

ADMINISTRATIVE PROCEDURE MANUAL		
SECTION TITLE	NUMBER	PAGE
RESOLUTION OF SEXUAL MISCONDUCT COMPLAINTS	11-0802	1 OF 14
BASED ON BOARD OF TRUSTEES' RULE AND TITLE		DATE REVISED
6Hx7-2.24 Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act; 6Hx7-11.1 Students' Rights and Responsibilities		September 9, 2020

Purpose

The purpose of this procedure is to establish the process to investigate and resolve all complaints of sexual misconduct against students at the College pursuant to applicable board rules and the Title IX/Sexual Misconduct/Relationship Violence Policy.

Definitions

- A. "Sexual misconduct" is a broad, non-legal term that encompasses a wide range of behaviors, including but not limited to, sexual assault, rape, stalking, sexual exploitation and relationship violence (including dating and domestic violence). It is a violation of College policy as well as applicable law to commit or to attempt to commit these acts.
1. Sexual misconduct can occur between strangers or acquaintances, or people who know each other well, including between people who are or have been involved in an intimate or sexual relationship. It can be committed by and experienced by anyone, regardless of gender or gender identity, and can occur between people of the same or different sex or gender.
- B. "Sexual Assault" (including Rape) is actual or attempted sexual contact with another person without that person's consent. Sexual assault includes, but is not limited to:
1. Intentional touching of another person's intimate parts without that person's consent; or
 2. Other intentional sexual contact with another person without that person's consent; or
 3. Coercing or forcing, attempting to coerce or force, or threatening to coerce or force a person to touch another person's intimate parts without that person's consent; or
 4. Rape, which is penetration, no matter how slight, of (1) the vagina or anus of a person by any body part of another person or by an object, or (2) the mouth of a person by a sex organ of another person, without that person's consent.
- C. "Consent" is an understandable exchange of affirmative words or actions, which indicate a willingness to participate in mutually agreed upon sexual activity. Consent must be informed, freely and actively given. Consent is not obtained if:
1. There is a lack of a negative response, lack of protest or lack of resistance;
 2. There is silence;
 3. There is physical force, threats, intimidation or coercion;

ADMINISTRATIVE PROCEDURE MANUAL		
SECTION TITLE	NUMBER	PAGE
RESOLUTION OF SEXUAL MISCONDUCT COMPLAINTS	11-0802	2 OF 14
BASED ON BOARD OF TRUSTEES' RULE AND TITLE		DATE REVISED
6Hx7-2.24 Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act; 6Hx7-11.1 Students' Rights and Responsibilities		September 9, 2020

4. There is incapacitation due to drugs and/or alcohol (consumed voluntarily or involuntarily);
 5. An individual is unable to communicate due to a physical or mental condition;
 6. An individual is asleep, unconscious or involuntarily restrained; or
 7. An individual is not of legal age to give consent.
- D. "Sexual Harassment" means conduct on the basis of sex that satisfies one or more of the following:
1. School employee conditioning education benefits on participation in unwelcome sexual conduct (i.e., *quidpro quo*); or
 2. Unwelcome conduct that a reasonable person would determine is so severe, pervasive and objectively offensive that it effectively denies a person equal access to the school's education program or activity; or
 3. Sexual assault (as defined in the Clery Act), dating violence, domestic violence, or stalking as defined in the Violence Against Women Act (VAWA).
- E. "Relationship Violence" includes, but is not limited to, physical, sexual, verbal, emotional and psychological abuse, and/or threats of such abuse (commonly referred to as domestic violence or dating violence) when committed by a person who is or has been:
1. In a social relationship of romantic or intimate nature with the victim;
 2. A current or former spouse or intimate partner of the victim;
 3. A person with whom the victim shares a child in common;
 4. A person who is cohabitating with, or has cohabitated with, the victim as a spouse or intimate partner; or
 5. A person related to the victim by blood or marriage.
- F. "Stalking" is engaging in a course of conduct directed at a specific person that would cause a reasonable person to:
1. Feel fear for the person's safety or the safety of others; or
 2. Suffer substantial emotional distress.

ADMINISTRATIVE PROCEDURE MANUAL		
SECTION TITLE	NUMBER	PAGE
RESOLUTION OF SEXUAL MISCONDUCT COMPLAINTS	11-0802	3 OF 14
BASED ON BOARD OF TRUSTEES' RULE AND TITLE		DATE REVISED
6Hx7-2.24 Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act; 6Hx7-11.1 Students' Rights and Responsibilities		September 9, 2020

- Stalking may involve individuals who are known to one another, who have a current or previous relationship, or who are strangers. Stalking can include electronic forms of communication, including texting or social media.
- G. "Sexual Exploitation" is taking sexual advantage of another person without that individual's consent or in a manner that extends the bounds of consensual sexual activity without the knowledge of the other individual for any purpose, including sexual gratification, financial gain or other personal benefit. Sexual exploitation includes, but is not limited to, the following actions (including when they are done via electronic means, methods or devices):
1. Observing another individual's nudity or sexual activity or allowing another to observe consensual sexual activity without the knowledge and consent of all parties involved;
 2. Non-consensual streaming of images, photography, video or audio recording of sexual activity or nudity, or distribution of such without the knowledge and consent of all parties involved;
 3. Causing the incapacitation of another person (through alcohol, drugs or any other means) for the purpose of compromising that person's ability to consent to sexual activity;
 4. Prostituting another individual;
 5. Exposing one's genitals in non-consensual circumstances; or
 6. Knowingly exposing another individual to a sexually-transmitted infection or sexual virus without that individual's knowledge.
- H. "Supportive Measures" are non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the Reporting Party or the Responding Party before or after the filing of a formal complaint or where no formal complaint has been filed. Such measures are designed to restore or preserve equal access to the College education program or activity without unreasonably burdening the other party, including measures designed to protect the safety of all parties or the College educational environment, or deter sexual harassment." The supportive measures must be confidential "to the extent that maintaining such confidentiality would not impair the ability of the College to provide the supportive measures".
- I. "Reporting Party" is an individual who makes a report of gender discrimination, sexual harassment, sexual misconduct or retaliation.
- J. "Responding Party" is an individual who is alleged to have violated the College policy on gender discrimination, sexual harassment, sexual misconduct or retaliation and who is named in a report alleging violation.

ADMINISTRATIVE PROCEDURE MANUAL		
SECTION TITLE	NUMBER	PAGE
RESOLUTION OF SEXUAL MISCONDUCT COMPLAINTS	11-0802	4 OF 14
BASED ON BOARD OF TRUSTEES' RULE AND TITLE		DATE REVISED
6Hx7-2.24 Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act; 6Hx7-11.1 Students' Rights and Responsibilities		September 9, 2020

K. "Title IX/Sexual Misconduct/Relationship Violence Policy" means Florida State College at Jacksonville (FSCJ) Administrative Procedure [11-0801](#), Title IX/Sexual Misconduct/Relationship Violence.

Procedure

A. General Matters

1. College Values - When the College receives notice of conduct which appears to be sexual harassment, sexual misconduct or discrimination of a student, it will promptly investigate the allegation in a fair, expeditious and equitable manner.
2. Timing of Complaints - So long as the Responding Party is a student at the College, there is no time limit to filing a complaint to engage the student conduct process. However, students are strongly encouraged to report sexual misconduct in a timely manner to maximize the College's ability to obtain evidence, and conduct a thorough, impartial and reliable investigation. Where the Responding Party is a student in the last semester of a College program, the College may withhold that student's College degree pending conclusion of the student conduct proceedings.
3. Emergency Actions Available to the College President - The College President, or designee, shall have the authority to take immediate action to suspend a student or an employee, or any person, accused of a sexual misconduct and prohibit his or her presence on any College-owned or controlled property and at any College-sponsored activity, if the College President, or designee, determines that such student or employee poses an immediate threat of danger to the College community. In the case of a student, the College President, or designee, may take into consideration recommendations made by the Dean of Students. In the case of an employee, the suspension may be with or without pay, at the discretion of the College President.
4. Effect of Criminal Proceedings - The filing and processing of a complaint of sexual misconduct is independent of any criminal investigation or proceeding. The College will not wait for the conclusion of any criminal investigation or proceedings to commence its own investigation and proceedings outlined herein. Neither law enforcement's determination whether or not to prosecute a Responding Party, nor the outcome of any criminal prosecution, is determinative of whether sexual misconduct under the College policy occurred.
5. Effect of Pending Complaint on Responding Party - If the Responding Party is a current student, no notation will be placed on the Responding Party's transcript of a complaint or pending disciplinary action during the student conduct process. If the Responding Party withdraws from the College while a sexual misconduct complaint is pending, the Responding Party's transcript will reflect a withdrawal and a notation of pending disciplinary action subject to modification to reflect the outcome of the disciplinary action.



ADMINISTRATIVE PROCEDURE MANUAL

SECTION TITLE	NUMBER	PAGE
RESOLUTION OF SEXUAL MISCONDUCT COMPLAINTS	11-0802	5 OF 14
BASED ON BOARD OF TRUSTEES' RULE AND TITLE	DATE REVISED	
6Hx7-2.24 Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act; 6Hx7-11.1 Students' Rights and Responsibilities	September 9, 2020	

6. **Amnesty** - An individual who files a sexual misconduct complaint or serves as a third party witness during the student conduct process will not be subject to disciplinary action by the College for his or her own personal consumption of alcohol or drugs at or near the time of the alleged sexual misconduct, provided that such violations did not and do not place the health or safety of any other person at risk. However, the College may initiate an educational discussion or pursue other educational remedies regarding alcohol or other drugs.

7. **Advisors** – All parties have the opportunity to be accompanied to a meeting or proceeding by an advisor of their choosing, which may be a lawyer. While the College cannot limit the choice of the advisor, the College is able to restrict an advisor’s participation within the process, as long as it is applicable to both parties. For the purpose of the hearing, the College must provide an advisor to a party that is without one. The advisor need not be an attorney and must be offered to the parties free of charge.

In the event either party believes their advisor is inadequate in their responsibilities, the party can dismiss their advisor. The absence of an advisor to cross examine a party can result in a delay to the live hearing. There should be clear communication to parties and their advisors regarding the expectations of the advisor role. The impact of the following discussion points may vary with each campus:

- a. All students, including those with a special accommodation needs, can have a support person at all live hearings. However, the support person may not be an active participant in the hearing process.
 - b. The College is able to set expectations for behavior of the advisors. The College shall ensure that the advisor is aware of circumstances in which the investigator or decision maker can excuse the advisor from a proceeding or hearing.
 - c. The College is required to communicate with the advisors upon completion of the investigative report and in preparation for the hearing. The College should ensure methods of communication allow for external correspondence. Any disclosure of student confidential information should only be done pursuant to proper authorization and in compliance with federal and state law.
8. **Attorneys** - The Reporting Party and Responding Party have the right to consult a private attorney, at their own expense, regarding a complaint. Attorneys cannot participate in the hearing process. Attorneys may be present on campus during a hearing; however, they are required to remain outside of any hearing room.

 9. **Time Frames** - Generally the College will attempt to complete the process within sixty (60) days. However, the time frames set forth in these procedures are meant to provide guidance and the College may alter or extend time frames, with notice to the parties, as appropriate.

ADMINISTRATIVE PROCEDURE MANUAL		
SECTION TITLE	NUMBER	PAGE
RESOLUTION OF SEXUAL MISCONDUCT COMPLAINTS	11-0802	6 OF 14
BASED ON BOARD OF TRUSTEES' RULE AND TITLE	DATE REVISED	
6Hx7-2.24 Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act; 6Hx7-11.1 Students' Rights and Responsibilities	September 9, 2020	

B. College Procedures for Handling Complaints or Allegations of Sexual Harassment

1. Review of Complaints of Alleged Sexual Harassment

a. Complaints of alleged sexual harassment of a student when the Responding Party is a student and that do not involve sexual misconduct shall be reviewed by the Title IX Coordinator (hereafter "Coordinator") to determine if an investigation is required. In the event a student has been denied or had limited benefit from or participation in a College program, the Coordinator shall take Supportive Measures to ensure equal access to the College's education programs and activities and protect the Reporting Party as necessary. If the Coordinator determines to conduct an investigation, the complaint shall be investigated and resolved in accordance with the College Administrative Procedures Manual 11-0801, Title IX Sexual Misconduct/Relationship Violence. In the event the Responding Party is not a student, the complaint will be forwarded to the College Equity Officer for review and investigation. In the event a student has been denied or had limited benefit from or participation in a College program, the Equity Officer shall inform the Coordinator who shall take prompt and effective action to stop a recurrence.

b. The Coordinator will attempt to complete the process within sixty (60) days.

2. Remedies-based resolution is a voluntary approach designed to eliminate a hostile environment without taking disciplinary action against a Responding Party. Where a remedies-based resolution may be appropriate, the College will take immediate and corrective action through the imposition of individual and community remedies designed to maximize the Reporting Party's access to educational, extracurricular and employment activities at the College and to eliminate a hostile environment. Other potential remedies include targeted or broad-based educational programming or training, supported direct confrontation of the Responding Party and/or indirect action by the Coordinator or the College. Additionally, the College may offer mediation for appropriate cases, but will not compel a Reporting Party to engage in mediation, to directly confront the Responding Party, or to participate in any particular form of remedies-based resolution. Mediation, even if voluntary, may not be used in cases involving sexual misconduct. The decision to pursue remedies-based resolution will be made when the College has sufficient information about the nature and scope of the conduct, which may occur at any time. Participation in remedies-based resolution is voluntary, and a Reporting Party or Responding Party can request to end remedies-based resolution and continue with an investigation at any time. The Coordinator will maintain records of all reports and conduct referred for remedies-based resolution.

3. Informal Resolution

a. The College shall provide the parties with written notice:

i. Disclosing the allegations;

ADMINISTRATIVE PROCEDURE MANUAL		
SECTION TITLE	NUMBER	PAGE
RESOLUTION OF SEXUAL MISCONDUCT COMPLAINTS	11-0802	7 OF 14
BASED ON BOARD OF TRUSTEES' RULE AND TITLE		DATE REVISED
6Hx7-2.24 Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act; 6Hx7-11.1 Students' Rights and Responsibilities		September 9, 2020

- ii. Disclosing the requirements of the informal resolution process including:
 - 1) The circumstances under which it precludes the parties from resuming a formal complaint arising from the same allegations;
 - 2) At any time prior to a resolution, any party has the right to withdraw the informal resolution process and resume the grievance process with respect to the formal complaint; and
 - 3) Any consequences resulting from participating in the informal resolution process, including the records that will be maintained or could be shared.
 - b. The College must obtain the parties voluntary, written consent to the informal resolution process.
- C. College Procedures for Handling Complaints or Allegations of Sexual Misconduct
- 1. Initial Meetings with the Title IX Coordinator
 - a. Reporting Party Initial Meeting
 - i. Within five (5) days (or as soon as reasonably practical) following the filing of a sexual misconduct complaint, the Coordinator will contact the Reporting Party to schedule an initial meeting to discuss the complaint and explain avenues for formal resolution of the complaint, the steps involved in a sexual misconduct investigation, and confidentiality standards. (If a third party reported the complaint on behalf of the Reporting Party, the Coordinator will attempt to meet with the third party and gather information before speaking with the Reporting Party). During the initial meeting the Coordinator will also discuss, as appropriate, possible Interim Supportive Measures that can be provided to the Reporting Party during the investigative and resolution processes. Interim Supportive Measures may include, but are not limited to:
 - 1) Issuing no-contact orders to prevent any contact between the Reporting Party, Responding Party, witnesses, and/or third parties;
 - 2) changing campus work arrangements or schedules;
 - 3) changing academic schedules;
 - 4) providing academic support services; and/or
 - 5) providing security escorts.
 - ii. The College will honor requests made by the Reporting Party for accommodations, such as changes to academic or employment situations, if such accommodations are reasonably available, regardless of whether the Reporting Party chooses to report the crime to Campus security or local law enforcement.



ADMINISTRATIVE PROCEDURE MANUAL

SECTION TITLE	NUMBER	PAGE
RESOLUTION OF SEXUAL MISCONDUCT COMPLAINTS	11-0802	8 OF 14
BASED ON BOARD OF TRUSTEES' RULE AND TITLE	DATE REVISED	
6Hx7-2.24 Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act; 6Hx7-11.1 Students' Rights and Responsibilities	September 9, 2020	

- b. Responding Party Initial Meeting - Within five (5) days (or as soon as reasonably practical) following the Coordinator's initial meeting with the Reporting Party, the Coordinator will schedule an initial meeting with the Responding Party to discuss the complaint, the College's procedures for formal resolution of the complaint, the steps involved in a sexual misconduct investigation, confidentiality standards and requirements for non-retaliation.
- c. The Coordinator will determine whether an investigation of the complaint should be conducted. The Coordinator will consider the following factors in determining whether it is reasonable to investigate the complaint:
 - i. The source and nature of the information;
 - ii. the seriousness of the alleged incident;
 - iii. the specificity of the information;
 - iv. the objectivity and credibility of the source of the information;
 - v. whether the individuals allegedly subjected to the sexual misconduct can be identified; and
 - vi. whether those individuals wish to pursue the matter.
- d. In the event that the Coordinator determines that an investigation of the complaint should not be conducted, the Coordinator will determine and document (in consultation, as necessary, with the Reporting Party, the Responding Party, and other College administrators) the appropriate resolution of the complaint and inform the parties.
- e. If the College knows about possible sexual misconduct of a student, the Coordinator shall promptly investigate to determine what occurred and then take appropriate steps to resolve the situation even if no complaint has been filed. Cases involving sexual misconduct shall always be referred to the Coordinator. In the event that no complaint has been filed the Coordinator shall follow the same procedures for the formal complaints except that there will be no Reporting Party.

2. Investigation

- a. The College will use the following procedures to investigate alleged cases of sexual misconduct on a student:
 - i. Primary Investigator's Activities
 - 1) The College Director of Security shall serve as the Primary Investigator for cases involving sexual misconduct. The College may contract with a qualified third party to conduct or support investigations as determined by the Coordinator. Upon receiving the complaint, the Primary Investigator will begin the investigation, taking steps such as:



ADMINISTRATIVE PROCEDURE MANUAL

SECTION TITLE	NUMBER	PAGE
RESOLUTION OF SEXUAL MISCONDUCT COMPLAINTS	11-0802	9 OF 14
BASED ON BOARD OF TRUSTEES' RULE AND TITLE	DATE REVISED	
6Hx7-2.24 Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act; 6Hx7-11.1 Students' Rights and Responsibilities	September 9, 2020	

- a) Conducting separate interviews with the Reporting Party, the Responding Party, and third-party witnesses;
 - b) reviewing available files and documents; and
 - c) gathering and examining other documents or evidence as appropriate.
- 2) The Primary Investigator will complete a written investigative report of the events in question and will share this report with the Coordinator. This report shall include, at a minimum:
- a) A statement of the allegations and issues;
 - b) the positions of the parties involved;
 - c) a summary of the evidence; and
 - d) the findings of fact.
- ii. The Coordinator shall ensure the College conducts a prompt and equitable investigation. A typical investigation takes approximately sixty (60) calendar days following receipt of the complaint, but it may vary depending on the complexity of the investigation and the severity of the situation. If the investigation takes longer than sixty (60) days, the Coordinator will alert the Reporting Party. The Coordinator will document that notice to the Reporting Party, as well as the reasons the investigation is taking longer than sixty (60) days.
 - iii. The Coordinator will ensure that all employees assisting and conducting the investigations receive annual training to ensure that they have necessary credentials and experience.
 - iv. The College shall share information received from the Reporting Party only on a need-to-know basis. The College shall not disseminate or share records with personally-identifiable information included, except as noted in this procedure, and as required by law. Further, the Reporting Party's identity will be kept confidential in any emergency notification or timely warning to the College or Campus community.
 - v. Prior to the completion of the investigative report, the College/Primary Investigator shall send to each party and the party's advisor, if any, the evidence subject to inspection and review in an electronic format or hard copy. The parties must have at least ten (10) days to submit a written response which the Primary Investigator will consider prior to completion of the investigative report.
 - vi. An investigative report shall be created that fairly summarizes the relevant evidence and, at least ten (10) days prior to a hearing or other time of determination regarding responsibility, shall be sent to each party and the party's advisor, if any, in an electronic format or a hard copy for each party's review and response.

ADMINISTRATIVE PROCEDURE MANUAL		
SECTION TITLE	NUMBER	PAGE
RESOLUTION OF SEXUAL MISCONDUCT COMPLAINTS	11-0802	10 OF 14
BASED ON BOARD OF TRUSTEES' RULE AND TITLE		DATE REVISED
6Hx7-2.24 Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act; 6Hx7-11.1 Students' Rights and Responsibilities		September 9, 2020



3. Removal of Party

- a. The College may remove a Responding Party from the College's education program or activity on an emergency basis if:
 - i. An immediate threat to the physical health or safety of any student or other individual arising from the allegations of sexual harassment justifies removal;
 - ii. The Responding Party is provided with notice and an opportunity to challenge the decision immediately following the removal.

The College may place a non-student employee on administrative leave during the pendency of a grievance process.

4. Notice of the Grievance Process

- a. Written notice is required.
- b. Notice of the College's grievance process, including any informal resolution process.
- c. Notice shall include the allegations of sexual harassment to include:
 - 1) Sufficient details known at the time and with sufficient time to prepare a response before any initial interview;
 - 2) Responding Party is not presumed responsible for the alleged conduct;
 - 3) The determination regarding responsibility shall be made at the conclusion of the grievance process..
- d. Notice shall inform the parties they may have an advisor of their choice.
- e. Notice shall inform the parties they may inspect and review evidence.
- f. Notice must inform the parties the provisions of the College Code of Conduct prohibiting knowingly making false statements or knowingly submitting false information during the grievance process.
- g. Notice shall be provided to a party whose participation is invited, or expected of the date, time and location, participants and purpose of all hearings, investigative interviews or other meetings, with sufficient time for the party to prepare to participate.
- h. If during the course of an investigation, the College/Primary Investigator decides to investigate allegations about the Reporting Party or Responding Party that are not included in the notice, the College/Primary Investigator must provide notice of the additional allegations to the parties which identities are known.

ADMINISTRATIVE PROCEDURE MANUAL		
SECTION TITLE	NUMBER	PAGE
RESOLUTION OF SEXUAL MISCONDUCT COMPLAINTS	11-0802	11 OF 14
BASED ON BOARD OF TRUSTEES' RULE AND TITLE		DATE REVISED
6Hx7-2.24 Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act; 6Hx7-11.1 Students' Rights and Responsibilities		September 9, 2020



5. Sexual Misconduct and/or Committee Hearing

- a. Following the investigation, the College will hold a Sexual Misconduct and/or Committee Hearing, which includes the following:
 - i. The Coordinator will notify the Reporting Party and Responding Party of the Sexual Misconduct and/or Committee Hearing via email, read receipt requested. The email shall direct both parties to appear at a specific time and place, not more than ten (10) business days following the date of the email. The email shall also describe briefly the alleged violation(s) and provide information on the following:
 - 1) The Hearing must be a live hearing.
 - 2) Live hearings may be conducted with all parties physically present in the same geographic location or at the College's discretion, any or all parties, witnesses, and other participants may appear at the live hearing virtually with technology enabling participants simultaneously to see and hear each other.
 - 3) The Reporting Party and Responding Party are entitled to and may have one advisor with them during the Committee Hearing. If one party does not have an advisor present at the live hearing, the College must provide, without fee, to that party an advisor of the College's choice to conduct cross-examination on behalf of that party.
 - 4) The College will use the "preponderance of the evidence" standard (i.e. more likely than not) in adjudicating the claims.
 - 5) The College will administer the grievance process with a presumption the Responding Party is not responsible for the alleged conduct until a determination regarding responsibility is made at the conclusion of the grievance process.
 - 6) Parties are required to be present for the live hearing. If a party or a witness does not avail themselves to cross-examination at a live hearing, the Committee must not rely on any statement of the party or witness in reaching a determination regarding responsibility.
 - 7) Each party will have the opportunity to present any relevant information during the Committee Hearing.
 - 8) The Committee must permit each party's advisor to ask the other party and any witnesses all relevant questions and follow-up questions. Cross-examination questions must be conducted directly, orally and in real time by the Party's advisor. Cross-examination must not be conducted personally by the Party.
 - 9) Prior to a Reporting Party, Responding Party or witness answering a cross-examination or other question, the Committee must first determine whether the question is relevant. If the Committee determines a question as not relevant, the Committee must explain the decision to exclude the question as not relevant.
 - 10) The College will tape record the Committee Hearing; however, the parties and witnesses' identities will not be released outside of the individuals involved in the

ADMINISTRATIVE PROCEDURE MANUAL		
SECTION TITLE	NUMBER	PAGE
RESOLUTION OF SEXUAL MISCONDUCT COMPLAINTS	11-0802	12 OF 14
BASED ON BOARD OF TRUSTEES' RULE AND TITLE		DATE REVISED
6Hx7-2.24 Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act; 6Hx7-11.1 Students' Rights and Responsibilities		September 9, 2020

hearing and the tape will be securely locked with the Coordinator. Any audio/visual recording, transcript of any live hearing must be available to the parties for review.

- ii. The Committee shall be made up of trained individuals identified by the College to include, but not be limited to, the decision maker(s) and an advisor.
- iii. The Coordinator or Primary Investigator may not serve on the Committee.
- iv. A determination must be in writing identifying the allegations of sexual harassment. The determination shall include the description of procedural steps taken from the receipt of the formal complaint through the determination, including any notification to the parties, interviews with parties and witnesses, site visits, methods used to gather other evidence and hearings held. The determination shall include a statement of, and rational for, the result as to each allegation, including a determination regarding responsibility, any disciplinary sanctions the College imposes on the Responding Party, and whether remedies designed to restore or preserve equal access to the College's education program or activity will be provided by the College to the Reporting Party. The determination shall include the College's procedure and permissible bases for the Reporting Party and Responding Party to appeal.
- v. Within five (5) days following the Committee Hearing, the Committee will send their findings and recommended sanctions, if appropriate, to the appropriate administrator to review and determine what sanctions are to be imposed pursuant to applicable board rules and APMs. In determining sanctions, consideration may be given to the nature of, and the circumstances surrounding the sexual misconduct, prior disciplinary violations, and/or campus safety concerns. Sanctions may include, but are not limited to: training, written reprimand, suspension or expulsion from the College or termination from employment. Within five (5) days of receiving the findings and recommended sanctions, the appropriate administrator will determine the sanctions to be imposed and send their determination to the Coordinator.
- vi. The Coordinator will send by email, read receipt requested, to the Reporting Party and the Responding Party the findings of the Committee Hearing, any sanctions to be imposed, and the procedures for filing an appeal.

6. Dismissal

- a. A formal complaint alleging sexual harassment must be dismissed if:
 - i. Conduct alleged in the formal complaint would not constitute sexual harassment;
 - ii. did not occur in the College's education program or activity; or
 - iii. did not occur against a person in the United States

ADMINISTRATIVE PROCEDURE MANUAL		
SECTION TITLE	NUMBER	PAGE
RESOLUTION OF SEXUAL MISCONDUCT COMPLAINTS	11-0802	13 OF 14
BASED ON BOARD OF TRUSTEES' RULE AND TITLE		DATE REVISED
6Hx7-2.24 Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act; 6Hx7-11.1 Students' Rights and Responsibilities		September 9, 2020



b. A formal complaint, or any allegations may be dismissed if:

- i. The Reporting Party, at any time during the investigation or hearing, may notify the Coordinator in writing that the Reporting Party would like to withdraw the formal complaint or any allegations;
- ii. The Responding Party is no longer enrolled or employed by the College;
- iii. Specific circumstances prevent the College from gathering evidence sufficient to reach a determination as to the formal complaint or allegations of the formal complaint.

7. Appeal Process

a. Within twenty (20) days following the parties receipt of the Coordinator's email detailing the Committee's final decision, or a dismissal from a formal complaint or allegations therein, the College must offer the Reporting Party and the Responding Party the opportunity to appeal the decision, as follows:

- i. The Reporting Party or Responding Party may file a written appeal to the Coordinator. The Coordinator will share the appeal with the opposing party.
- ii. The written appeal must state in detail the reason(s) for the appeal and shall address one or more of the following:
 - 1) new evidence that was not available at the time of determination regarding responsibility or dismissal was made that could affect the outcome of the matter;
 - 2) a procedural irregularity that affected the outcome of the matter;
 - 3) the Coordinator, Investigator(s) or Committee members had a conflict of interest or bias for or against the Reporting Party or Responding Party that affected the outcome of the matter.
- iii. The opposing party and the investigating official may file a response to the appeal with the Coordinator within ten (10) days of receipt of the appeal.
- iv. Within five (5) days of receipt of the response to the appeal or at the elapse of the opposing party's ten (10) days, the Coordinator will assemble the information from the Committee Hearing, and provide the entire appeal file to the appropriate administrator.
- v. Within ten (10) days of receipt of the appeal file, the appropriate administrator will review the record and render a final decision.
- vi. The appropriate administrator will simultaneously send the Reporting Party and Responding Party the final decisions via written communication.
- vii. A decision becomes final when the parties are sent notification of the outcome of appeal. If an appeal is not filed; the decision becomes final on the date a request for appeal is no longer accepted.



ADMINISTRATIVE PROCEDURE MANUAL

SECTION TITLE	NUMBER	PAGE
RESOLUTION OF SEXUAL MISCONDUCT COMPLAINTS	11-0802	14 OF 14
BASED ON BOARD OF TRUSTEES' RULE AND TITLE		DATE REVISED
6Hx7-2.24 Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act; 6Hx7-11.1 Students' Rights and Responsibilities		September 9, 2020

REFERENCES: Title IX of the Higher Education Amendments of 1972, Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act, F.S. 1001.64, 1001.65

Adopted Date: June 2, 2015

Revision Date: November 29, 2017, September 9, 2020