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## **Purpose**

The purpose of this procedure is to provide Florida State College at Jacksonville (FSCJ) with a clearly articulated set of behavioral standards, common understandings of definitions and key concepts and descriptions of prohibited sexual or general related misconduct. The procedure applies to all College community members, including students, faculty and staff. Any student or employee found in violation of this policy shall be subject to appropriate disciplinary action, including and up to suspension or dismissal from the College.

## **Statement of Values**

- A. FSCJ is committed to fostering an environment that is free from all forms of harassment and misconduct, including sexual assault and sexual harassment. In support of that commitment, the College will actively promote steps to increase awareness of such misconduct, eliminate its occurrence on campus, provide support for survivors, diligently investigate all reports of sexual misconduct and deal fairly and firmly with offenders. Creating a safe campus environment and a culture of respect is the shared responsibility of all members of the College community, individually and collectively.
- B. The College complies with all state and federal discrimination laws, including Title IX of the Higher Education Amendments of 1972, the federal law that prohibits discrimination on the basis of sex in education programs and activities, including discrimination based on gender identity or nonconformity with sex stereotypes. Toward this end, the College will actively promote prevention efforts, educate the College community, respond to all reports promptly, provide interim protective measures to address safety and emotional well-being and act in a manner that treats all parties fairly and recognizes the inherent dignity of the individuals involved.
- C. This procedure shall apply to all employees and students of the College. Vendors and others who conduct business with the College or on College property are also expected to comply with this procedure. The Policy applies regardless of a person's race, disability, ethnicity, national origin, religion, sex, gender, gender identity/expression, sexual orientation/expression, marital status, veteran status, pregnancy, genetic information or other protected status.
- D. This Policy applies both to on-campus and off-campus conduct if:
  1. the conduct was in connection with a College or College-recognized program or activity, or
  2. the conduct may have the effect of creating a hostile environment for a member of the College community.

Examples of covered off-campus conduct include conduct that occurs at College-sponsored events and activities, during study abroad, in internship programs or clinical experiences.

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E. As described in more detail below, in this procedure “sexual misconduct” is intended to refer to a broad range of conduct focused on sex and/or gender that may or may not be sexual in nature. Sexual harassment, sexual assault, sexual exploitation, stalking and relationship violence (including dating and domestic violence) are all forms of sexual misconduct prohibited by law.


## 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, or 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. “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

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3. Sexual assault (as defined in the Clery Act), dating violence, domestic violence, or stalking as defined in the Violence Against Women Act (VAWA).
- D. "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;
  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.
- 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:

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1. Feel fear for the person's safety or the safety of others; or
  2. Suffer substantial emotional distress
- 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's education program or activity without unreasonably burdening the other party, including measures designed to protect the safety of all parties or the College's educational environment, or deter sexual harassment." 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".



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- I. "Reporting Party" is an individual who makes a report of gender discrimination, sexual harassment, sexual misconduct, sexual assault, sexual exploitation or retaliation.
- J. "Responding Party" is an individual who is alleged to have violated the College policy on gender discrimination, sexual harassment, sexual misconduct, sexual assault, sexual exploitation or retaliation and who is named in a report alleging violation.
- K. "Responsible Employees" are those College employees with administrative or supervisory responsibilities or who have been designated as Campus Security Authorities. A Responsible Employee has the authority to address sexual misconduct and has the duty to report incidents of sexual misconduct, or who a member of the College community could reasonably believe has such authority or duty. Because the College has an obligation to make reasonable efforts to investigate and address instances of known or suspected sexual misconduct, Responsible Employees and Campus Security Authorities who have information or receive a report of sexual misconduct, must immediately share with the Title IX Coordinator (hereafter "Coordinator") or a Deputy Title IX Coordinator all known details of an incident.
  1. The College's Responsible Employees include, but are not limited to, the following employees or categories of employees:
    - a. All Senior leadership (e.g., College President, Vice Presidents, Associate Vice Presidents and Assistants to the President);
    - b. All Administrators/Professional Staff (e.g., directors, associate directors, program coordinators and managers – in all administrative and academic areas);
    - c. Coordinator, Deputy Title IX Coordinators and Equity Officer;
    - d. All Human Resources Staff;
    - e. All Athletic Staff;
    - f. All Student Services Staff; and
    - g. All faculty or staff advisors to students and/or organizations or activities.
  2. The College's Campus Security Authorities include the following:
    - a. Officials with significant responsibility for student and campus activities (e.g., directors, associate directors, Academic Advising staff, Student Services staff, Coaches, or designees);
    - b. Individuals or offices designated to receive crime reports (e.g., Department of Public Safety and Security, Director of Campus Operations, Center Directors and others); and
    - c. Campus Security Officers and others who have responsibilities for campus security.

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## Procedure

### A. Reporting Sexual Misconduct

1. The College encourages all individuals to seek assistance from a medical provider and/or law enforcement immediately after an incident of sexual misconduct. This is the best option to ensure preservation of evidence and to begin a timely investigative and remedial response. The College will assist any College community member to get to a safe place and will provide transportation to the hospital, coordination with law enforcement, and information about the College and community resources and the College's complaint processes.
2. To enable the College to respond to all reports in a prompt and equitable manner, the College encourages individuals to report incidents of sexual misconduct as follows:
  - a. Tell a Responsible Employee on the College campus that you attend or in the program that you are enrolled.
  - b. Contact the Coordinator or a Deputy Title IX Coordinator:

Title IX Coordinator  
601 W. State Street, 4th Floor  
Jacksonville, Florida 32202  
titleix@fscj.edu (confidential)  
(904) 632-3221 (confidential hotline)

Deputy Title IX Coordinators include the Student Support Coordinators at Downtown Campus, Kent Campus/Cecil Center, North Campus/Nassau Center, Open Campus/Deerwood Center and South Campus. To view individual contact information, visit: [Locations and Contact Information](#).

- c. Report online or by phone using the College's Ethics and Equity Hotline  
Online: [EthicsPoint](#)  
Phone: 1-877-578-6801 (confidential)
- d. All employees, faculty and staff, must promptly report incidents of sexual misconduct of a student or employee to the College's Coordinator, a Deputy Title IX Coordinator, a Responsible Employee or a Campus Security Authority.

### B. Anonymity and Privacy

1. Before a Reporting Party reveals information that he or she may wish to keep confidential, a Responsible Employee should make every effort to ensure that the Reporting Party understands:



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- a. the employee's obligation to report the names of the parties involved in the alleged sexual violence, as well as relevant facts regarding the alleged incident (including the date, time and location), to the Coordinator or other appropriate school officials,
- b. the Reporting Party's option to request that the school maintain his or her confidentiality, which the school (e.g., Coordinator) will consider, and
- c. the Reporting Party's ability to share the information confidentially with the College's Student Assistance Program: 24-hour helpline (855) 384-1800; counseling, advocacy, health, mental health or other domestic violence/sexual assault-related resources located off-campus.

2. Where a Reporting Party makes a report but requests that a name or other identifiable information not be shared with the Responding Party or that no formal action be taken, the College's Coordinator will make every effort to respect this request in the context of the school's responsibility to provide a safe and nondiscriminatory environment for all students.
3. The Coordinator will take reasonable steps to investigate and respond to the report alleging violation consistent with a request for anonymity or request not to pursue an investigation, but its ability to do so may be limited based on the nature of the request by the Reporting Party. The Coordinator will assess any barriers to proceeding, including retaliation, and will inform the Reporting Party that Title IX prohibits retaliation and the College will take strong responsive action to protect the Reporting Party. Where the College is unable to take action consistent with the request of the Reporting Party, the Coordinator will communicate with the Reporting Party about the College's chosen course of action, which may include the College's choosing to pursue action against a Responding Party on its own behalf. Alternatively, the College may take non-disciplinary measures to remedy and limit the effects of the misconduct and prevent any recurrence while protecting the identity of the Reporting Party, as specified below under Interim Supportive Measures.
4. Every effort will be made to respect and safeguard the privacy interests of all individuals involved in a manner consistent with the need for a careful assessment of the report and any necessary steps to eliminate the conduct, prevent its recurrence and address its effects. Privacy and confidentiality have distinct meanings under this Policy.

### C. Interim Supportive Measures

1. "Interim 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's education program or activity without unreasonably burdening the other party, including measures designed to protect the safety of all parties or the College's educational environment, or deter sexual harassment." The supportive measures must be confidential "to the extent that maintaining

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such confidentiality would not impair the ability of the College to provide the supportive measures”.

#### D. Confidentiality

1. The confidentiality and privacy of all parties involved during the investigative process will be maintained to the fullest extent possible.
2. The Coordinator may disclose confidential information to the Reporting Party, the Responding Party, potential witnesses, appropriate supervisors and administrators and other College officials or agents, state and federal agencies and the courts as necessary to:
  - a. Give the Responding Party fair notice of the charges,
  - b. Conduct a prompt, thorough and impartial investigation, and
  - c. Take any appropriate remedial or disciplinary actions.

#### E. Reporting of Sexual Assault Allegations to Law Enforcement Officials

1. The College encourages victims of sexual assault to seek all needed medical treatment, counseling and legal advice. In every case involving sexual assault, the Reporting Party will be provided written information about:
  - a. The importance of preserving evidence that may assist in proving that the alleged criminal offense occurred or may be helpful in obtaining a protection order;
  - b. How and to whom the alleged offense should be reported;
  - c. Options to obtain or enforce a no contact directive or restraining order;
  - d. Options to change academic, living, transportation or working situations to avoid a hostile environment;
  - e. Options about the involvement of law enforcement and campus authorities, including notification of the Reporting Party's option to:
    - i. Notify proper law enforcement;
    - ii. Be assisted by campus authorities in notifying law enforcement if the victim so chooses; and
    - iii. Decline to notify such authorities (unless the Responding Party is a minor or a member of a vulnerable population).
2. In every case, the College shall assist the Reporting Party in obtaining the intervention services such as counseling, changes to academic schedule or assisting with coordination of services; however, the College shall not report the allegation to the local law enforcement agency against the stated wishes of the victim (unless the Responding Party is a minor or a member of a vulnerable population).





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3. With the consent of the victim, the appropriate local law enforcement authority shall be notified immediately of the allegations made in every report of a sexual assault.
4. Regardless of consent and in compliance with Section 39.205, Florida Statutes, the College will report to the Department of Children and Families all known or suspected cases of child abuse (including child sexual abuse), child abandonment or child neglect that is committed on College property or at any event or function sponsored by the College.

### F. College Review and Response to a Report of Sexual Misconduct

1. Role of the Title IX Coordinator (“Coordinator”).
  - a. The Coordinator oversees the College’s centralized review, investigation and resolution procedures for reports of sexual misconduct and coordinates the College’s compliance with Title IX. The Coordinator is supported by a team of College personnel who serve as Deputy Title IX Coordinators. Each Deputy Title IX Coordinator is knowledgeable and trained in state and federal laws that apply to matters of sexual misconduct, as well as this Policy and the complaint resolution procedures.
  - b. The Coordinator and Deputy Title IX Coordinators can provide information related to campus and community resources and describe the options available to address concerns related to sexual misconduct.
  - c. The duties and responsibilities of the Coordinator also includes training, education, climate assessments and the oversight of procedures that are designed to promptly and equitably end sexual misconduct, prevent its recurrence and address its effect on persons and the College community as a whole. The Coordinator, with the assistance of Deputy Title IX Coordinators as appropriate, will:
    - i. Oversee the investigation and resolution of all reports of sexual misconduct;
    - ii. Ensure prompt and equitable resolutions that comply with all requirements and timeframes specified in the College’s complaint procedures;
    - iii. Conduct climate checks to track and monitor sexual misconduct allegations on campus; and,
    - iv. Coordinate training, education and prevention efforts.
  - d. The Coordinator or appropriate Deputy Title IX Coordinator will meet with any person, including a Reporting Party, Responding Party or third party to discuss interim measures, resources and procedural options for on-campus and off-campus reporting. Any student, faculty or staff member who has concerns about sexual misconduct, including sexual assault, discrimination or harassment is encouraged to seek the assistance of the Coordinator or any of the Deputy Title IX Coordinators.

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## 2. Procedures for Responding to a Report of Sexual Misconduct.

- a. Complaints against Responding Parties will be referred to and resolved by the College Administrative Procedure for the Resolution of Sexual Misconduct Complaints ([APM 11-0802](#)).
- b. The process for responding to a complaint of sexual misconduct is guided by the principles of fairness and respect for all parties. Resources are available for both students and employees, whether as Reporting Parties or Responding Parties, to provide guidance throughout the investigation and resolution of a sexual misconduct complaint.
- c. The Coordinator will oversee the initial response and assessment of reports of sexual misconduct through the College's sexual misconduct resolution procedures. The Coordinator may determine if a full investigation of the report of sexual misconduct should be conducted. This determination is based on a variety of factors, such as the Reporting Party's wish to pursue disciplinary action, the risk posed to any individual or the campus community by not proceeding and the nature of the allegation.
- d. If the Coordinator concludes that a full investigation is necessary, then the College may designate an investigator of its choosing. Any investigator used by the College, whether internal or external, must have specific training and experience investigating allegations of sexual misconduct.
- e. In the event that a Reporting Party does not wish to proceed with an investigation or disciplinary resolution, the Coordinator will determine, based on the available information, including information learned in the initial assessment or as part of the investigation, whether the investigation or disciplinary resolution proceedings should nonetheless be initiated or if already begun, continue. In making this determination, the College will consider, in light of the facts and circumstances of the reported matter and among other factors, such as:
  - i. The seriousness and impact of the conduct;
  - ii. The respective ages and roles of the Reporting Party and Responding Party;
  - iii. Whether the Reporting Party is a minor under the age of 18;
  - iv. Whether the Responding Party has admitted to the conduct;
  - v. Whether the Responding Party has a pattern of similar conduct, including whether there have been other reports of harassment or misconduct against the Responding Party;
  - vi. The extent of prior remedial methods taken with the Responding Party;
  - vii. The rights of the Responding Party to receive notice and relevant information before disciplinary action is sought;
  - viii. If circumstances suggest there is an increased risk of the Responding Party's committing additional acts of Prohibited Conduct;
  - ix. Whether the Responding Party has a history of arrests or records indicating a history of Prohibited Conduct;



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- x. Whether the Responding Party threatened further Prohibited Conduct against the Reporting Party or others;
- xi. Whether the Prohibited Conduct was committed by multiple individuals;
- xii. If the circumstances suggest there is an increased risk of future Prohibited Conduct under similar circumstances;
- xiii. Whether the Prohibited Conduct was perpetrated with a weapon;
- xiv. The existence of independent evidence;
- xv. Whether the College possesses other means to obtain relevant evidence (e.g., security cameras or personnel, physical evidence);
- xvi. Whether the Reporting Party wants to participate in an investigation or disciplinary hearing; and
- xvii. Whether the Reporting Party has requested anonymity.

### G. Other Important Information Related to Reporting of Sexual Misconduct

1. **Prohibition Against Retaliation:** The College and Title IX strictly prohibit retaliation against and intimidation of any person because he or she reported an incident of sexual misconduct or is involved in the College's response. The College will take strong disciplinary action in response to any retaliation or intimidation, and will pursue such discipline through the applicable student conduct policy or other disciplinary process and follow the applicable time frames within such policies.
2. **Amnesty for Students Who Report Sexual Misconduct:** The College encourages reporting and seeks to remove any barriers to reporting by making the procedures for reporting transparent and straightforward. The College recognizes that an individual who has been drinking or using drugs at the time of the incident may be hesitant to make a report because of potential consequences for his/her own conduct. An individual who reports sexual misconduct, either as a Reporting Party or a third party witness, will not be subject to disciplinary action by the College for his/her own personal consumption of alcohol or drugs at or near the time of the incident, provided that any such violations did not and do not place the health or safety of any other person at risk. The College may, however, initiate an educational discussion or pursue other educational remedies regarding alcohol or other drugs.
3. **Prevention and Bystander Intervention:** The College expects all community members to be an active bystander and take reasonable and prudent actions to prevent or stop an act of sexual misconduct. Taking action may include direct intervention, calling law enforcement or seeking assistance from a person in authority. Members of the College community who intervene to prevent or stop sexual misconduct will be supported by the College and protected from retaliation. The College reminds community members to decide how to best intervene based on their own feelings of personal safety.

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## H. Ongoing Training and Awareness

### 1. Awareness Prevention

- a. In addition, the College shall take an active role in the education of the College community on the prevention of sexual assault, relationship violence, and stalking occurrences involving students, employees, volunteers and visitors to the College. The College shall undertake the following preventive measures:
  - i. Offer web-based training modules for new students and employees, as well as ongoing trainings for current students and employees on topics concerning safety, sexual harassment, sexual assault, relationship violence, stalking, drug and alcohol use and bystander intervention; options and opportunities to report sexual misconduct; and the College's grievance procedures to address complaints of misconduct.
  - ii. Require student organization advisors to incorporate into the organizational activities information and discussions about prevention of sexual misconduct, bystander intervention, and related resources available.
  - iii. Require athletic coaches to incorporate into the orientation for student athletes information about prevention of sexual misconduct, bystander intervention, drug and alcohol use and related resources available.
  - iv. Encourage reporting of suspicious activities or persons on-campus for follow-up by campus officials.
  - v. Establish a communication mechanism to inform the College community of recent reports the College has received about assaults that have occurred either on-campus or in areas adjacent to campus.

### 2. Specific Training Responsibilities

- a. In connection with its obligations under Title IX, the College will ensure appropriate training for its Coordinator, Deputy Title IX Coordinators, Campus Safety & Security, law enforcement personnel, Responsible Employees, Campus Security Authorities and others involved in responding to, investigating or adjudicating sexual misconduct.
- b. The appropriate administrator, in consultation with the Coordinator, shall provide training that ensures Responsible Employees know how to respond appropriately to reports of sexual harassment and misconduct and understand that they are obligated to report sexual misconduct to appropriate school officials.
- c. The Coordinator, in consultation with the Director of Security, shall ensure all persons involved in implementing the College's Sexual Misconduct grievance procedures (e.g., Deputy Title IX coordinators, security officers, others who receive complaints, investigators and adjudicators) have training or experience in handling sexual misconduct complaints and in the operation of the school's grievance procedures. The training should include information on fairness, sensitivity, proper standards of review and confidentiality.

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- d. The appropriate Student Life administrator in consultation with the Coordinator, shall develop and institute widespread and ongoing campus initiatives throughout the academic year. Programming must be consistent, ongoing, and repeated in many formats and forums. The goal is to share institutional policies, prevention efforts, reporting options and resources. Topics should address sexual assault, relationship violence, stalking, sexual harassment, gender-based harassment and consent.

REFERENCES: Title IX of the Higher Education Amendments of 1972, Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act, F. S. 39.205, 1001.64, 1001.65

Adopted Date: June 2, 2015

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