



SEX-/GENDER-BASED HARASSMENT, DISCRIMINATION, AND SEXUAL MISCONDUCT RESOLUTION PROCEDURES

Investigation and Resolution Guidelines

Introduction

South Florida State College (SFSC) holds that no applicant, employee, or student is illegally or inappropriately discriminated against because of race, color, religion, gender, national origin, ethnicity, age, disability, marital status, political affiliation, sexual orientation, genetic information, or pregnancy in admission to, or employment in, any of its education programs or activities. Anyone who believes they have been subjected to discrimination or harassment in violation of this policy should follow the procedure outlined in this Guideline to report these concerns.

Definitions

Reporting Party: In this process, the person alleging a violation of college policy/procedure is referred to as the reporting party.

Responding Party: In this process, the person who is alleged to have violated College policy/procedure is referred to as the responding party.

Jurisdiction

These procedures extend to locations, events, or circumstances over which the College exercises substantial control over the Respondent and the context in which the alleged sexual harassment or misconduct has occurred. This includes programs or activities that occur on or off campus. This procedure applies to all Prohibited Conduct that occurs on campus (including the Highlands Campus, DeSoto Campus, Hardee Campus, Lake Placid Center, Jacaranda Hotel, Crews Center, and other property owned or leased by the College). It also applies to Prohibited Conduct that occurs off campus, including online or electronic conduct, if the conduct occurs in the context of an employment or education program or activity of the College, has continuing adverse effects on campus, or has continuing adverse effects in an off-

campus employment or education program or activity. Examples of covered off-campus conduct include conduct that occurs at College-sponsored events and activities, or in internship/apprenticeship programs. In determining whether the College has jurisdiction over off-campus conduct that is not part of an educational program or activity of the College, and in evaluating “continuing adverse effects,” the Title IX Coordinator will consider the severity of the alleged conduct, the risk of harm involved, whether both parties are members of the campus community, whether the off-campus conduct is part of a series of actions that occurred both on and off campus, the nature/scope of the continuing effect on campus, and whether the alleged conduct has created a hostile environment.

Title IX Coordinator/Title IX Deputy Coordinator

The College’s Title IX Coordinator oversees compliance with all aspects of the Sex/Gender Harassment, Discrimination, and Misconduct Policy. The Coordinator reports to the president of the College, and is housed in the Office of the Dean, Student Services. Questions about these guidelines should be directed to the Title IX Coordinator. Anyone wishing to make a report relating to discrimination or harassment may do so by reporting the concern to the College Title IX Coordinator:

Dr. Mark Bukowski Ph.D.:

Interim Title: Title IX Coordinator

Location: South Florida State College – Highlands Campus
Office of Dean, Student Services
Building B, Room 216
600 W. College Drive Avon
Park, FL 33825

Phone: 863-784-7127

Email: Mark.Bukowski@southflorida.edu

Dr. Mark Bukowski Ph.D.:

Title: Dean, Student Services, Deputy Title IX Coordinator

Location: South Florida State College – Highlands Campus
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Don Kesterson:

Title: Director, Human Resources, Deputy Title IX Coordinator

Location: South Florida State College – Highlands Campus
Office of Human Resources
Building I, Room 103
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Overview of Reports Concerning Discrimination and/or Harassment

South Florida State College (SFSC) holds that no applicant, employee, or student is illegally or inappropriately discriminated against because of race, color, religion, gender, national origin, ethnicity, age, disability, marital status, political affiliation, sexual orientation, genetic information, or pregnancy in admission to, or employment in, any of its education programs or activities. Anyone who believes they have been subjected to discrimination or harassment in violation of this policy should follow the procedure outlined in this guideline to report these concerns.

This process involves a prompt preliminary inquiry to determine if there is reasonable cause to believe the nondiscrimination policy has been violated. If so, the College will initiate an investigation that is thorough, reliable, impartial, prompt, and fair. This investigation and subsequent hearings determine whether the College nondiscrimination policy regarding sex-/gender-based harassment, discrimination and/or sexual misconduct has been violated. If so, the College will promptly implement an effective remedy designed to end the discrimination, prevent its recurrence, and address its effects.

The College aims to bring all allegations to a resolution within a sixty (60) academic calendar day time period, which can be extended as necessary for appropriate cause by the Title IX Coordinator with notice to the parties. In overview, the timeline for resolution begins with notice to the Title IX Coordinator. The coordinator then engages in a preliminary inquiry that is typically one to five academic calendar days in duration. If the Title IX Coordinator finds the allegations fit within the sexual discrimination situations listed above, then both the reporting party and the responding party will be notified that an investigation will occur. From there, the allegation can lead to an investigation by a College designated investigator(s), which usually starts within days of the preliminary inquiry's conclusion. Investigations range from days to weeks, depending on the nature and complexity of allegations, with the College commonly aiming for 10-14 academic calendar days to completion. The parties are regularly apprised of the status of the investigation as it unfolds. The process may then end or continue. If it continues, barring necessary extensions, the investigation leads to formal and informal resolution options,

which the College aims to complete in 10-14 academic calendar days from the end of the investigation. A failed informal resolution which triggers a formal resolution may require the College to extend this timeline accordingly. From there, appeals may be requested, with a three academic calendar day window to file appeal requests once a formal determination is reached, a five academic calendar day window to grant or deny the appeal request, and another seven academic calendar days for a final resolution to be reached. In rare cases where a remanded decision results in a new hearing, the results of that hearing can be appealed by either party once, which would typically add another 10-14 academic calendar days to final results.

Interim Remedies/Actions

The Title IX/EA/EO Coordinator (or designee) may provide interim remedies intended to address the short-term effects of harassment, discrimination, and/or retaliation, i.e., to redress harm to the alleged victim and the community and to prevent further violations. The College will keep interim remedies and actions as private as possible.

These remedies may include, but are not limited to:

- Referral to counseling and health services
- Referral to the Employee or Student Assistance Program
- Referral to law enforcement
- Education to the community
- Altering the housing situation of the responding party (resident student or resident employee (or the alleged victim, if desired))
- Altering work arrangements for employees
- Providing campus security escorts
- Providing transportation accommodations
- Implementing contact limitations between the parties
- Offering adjustments to academic deadlines, course schedules, etc.

The College may enforce an interim suspension on a student, employee, or organization pending the initial completion of the investigation and resolution, particularly when in the judgment of the Title IX/EA/EO Coordinator (or designee) and with the approval of the president, the safety

or well-being of any member(s) of the campus community may be jeopardized by the on-campus presence of the responding party or the ongoing activity of a student organization whose behavior is in question. In all cases in which an interim suspension is imposed, the student, employee, guests, patrons, visitors, volunteer, or student organization will be given the opportunity to meet with the Title IX/EA/EO Coordinator (or designee) prior to such suspension being imposed, or as soon thereafter as reasonably possible, to show cause why the suspension should not be implemented. The Title IX/EA/EO Coordinator (or designee) with the approval of the president has sole discretion to implement or stay an interim suspension under the policy on Equal Opportunity, and to determine its conditions and duration. Violation of an interim suspension under this policy is grounds for suspension, expulsion, or termination.

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

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

Formal and Informal Resolution Procedure for Reports of Misconduct

This procedure applies to any member of the College (student, employee, guest, patron, visitor, volunteer, or student organization) who engages in discrimination or harassment. Any person can report alleged harassment or discrimination, including students, employees, guests, patrons, visitors, volunteers, or student organizations. All allegations of misconduct not involving harassment or discrimination will be addressed through the procedures elaborated in the respective student, faculty, and employee handbooks.

Informal Resolution

In order to pursue an informal resolution, both the reporting and the responding party must agree to the informal resolution process. If at any time either party decides they would rather proceed with the formal resolution process, the investigation and resolution process will proceed as such. Before pursuing the Formal Resolution Process, every reasonable effort should be made to constructively resolve conflict with the student, employee, guest, patron, visitor, volunteer, or student organization.

The person impacted should keep a written log that can aid in later investigation and resolution. Whenever possible and safe, the problematic behavior, conflict or misconduct should first be discussed by the impacted person and the person engaged in the problematic behavior, conflict or misconduct. The Office of the Title IX Coordinator will facilitate such conversations, upon request, and monitor them for safety. Various conflict resolution mechanisms are available, including mediation. Mediation is not used when violent behavior is involved, when the coordinator determines a situation is not eligible, or the parties are reluctant to participate in good faith.

The College does not require an impacted party to contact the person involved or that person's supervisor if doing so is impracticable, or if the impacted party believes that the conduct cannot be effectively addressed through informal means. If informal efforts are unsuccessful, the formal resolution process may be initiated. Either party has the right to end the informal process and begin the formal process at any time prior to resolution.

Formal Resolution Process for Reports of Misconduct by Employees

The Office of Human Resources or designee is designated to formally investigate reports or notice of discrimination and/or harassment by employees, to address inquiries, and coordinate the College's compliance efforts regarding employee related reports.

Any member of the community can provide notice of discrimination and/or harassment in person, by phone, via email, or in writing to director, human resources. The College strongly encourages submission of written reports to the director, human resources.

Mr. Don Kesterson

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Office of Human Resources
Highlands Campus Building I, Room 103
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Avon Park, FL 33825
863-784-7336

Email: Donald.Kesterson@southflorida.edu

The following are recommended elements of a report:

- Clear and concise description of the alleged incident(s) (e.g., who, what, when, where, why, and how it occurred)
- Any supporting documentation and evidence
- Clear demonstration of all informal efforts, if any, to resolve the issue(s) with the person involved and the person's supervisor of This includes names, dates, and times of attempted or actual contact along with a description of the discussion and the manner of communication made in the course of each effort
- If contacting the person involved and/or the supervisor is impracticable, the reporting party should state the reasons why
- The desired remedy sought
- Name and all contact information for the reporting party
- Signed and dated by the reporting party

If the reporting party wishes to pursue a formal resolution or if the College, based on the alleged policy violation, wishes to pursue a formal resolution, then the Title IX Coordinator appoints trained investigators (typically using a team of two investigators), to conduct the investigation, usually within three to five academic calendar days of determining that a resolution should proceed. Investigations are completed expeditiously, normally within 10-14 academic calendar days of the completion of the preliminary inquiry by the Title IX Coordinator. Investigations may take longer when, for example, initial reports fail to provide direct firsthand information or in complex situations.

The College's resolution will not typically be altered or precluded on the grounds that civil or criminal charges involving the same incident have been filed or that charges have been dismissed or reduced. However, the College may undertake a delay in its investigation or resolution process, to comply with a law enforcement request for cooperation (e.g., to allow for criminal evidence collection) when criminal charges on the basis of the same behaviors that invoke this process are being investigated. The College will promptly resume its investigation and processes once notified by law enforcement that the initial evidence collection process is complete.

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

The investigator will take the following steps (not necessarily in order):

- In coordination with campus partners (e.g., the campus Title IX Coordinator), initiate any necessary remedial actions
- Determine the identity and contact information of the reporting party
- Identify the exact policies allegedly violated
- Conduct an immediate initial inquiry to determine if there is reasonable cause to charge the responding party, and what policy violations should be alleged as part of the charge
 - o If there is insufficient evidence to support reasonable cause, the report should be closed with no further action
- Meet with the reporting party to finalize their statement
- Prepare the notice of charges on the basis of the initial inquiry
- Commence a thorough, reliable, and impartial investigation by developing a strategic investigation plan, including a witness list, evidence list, intended timeframe, and order of interviews for all witnesses and the responding party, who may be given notice prior to or at the time of the interview
- Complete the investigation promptly, and without unreasonable deviation from the intended timeline of 10-14 college work days
- Provide regular updates to both the reporting and responding parties, as appropriate, throughout the investigation
- Make a finding, based on a preponderance of the evidence (whether a policy violation is more likely than not)
- Share the findings and sanctions with the responding and reporting parties

At any point during the investigation, if it is determined there is no reasonable cause to believe that College policy has been violated, the Title IX Coordinator has authority to terminate the investigation and end resolution proceedings. Where the responding party is found not responsible for the alleged violation(s), the investigation will be closed. Where a violation is found, the College will act to end the discrimination, prevent its recurrence, and remedy its effects on the victim and the College

community. All parties will receive written notification of the outcome, to the extent permitted by or mandated by law. In cases involving sexual misconduct, sexual harassment, stalking, and/or intimate partner violence, the written notification includes the finding, any resulting responsive actions, and the rationale for the decision. This written notification of final decision is delivered to the parties without undue delay. Appeal options will be included for all parties that informs each of any changes to the results that could occur before the decision is finalized, and when it is finalized, if it is not, such as when subject to employee grievance procedures under College Procedure 1090 and 1091.

Formal Resolution Process for Reports of Misconduct by Students

The Title IX Coordinator is designated to oversee reports of sex-/gender-based discrimination, harassment, and sexual misconduct by students, to address inquiries and to coordinate the College's compliance efforts regarding reports of misconduct by students, regardless of the College role of the reporting party, who may be another student, faculty, staff, guest, or visitor.

Notice of a formal report can be made in person, by phone, via email, or in writing to the Title IX Coordinator. Upon receipt of a report, the Title IX Coordinator will confer with the dean, student services; and/or director, human resources; and the College president on interim action, accommodations for the reporting party (at no cost to the reporting party where possible), or other necessary remedial short-term actions.

If the reporting party wishes to pursue a formal resolution or if the College, based on the alleged policy violation, wishes to pursue a formal resolution, then the Title IX Coordinator appoints trained investigators (typically using a team of two investigators), to conduct the investigation, usually beginning within one to five college work days of determining that a resolution should proceed. Investigations are completed expeditiously, normally within 10-14 college work days of notice to the Title IX Coordinator. Investigations may take longer depending on their nature or complexity.

The College's resolution will not typically be altered or precluded on the grounds that civil or criminal charges involving the same incident have been filed or that charges have been dismissed or reduced. However, the College may undertake a delay in its investigation or resolution process to comply with a law enforcement request for cooperation (e.g., to allow for criminal evidence collection), when criminal charges on the basis of the same behaviors that invoke this process are being investigated. The College will promptly resume its investigation and processes once notified by law enforcement that the initial evidence collection process is complete.

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

The investigators will take the following steps (not necessarily in order):

- Determine the identity and contact information of the reporting party
- Identify the exact policies allegedly violated
- Conduct an immediate initial inquiry to determine if there is reasonable cause to charge the responding party, and what policy violations should be alleged as part of the report o If there is insufficient evidence to support reasonable cause, the inquiry should be closed with no further action
- Meet with the reporting party to finalize their statement
- Prepare the notice of charges on the basis of the initial inquiry
- Commence a thorough, reliable, and impartial investigation by developing a strategic investigation plan, including a witness list, evidence list, intended timeframe, and order of interviews for all witnesses and the responding party, who may be given notice prior to or at the time of the interview
- Complete the investigation promptly, and without unreasonable deviation from the intended timeline of 10-14 college work days
- Provide regular updates to both the reporting and responding parties, as appropriate, throughout the investigation
- Present the findings to the responding party, who may accept the findings, accept the findings in part and reject them in part, or may reject all findings

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

Where the responding party is found not responsible for the alleged violation(s), the investigation will be closed. The reporting party may request from the Title IX Coordinator an extraordinary decision to re-open the investigation or to refer the matter to a hearing, which should only be granted by the Coordinator in exceptional circumstances.

Where the responding party accepts the finding of the investigation, the dean, student services and/or director, human resources will impose appropriate sanctions for the violation, after consultation with the Title IX Coordinator, when applicable. The College will act to end the discrimination, prevent its recurrence, and remedy its effects on the victim and the College community.

The parties will receive written notification of the outcome, to the extent permitted or mandated by law. In cases involving sexual misconduct, sexual harassment, stalking, and/or intimate partner violence, the written notification includes the finding, any resulting sanctions, and the rationale for the decision. This written notification of final decision is delivered to the parties without undue delay between the notifications, explains appeals options and procedures, and any changes to the results that could occur before the decision is finalized.

Hearing

In the event that the reporting party or the responding party rejects the findings in part or entirely, the Title IX Coordinator will convene a three-person Hearing Panel with a Chief Hearing Officer appointed by the Title IX Coordinator under its respective procedures to determine whether the responding party is in violation of the contested aspects of the report. At the hearing, the findings of the investigation will be admitted. The investigator(s) may give evidence. The hearing will determine whether it is more likely than not (preponderance of the evidence standard) that the responding party violated the policies forming the basis of the charge. The goal of the hearing is to provide an equitable resolution via an equitable process, respecting the civil and legal rights of all participants.

A date and time for a hearing will be set by the Chief Hearing Officer. During the hearing, both parties are required to attend and may bring an advocate which may be an attorney. The College (Title IX Coordinator) will provide an advocate if requested. The parties do not have to be in the same room during the hearing. The advocates may cross examine the other party. The Chief Hearing Officer will determine what questions and evidence will be permitted. An audio recording of the hearing will be made and maintained by the Office of the Dean, Student Services.

The Chief Hearing Officer has final decision-making authority with regard to formal reports and evidence subject to appeal. Both parties have the right to appeal the decision of the Chief Hearing Officer. Where the responding party is found in violation as the result of a hearing, the dean, student services in consultation with the College president will impose the appropriate sanctions recommended by the hearing panel for the violation, after consultation with the Title IX Coordinator and Chief Hearing Officer, when applicable. The College will act to end the discrimination, prevent its recurrence, and remedy its effects on the victim and the College community.

Appeal proceedings as described below apply to all parties to the report. The parties will receive written notification of the outcome of the hearing, to the extent permitted or mandated by law. In cases involving sexual misconduct, sexual harassment, stalking, and/or intimate partner violence, the written notification includes the finding, any resulting sanctions, and the rationale for the decision. This written notification of final decision is delivered to the parties without undue delay between the notifications, explains appeals options and procedures, and any changes to the results that could occur before the decision is finalized.

Participation of Advocates in the Resolution Process

All parties are entitled to an advocate of their choosing to guide and accompany them throughout the resolution process. The advocate may be a friend, mentor, family member, College employee, attorney, or any other supporter a party chooses to advise them who is both eligible and available. People who will be called as witnesses may not serve as advocates. The College

maintains a pool of trained (non-attorney) advocates who are available to the parties. The parties may choose an advocate from outside the pool, or outside the campus community, but those advisors may not have the same level of insight and training on the campus process as do those trained by the College. Outside advocates are not eligible to be trained by the College.

The parties are entitled to be accompanied by their advocate in all meetings and interviews at which the party is entitled to be present, including intake, interviews, hearings, and appeals. Advocates should help their advisees prepare for each meeting, and are expected to advise ethically, with integrity and in good faith. The College cannot guarantee equal advisory rights, meaning that if one party selects an advocate who is an attorney, but the other party does not, or cannot afford an attorney, the College is not obligated to provide one. Additionally, responding parties may wish to contact organizations such as:

- FACE (facecampusequality.org)
- SAVE (saveservices.org)

Reporting parties may wish to contact organizations such as:

- The Victim Rights Law Center (victimrights.org)
- The National Center for Victims of Crime (victimsofcrime.org), which maintains the Crime Victim's Bar Association

All advocates are subject to the same campus rules, whether they are attorneys or not. Advocates may present opening and closing statements and evidence on behalf of their advisee in a meeting. All questions of witnesses must be submitted to the Chief Hearing Officer who will determine if the question will be asked. The Chief Hearing Officer then asks the questions to each witness and party. Advocates may confer quietly with their advisees as necessary, as long as they do not disrupt the process. For longer or more involved discussions, the parties and their advocates should ask for breaks or step out of meetings to allow for private conversation. Advocates will typically be given a timely opportunity to meet in advance of any interview or hearing with the administrative officials conducting that interview or meeting. This pre-meeting will allow advocates to clarify any questions they may have, and allows the College an opportunity to clarify the role the advocate is expected to take.

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

The College expects that the parties will wish the College to share documentation related to the allegations with their advocate. The College provides a consent form (FERPA Privacy Release) that authorizes such sharing. The parties must complete this form before the College is able to share records with an advocate. The parties and their advocates may view the documents in the Office of the Dean, Student Services but are not permitted to have or make a copy. The parties are not otherwise restricted from discussing and sharing information relating to allegations with others who may support them or assist them in preparing and presenting. Advocates are expected to maintain the privacy of the records shared with them by the College. These records may not be shared with third parties, disclosed publicly, or used for purposes not explicitly authorized by the College. The College may seek to restrict the role of any advocate who does not respect the sensitive nature of the process or who fails to abide by the College's privacy expectations.

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

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

The parties must advise the Title IX Coordinator of the identity of their advocate before the date of their first meeting with investigators (if possible). The parties must provide subsequent timely notice to the investigators if they change advocates at any time. No audio or video recording of any kind other than as required by institutional procedure is permitted during meetings with campus officials.

Requesting an Appeal

In the event that the responding party accepts the findings of the investigation, those findings cannot be appealed. Sanctions, recommended by the Title IX Coordinator, will be imposed by the dean, student services and can be appealed by any party according to the grounds below.

All sanctions imposed by the Dean; Student Services will be in effect during the appeal. A request may be made to the Title IX Coordinator to delay implementation of the sanctions until the appeal is decided, but the presumptive stance of the institution is that the sanctions will go into effect immediately. Graduation, internships/ externships, etc. do NOT in and of themselves constitute exigent circumstances, and students may not be able to participate in those activities during their appeal. In cases where the appeal results in reinstatement to the College or resumption of privileges, all reasonable attempts will be made to restore the student to their prior status, recognizing that some opportunities lost may be irreparable in the short term.

The decision of the hearing panel may be appealed by petitioning the vice president for academic affairs and student services (VPAA/SS). Any party who files an appeal request must do so in writing to the Title IX Coordinator, within three to five academic calendar days of receiving the written decision, for a review of the decision or the sanctions imposed. The written decision will be provided in person and/or mailed to the local mailing address of the respective party as indicated in College records and emailed to the parties' College-issued email accounts. If there is no local address on file, mail will be sent to the parties' permanent address. Once received in person, mailed or emailed, the notice of decision will be deemed presumptively delivered.

The Title IX Coordinator will share the appeal request with the other party (e.g., if the responding party files an appeal, the appeal is shared with the reporting party, who may also wish to file a response and/or bring their own appeal on separate grounds; this response or appeal will be shared with the initial appealing party). Based on the written requests/responses or on interviews as necessary, the VPAA/SS will send a letter of outcome for the appeal to all parties. The VPAA/SS can take one of three possible actions. The appeal may dismiss an appeal request as untimely or ineligible, may grant an appeal and remand the finding and/or sanction for further investigation or reconsideration at the hearing level, or may modify a sanction.

The original finding and sanction will stand if the appeal request is not timely or substantively eligible, and that decision made by the VPAA/SS is final. The party requesting appeal must show clear error as the original finding and/or a compelling justification to modify a sanction, as both finding and sanction are presumed to have been decided reasonably and appropriately during the original hearing.

The ONLY grounds for appeal are as follows:

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

If remanded to re-open the investigation, the results of a revised investigation can be subsequently forwarded for reconsideration at the hearing level, at the discretion of Title IX Coordinator if the appeal remands to the hearing panel for review, the reconsideration of the Hearing Panel is not appealable.

In rare cases where a procedural (or substantive) error cannot be cured by the original hearing officer (as in cases of bias), the VPAA/SS may order a new hearing with a new Chief Hearing Officer. The results of a reconvened hearing cannot be appealed. The results of a new hearing can be appealed, once, on any of the three applicable grounds for appeals.

The procedures governing the hearing of appeals include the following:

- All parties should be timely informed of the status of requests for appeal, the status of the appeal consideration, and the results of the appeal decision.
- Every opportunity to return the appeal to the original hearing body for reconsideration (remand) should be pursued.
- Appeals are not intended to be full re-hearings of the allegation (de novo). In most cases, appeals are confined to a review of the written documentation or record of the original hearing, and pertinent documentation regarding the grounds for appeal.
- Appeals decisions are to be deferential to the original hearing body, making changes to the finding only where there is clear error and to the sanction only if there is a compelling justification to do so.
- Sanctions imposed are implemented immediately unless the Title IX Coordinator stays their implementation in extraordinary circumstances, pending the outcome of the appeal.
- The VPAA/SS will typically render a written decision on the appeal to all parties within five college work days from hearing of the appeal. The VPAA/SS's decision to deny an appeal request is final.

Special Resolution Process Provisions

- a. College-initiated proceedings
 - As necessary, the College reserves the right to initiate a report and to initiate resolution proceedings without a formal report or participation by the victim of misconduct.
- b. Notification of Outcomes
 - The outcome of a campus hearing is part of the education record of the responding party, and is protected from release under a federal law, FERPA.
 - However, the College observes the legal exceptions as follows:
 - o Parties to non-consensual sexual contact/intercourse, sexual exploitation, sexual harassment, stalking, and intimate partner violence incidents have an absolute right to be informed of the outcome, essential findings/rationale, and any sanctions that may result, in writing, without condition or limitation, and without substantial delay between notifications to each party.
 - o The College may release publicly the name, nature of the violation, and the sanction for any student who is found in violation of a College policy that is a “crime of violence,” including: arson, burglary, robbery, criminal homicide, sex offenses, assault, destruction/damage/vandalism of property, intimate partner violence, stalking, and kidnapping/abduction.
 - o In doing so, the College will not release any information that could lead to the identification of the reporting party.
- c. Alternative Testimony Options
 - For sexual misconduct reports, and other reports of a sensitive nature, whether the alleged victim is serving as the reporting party or as a witness, alternative testimony options will be given, such as placing a privacy screen in the hearing room, or allowing the alleged victim to testify outside the physical presence of the responding party, such as by Skype, Zoom, or phone.
 - While these options are intended to help make the reporting party more comfortable, they are not intended to work to the disadvantage of the responding party.
- d. Past Sexual History/Character
 - The past sexual history or sexual character of a party will not be admissible by the other party in the investigation or hearing unless such information is determined to be highly relevant by the Chief Hearing Officer.

- All such information sought to be admitted will be presumed irrelevant, and any request to overcome this presumption by the parties must be reviewed in advance of the hearing by the Title IX Coordinator.
- While previous conduct violations by the responding party are not generally admissible as information about the present allegation, the Title IX Coordinator may supply previous reports of good faith allegations and/or findings to the investigators, the Chief Hearing Officer, and VPAA/SS to consider as evidence of pattern and/or predatory conduct.

e. Witness participation in an investigation

- Witnesses are expected to cooperate with and participate in the College's investigation.
- Any witness who declines to participate in or cooperate with an investigation will not be permitted to offer evidence or testimony later in a hearing.
- Witnesses may provide written statements in lieu of interviews during the investigation and may be interviewed remotely by phone, Skype, Zoom. (Or similar technology), if they cannot be interviewed in person.
- Parties who elect not to participate in the investigation will have the opportunity to offer evidence during the hearing and/or appeal stages of the process, though failure to offer evidence prior to an appeal does not constitute grounds for appeal on the basis of new evidence.
- Any witness scheduled to participate in a hearing must have been interviewed first by investigators (or have proffered a written statement), unless all parties consent to the participation of that witness in the hearing.

f. Training for those implementing these procedures

- Personnel tasked with implementing these procedures, (e.g., Title IX Coordinator, investigators, hearing officers, appellate officers, etc.) will be trained at least annually.
- This training will include, but is not limited to: how to appropriately remedy, investigate, render findings and determine appropriate sanctions in reference to sexual harassment and discrimination allegations; the College's Sex/Gender-based Discrimination and Sexual Misconduct Policies and Procedures; confidentiality and privacy; and applicable laws, regulations, and federal regulatory guidance.

g. Conflicts of Interest and Bias

- The College is committed to ensuring that its resolution processes (e.g.

- Investigation, hearing, appeal, etc.) Are free from actual or perceived bias or conflicts of interest that would materially impact the outcome.
- Any party who feels that there is actual or perceived bias or conflict of interest that would materially impact the outcome may submit a written request for the person's removal from the process.
 - The request should include specifics as to the actual or perceived bias or conflict of interest, as why the petitioner believes the bias or conflict could materially impact the outcome.
 - When the allegation involves a responding party who is an employee, requests should be submitted promptly to the Director of Human Resources.
 - When the allegation involves a responding party who is a student, requests should be submitted promptly to the dean, student services.
 - Such requests may also be made to the Title IX Coordinator, or to the College president in the event that the potential conflict or bias involves the Title IX Coordinator.
- h. Record Keeping
- In implementing these procedures, records of all allegations, investigations, and resolutions will be kept by the Title IX Coordinator indefinitely in the dean, student service's office.
- i. Retaliation
- Retaliation by any party against any other party involved in the resolution process is a violation of the Code of Student Conduct/Employee Policies and will result in the appropriate conduct charges

STATEMENT OF THE RIGHTS OF THE REPORTING PARTY

- The right to investigation and appropriate resolution of all credible reports or notice of sexual misconduct or discrimination made in good faith to College officials
- The right to be informed in advance of any public release of information regarding the incident;
- The right of the reporting party not to have any personally identifiable information released to the public, without his or her consent.
- The right to be treated with respect by College officials
- The right to have College policies and procedures followed without material deviation

- The right not to be pressured to mediate or otherwise informally resolve any reported misconduct involving violence, including sexual violence.
- The right not to be discouraged by College officials from reporting sexual misconduct or discrimination to both on-campus and off-campus authorities.
- The right to be informed by College officials of options to notify proper law enforcement authorities, including local police, and the option to be assisted by campus authorities in notifying such authorities, if the student so chooses. This also includes the right not to report, if this is the victim's desire.
- The right to have reports of sexual misconduct responded to promptly and with sensitivity by campus law enforcement security and other campus officials.
- The right to be notified of available counseling, mental health, victim advocacy, health, legal assistance, student financial aid, visa and immigration assistance, or other student services for victims of sexual assault, both on campus and in the community;
- The right to a campus no contact order (or a trespass order against a nonaffiliated third 3rd. party) when someone has engaged in or threatens to engage in stalking, threatening, harassing, or other improper behavior that presents a danger to the welfare of the reporting party or others;
- The right to notification of and options for, and available assistance in, changing academic and living situations after an alleged sexual misconduct incident, if so, requested by the victim and if such changes are reasonably available (no formal report, or investigation, campus or criminal, need occur before this option is available).

Accommodations may include:

- Change of an on-campus student's housing to a different on- campus location
- Assistance from College support staff in completing the relocation
- Transportation accommodations
- Arranging to dissolve a housing contract and pro-rating a refund
- Exam (paper, or assignment) rescheduling
- Taking an incomplete in a class
- Transferring class sections
- Temporary withdrawal
- Alternative course completion options
- The right to have the institution maintain such accommodations for as long as is necessary, and for protective measures to remain confidential, provided

confidentiality does not impair the institution's ability to provide the accommodations or protective measures

- The right to be fully informed of campus policies and procedures as well as the nature and extent of all alleged violations contained within the report
- The right to ask the investigators to identify and question relevant witnesses, including expert witnesses
- The right to review all documentary evidence available regarding the allegation, including the investigative report, subject to the privacy limitations imposed by state and federal law prior to the hearing
- The right to be informed of the names of all witnesses who will be called to give testimony, at least two (2) academic calendar days prior to the hearing, except in cases where a witness' identity will not be revealed to the responding party for compelling safety reasons (this does not include the name of the alleged victim/reporting party, which will always be revealed)
- The right not to have irrelevant prior sexual history admitted as evidence in a campus hearing
- The right to regular updates on the status of the investigation and/or resolution
- The right to have reports heard by hearing and appeals officers who have received annual sexual misconduct training
- The right to a panel comprised of representatives of both genders, if a panel is to be used
- The right to preservation of privacy, to the extent possible and permitted by law
- The right to meetings, interviews, and/or hearings that are closed to the public
- The right to petition that any member of the conduct body be recused on the basis of demonstrated bias
- The right to bring a victim advocate or advisor of the reporting party's choosing to all phases of the investigation and resolution proceeding
- The right to provide evidence by means other than being in the same room with the responding party
- The right to be present for all testimony given and evidence presented during any resolution-related hearing
- The right to make or provide an impact statement in person or in writing to the hearing officers following determination of responsibility, but prior to sanctioning
- The right to be informed of the outcome and sanction of the resolution process in writing, without undue delay between the notifications to the parties, and usually within one to three college work day of the end of the process
- The right to be informed in writing of when a decision of the College is considered final, any changes to the sanction to occur before the decision is finalized, to be informed of the right to appeal the [finding and and/or] sanction of the resolution process, and the procedures for doing so in accordance with the standards for appeal established by the College

STATEMENT OF THE RESPONDING PARTY'S RIGHTS

The rights of the responding party should also be prominently indicated. These should include, among others particular to your College:

- The right to investigation and appropriate resolution of all credible reports of sexual misconduct made in good faith to College administrators
- The right to be informed in advance, when possible, of any public release of information regarding the report
- The right to be treated with respect by College officials
- The right to have College policies and procedures followed without material deviation;
- The right to be informed of and have access to campus resources for medical, health, counseling, and advisory services
- The right to be fully informed of the nature, policies, and procedures of the campus resolution process and to timely written notice of all alleged violations within the report, including the nature of the violation and possible sanctions
- The right to a hearing on the report, including timely notice of the hearing date, and adequate time for preparation
- The right to review all documentary evidence available regarding the allegation, including the investigative report, subject to the privacy limitations imposed by state and federal law, at least two (2) academic calendar days prior to the hearing
- The right to be informed of the names of all witnesses who will be called to give testimony, prior to the hearing, except in cases where a witness' identity will not be revealed to the responding party for compelling safety reasons (this does not
 - include the name of the reporting party, which will always be revealed)
- The right not to have irrelevant prior sexual history admitted as evidence in a campus resolution process
- The right to have reports heard by hearing and appeals officers who have received annual training
- The right to petition that any member of the conduct body be recused on the basis of demonstrated bias
- The right to a panel comprised of representatives of both genders if a panel is to be used
- The right to meetings, interviews, and hearings that are closed to the public
- The right to have an advisor of their choice to accompany and assist in the campus resolution process
- The right to a fundamentally fair resolution, as defined in these procedures
- The right to make or provide an impact statement in person or in writing to the hearing officers board following any determination of responsibility, but prior to sanctioning

- The right to a decision based solely on evidence presented during the resolution process. Such evidence shall be credible, relevant, based in fact, and without prejudice
- The right to be informed of the outcome and sanction of the resolution process in writing, without undue delay between the notifications to the parties, and usually within one to three college work days of the end of the process
- The right to be informed in writing of when a decision of the College is considered final, any changes to the sanction to occur before the decision is finalized, to be informed of the right to appeal the finding and/or sanction of the resolution process, and the procedures for doing so in accordance with the standards for appeal established by the College.

Additional Notes

College students are responsible for knowing the information, policies and procedures outlined in this document.

The College reserves the right to make changes to this document as necessary and once those changes are posted online, they are in effect. Students are encouraged to check online at southflorida.edu/community/title-ix-sexual-harassment for the updated versions of all policies and procedures. If government regulations change in a way that impacts this document, this document will be construed to comply with government regulations in their most recent form. Reports of misconduct made after the fact may raise issues of policy and procedure application, if policies and procedures have changed. Unless the parties accept current policies, all reports are governed by the policies that were in place at the time the alleged misconduct occurred. Procedures applicable are those that are in place at the time of resolution.

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

Revised January 17, 2023