appeal submissions from the parties shall be permitted.

An appeal is limited in scope. The purpose of an appeal is not to initiate a review of substantive issues of fact or a new determination of whether a violation of Law School rules has occurred.

In deciding an appeal, the Appeal Panel may consider the case file and any responses, investigative report and any responses, the hearing record, the written determination, and any written appeal(s) or statements by the parties. The Appeal Panel also may consider any other materials the Law School deems relevant and that have been shared with the parties.

The parties and their advisors will simultaneously be provided (via electronic format) with the written decision describing the result of the appeal and the rationale for the result.

- If the Appeal Panel finds that the earlier decision should stand, the parties will be so informed, and the Title IX process is concluded.
- If the Appeal Panel finds that there was procedural irregularity that affected the outcome of the matter, the matter will be remanded to the Decision Maker to determine appropriate further action.
- If the Appeal Panel finds that new evidence is available which was not reasonably available at the time of the determination regarding responsibility or dismissal, and such evidence could alter the outcome of the matter, the matter will be remanded to the Decision Maker for appropriate further action.
- If the Appeal Panel finds that the Title IX Coordinator or their staff, investigator(s), or the Decision Maker 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 matter, the Appeal Panel will take appropriate measures to address and remediate the impact of the bias or conflict consistent with the general procedures of this policy.

- If the Appeal Panel finds that the sanctions (or recommended sanctions) are not commensurate with the violation, the matter will be remanded to the Decision Maker for reconsideration.

The Appeal Panel will seek to complete the appeal review within twenty (20) business days of receipt of the appealing party's written statement.

Unless further proceedings are necessary, the determination regarding responsibility becomes final either on the date that the parties are provided with the written determination of the result of an appeal if an appeal is filed (at which point the Title IX Sexual Harassment grievance process is concluded), or if an appeal is not filed, the date on which an appeal would no longer be considered timely (at which point the Title IX Sexual Harassment grievance process is concluded).

### **XIII. Training**

The Law School will provide appropriate training to Law School officials with responsibilities under this policy, including the Title IX Coordinator, investigators, potential Decision Makers and Appeal Panel members, and any individual who facilitates the informal resolution process. Such training will cover the definition of Title IX Sexual Harassment, the scope of the Law School's education program or activity, how to conduct an investigation and grievance process including hearings, appeals, and informal resolution processes under this policy, as applicable, and how to serve impartially, including by avoiding prejudgment of the facts at issue, conflicts of interest, and bias. The Law School will ensure that Decision Makers receive training on any technology to be used at a hearing and on issues of relevance of questions and evidence, including questions and evidence about the irrelevancy of complainant's sexual predisposition or prior sexual behavior. The Law School will ensure that investigators receive training on issues of relevance in order to create an investigative report that fairly summarizes relevant evidence. These training materials are publicly available on the Law School's Sexual Misconduct & Title IX website and will be made available for in-person review upon request. In addition, Law School officials with responsibilities under this policy will receive training related to intersectionality.

### **XIV. Record Retention**

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

- Each Title IX Sexual Harassment grievance process conducted under this policy, including any determination regarding responsibility and any audio or audiovisual recording or transcript from a hearing, any disciplinary sanction imposed on the respondent, and remedies provided to the complainant designed to restore or preserve access to the Law School's education program or activity;
- Any appeal and the result therefrom;
- Any informal resolution and the result therefrom; and
- All materials used to train Title IX Coordinators, investigators, Decision Makers, Appeal Panel members, and any individual who facilitates the informal resolution process with regard to Title IX Sexual Harassment;

- Records of any actions, including any supportive measures, taken in response to a report or formal complaint of Title IX Sexual Harassment. In each instance, the Law School 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 Law School's educational and working program or activity. If the Law School does not provide a complainant with supportive measures, then the Law School will document the reasons why such a response was not clearly unreasonable in light of the known circumstances.

## **XV. Modification and Review of Policy**

The Law School reserves the right to modify this policy to take into account applicable legal requirements or extraordinary circumstances.

At regular intervals, the Law School will review this policy to determine whether modifications should be made.

## **APPENDIX A**

### **Law Enforcement and Confidential Resources**

Any individual may contact local law enforcement concerning alleged sexual harassment that may constitute a crime. The contact information for area law enforcement agencies is:

Jacksonville Sheriff's Office  
501 E Bay Street  
Jacksonville, Florida 32202  
(904) 630-0500

St. Johns County Sheriff's Office  
4015 Lewis Speedway  
Saint Augustine, Florida 32084  
(904) 824-8304

Atlantic Beach Police Department  
850 Seminole Road  
Atlantic Beach, Florida 32233  
(904) 247-5859

Jacksonville Beach Police Department  
101 Penman Road South  
Jacksonville Beach, Florida 32250  
(904) 270-1667

Neptune Beach Police Department  
Beaches Town Center  
200 Lemon Street  
Neptune Beach, Florida 32266  
(904) 270-2413

Information shared with Confidential Resources (including information about whether an individual has received services) will be disclosed to the Title IX Coordinator or any other individual only with the individual's express written permission, unless there is an imminent threat of serious harm to the individual or to others, or a legal obligation to reveal such information (e.g., if there is suspected abuse or neglect of a minor). For more information about confidentiality and Confidential Resources, see Section V.

Any individual may also access resources located in the local community. These organizations can provide crisis intervention services, counseling, medical attention and assistance in dealing with the criminal justice system. If accessing these resources, individuals are encouraged to clarify whether the resources are confidential.

Other off-campus counselors, advocates, and health care providers will generally maintain confidentiality and not share information with SCHOOL unless the victim requests the disclosure and signs a consent or waiver form. Other resources include:

**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.

## **APPENDIX B**

### **Informal Resolution Process**

The informal resolution process is a voluntary, remedies-based process designed to provide members of the Coastal Law community with an option to resolve certain disputes with other members of the Law School community in a forum that is separate and distinct from the Law School's formal grievance processes under the Title IX Sexual Harassment Policy or the Law School Sexual Misconduct Policy. Subject to approval by the Title IX Coordinator (see below), the informal resolution process is available in matters involving a student complainant and a student respondent as well as in matters involving a faculty/staff complainant and a faculty/staff respondent; the informal resolution process is not available in matters involving a student and an employee. The purpose of the informal resolution process is to eliminate the conduct which has been reported by the complainant (and prevent its recurrence), and place both individuals in a position to pursue their academic, working, and non-academic interests in a safe, respectful, and productive educational and working environment.

Prior to participating in the informal resolution process, parties will be notified in writing of the information contained in this Appendix B.

The following are features of the informal resolution process:

- Participation in the informal resolution process is completely voluntary.
  - No party will be required to participate in the informal resolution process and the Law School will not require, encourage, or discourage the parties from participating in the informal resolution process.
  - All parties must consent in writing to participation in the informal resolution process.
- The Law School may offer the informal resolution process only under the following circumstances:
  - A formal complaint (as defined in Section II) has been filed by the complainant;
  - The Title IX Coordinator has determined, through an initial assessment (see Section IV), that the alleged conduct, if substantiated, would constitute Title IX Sexual Harassment or Law School Sexual Misconduct;
  - The Title IX Coordinator has determined that the informal resolution process is appropriate for this matter.
- All parties will be provided with a written notice disclosing the allegations, the requirements of the informal resolution process, and any outcomes resulting from participating in the informal resolution process.
- At any time prior to signing an informal resolution agreement, any party has the right to withdraw from the informal resolution process and resume the formal grievance process.
- Under the informal resolution process, there will be no disciplinary action taken against a respondent, and the resolution will not appear on the respondent's disciplinary record. If a formal complaint is filed against the respondent in a subsequent matter under the Title IX Sexual Harassment policy or the Law School Sexual Misconduct policy, the respondent's participation in a prior informal resolution process will not be considered relevant and will not be taken into account in the resolution of the subsequent complaint.
- Parties may be accompanied by a member of the Law School community who will serve as a support person to any meeting related to the informal resolution process. However, the Law

School support person may not actively participate in meetings and may not serve as a proxy for the party. Any individual who serves as a Law School support person is expected to make themselves available for meetings as scheduled by the Law School. The Law School (including any official acting on behalf of the Law School) has the right at all times to determine what constitutes appropriate behavior on the part of a Law School support person and to take appropriate steps to ensure compliance with this policy.

- Any agreements reached as part of the informal resolution process must be approved by the Title IX Coordinator in order to ensure consistency with the Law School's federal obligations. If the Title IX Coordinator determines at any time prior to the signing of the informal resolution agreement that the informal resolution process is no longer appropriate, the Title IX Coordinator may terminate the process.
- Upon signing the informal resolution agreement, the parties are bound by its terms and cannot opt for a formal grievance process based on the conduct alleged in the formal complaint.
- Failure to comply with the signed agreement may result in disciplinary action for either party.
- If the parties' circumstances change significantly, they may request a supplemental agreement; the Title IX Coordinator will determine whether it is appropriate to proceed.

### **Initiation of the Informal Resolution Process**

If the complainant files a formal complaint and requests to engage in the informal resolution process, the Title IX Coordinator will consider whether the informal resolution process is appropriate in the particular matter. In making this determination, the Title IX Coordinator will consider the following factors:

- The disciplinary record (or past conduct) of the respondent relating to sexual misconduct, physical violence, failure to comply with a No Contact Order, and/or other relevant conduct;
- The nature of the alleged conduct, whether allegations involve multiple victims and/or a pattern of conduct, or other evidence-informed factors indicative of increased risk to campus safety;
- Whether the circumstances warrant the Title IX Coordinator filing a formal complaint (e.g., if there is sufficient evidence to proceed with an investigation/adjudication even absent participation by the complainant);
- Whether proceeding with the informal resolution process is in accordance with the principles and objectives of the Law School's Title IX Sexual Harassment policy, as determined by the Title IX Coordinator; and/or
- Whether proceeding with the informal resolution process in matters involving faculty and staff members is in accordance with Law School employment practices.

If the Title IX Coordinator determines that a case is not appropriate for the informal resolution process, the Title IX Coordinator will inform the complainant that the informal resolution process is unavailable.

If the formal grievance process has already begun, either party may seek to initiate the informal resolution process up until five business days prior to the hearing. If both parties agree to participate in the informal resolution process and the Title IX Coordinator approves of the informal resolution process, the formal grievance process will be adjourned while the informal resolution process is pending; if an agreement is not reached, the formal grievance process will be resumed.

Upon initiation of the informal resolution process, the Title IX Coordinator will refer the matter to a trained informal resolution facilitator (“facilitator”). The facilitator will consult (separately) with each party in an effort to reach a resolution that best meets the interests and needs of the parties. Unless they mutually choose to do so as part of an agreement, the parties will not meet together in person as part of the process.

### **Potential Outcomes of the Informal Resolution Process**

Depending on the nature and circumstances of the particular situation, parties may agree to outcomes such as:

- Long-term extension of a mutual No Contact Order or No Communication Order;
- Imposition of a “skewed” No Contact Order, placing the burden on the respondent to limit the respondent’s physical proximity to the complainant;
- Restrictions on the respondent from participation in particular organizations or events;
- Participation by the respondent in an alcohol education program designed to reduce the harmful problems associated with alcohol misuse;
- Provision to the respondent of an “impact statement” written by the complainant (describing the impact(s) that the respondent’s conduct had on the complainant);
- Conversation between the parties facilitated by a trained individual appointed by the Title IX Coordinator;
- Other measures deemed appropriate by the Title IX Coordinator.

### **Failure to Comply with the Informal Resolution Agreement**

Failure to comply with the signed agreement may result in disciplinary action for either party, consistent with the disciplinary procedures described in the Student Code of Conduct or in applicable policy manuals (for faculty and staff members).

### **Records Relating to the Informal Resolution Process**

The records relating to the informal resolution process will be maintained in accordance with Section XIV.

Prior to participating in the informal resolution process, parties will be notified in writing that any information gathered in the informal resolution process may be used in the Title IX Sexual Harassment formal grievance processes described in Section X if the informal resolution process ends prior to a written agreement being signed by the parties. However, the Law School will not draw any adverse inference based on a respondent’s participation in the informal resolution process, nor will such participation be considered an admission by the respondent.

Even if the parties enter into a written informal resolution agreement, if information related to the violation of other Law School policies comes to light through the informal resolution process, such information may be used in other Law School disciplinary processes, subject to the Amnesty policy described in Section VI(4).

## **Retaliation**

The protections against Retaliation described in Section III apply to individuals participating in the informal resolution process. Disciplinary consequences may result for those found responsible for Retaliation.

## **Time Frame for the Informal Resolution Process**

The time frame for completion of the informal resolution process may vary, but the Law School will seek to complete the informal resolution process within thirty (30) business days of completion of the initial assessment. Should the time period extend beyond this time frame, the parties will be notified.

## APPENDIX C

### Range of Sanctions Under This Policy

Members of the Law School community may be subject to disciplinary sanctions for violating this policy.

#### Sanctions Applicable to Students

The sanctions for students are listed below.

1. **Dean's Warning.** An admonition that does not become part of a student's permanent record, but that may be taken into account in judging the seriousness of any future violation.
2. **Reprimand.** Reprimand is a stronger admonition than a dean's warning, intended to signal that the student has committed a minor infraction, conveying that the student must be vigilant against future infractions, and providing a disincentive against future infractions in that a reprimand will not become part of the student's permanent record unless there is a subsequent infraction, at which point the reprimand will be formally recorded on the student's permanent record.

Both a dean's warning and a reprimand may be taken into account in judging the seriousness of any future violation.

More serious violations may be met with the following formal responses which are recorded on the student's permanent record.

1. **Disciplinary Probation.** A more serious admonition assigned for a definite amount of time. It implies that any future violation, of whatever kind, during that time, may be grounds for suspension, suspension with conditions, or in especially serious cases, expulsion from the Law School. Disciplinary probation will be taken into account in judging the seriousness of any subsequent infraction even if the probationary period has expired.

Disciplinary probation appears on a student's permanent record at the Law School (but not on the transcript) and may be disclosed by the Office of the Dean in response to requests for which the student has given permission or as otherwise legally required.

2. **Withholding of Degree.** In cases involving students in their final semester, the Law School may withhold a student's Florida Coastal degree for a specified period of time. This sanction is imposed instead of suspension at the end of a student's final year when all other degree requirements have been met. A withheld degree is recorded on a student's transcript. Relevant information remains on the student's permanent record at the Law School and may be disclosed by the Office of the Dean in response to requests for which the student has given permission or as otherwise legally required.
3. **Suspension.** Removal from enrollment in the Law School for a specified period of time. A suspension is recorded on a student's transcript. Relevant information remains on the student's

permanent record at the Law School and may be disclosed by the Office of the Dean in response to requests for which the student has given permission or as otherwise legally required.

4. **Suspension with Conditions.** Removal from enrollment in the Law School for at least the period of time specified by the suspension, with the suspension to continue until certain conditions, stipulated by the appropriate body applying this sanction, have been fulfilled. These conditions may include, but are not limited to, restitution of damages, formal apology, or counseling. A suspension with conditions is recorded on a student's transcript. Relevant information remains on the student's permanent record at the Law School and may be disclosed by the Office of the Dean in response to requests for which the student has given permission or as otherwise legally required.
5. **Expulsion.** Permanent removal from enrollment in the Law School, without any opportunity for readmission to the community. Expulsion is recorded on a student's transcript. Relevant information remains on the student's permanent record at the Law School and may be disclosed by the Office of the Dean in response to requests for which the student has given permission or as otherwise legally required.

The following may accompany the preceding sanctions, as appropriate:

**Censure.** Law School censure can be added to any of the other sanctions listed above, except dean's warning and reprimand. Censure indicates the Law School's desire to underscore the seriousness of the violation and the absence of mitigating circumstances, and to convey that seriousness in response to future authorized inquiries about the given individual's conduct.

**Restriction of Access to Space, Resources, and Activities.** When appropriate in cases involving behavioral misconduct between members of the community, restrictions may be placed on access to space and/or resources or on participation in activities so as to limit opportunities for contact among the parties.

**Sanctions Applicable to Faculty and Staff Members.** For violations of this policy by faculty or staff members, disciplinary sanctions may include (in accordance with the employment policies governing the employee in question) counseling or training, written warning, financial penalty, unpaid leave of absence, suspension (or recommendation for suspension), demotion, termination (or recommendation for termination) in accordance with applicable policies. The Law School may place a faculty or staff member on administrative leave during the pendency of a grievance process, provided that such action shall not modify any rights under Section 504 of the Rehabilitation Act of 1973 or the Americans with Disabilities Act.

**Sanctions Applicable to Non-Members of the Law School Community.** For violations of this policy by non-members of the Law School community, including alumni, disciplinary sanctions may include being temporarily or permanently barred from the Law School or subject to other restrictions.