

Non-Discrimination and Anti-Harassment Policy

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Preamble

We at the College share a common belief that every individual should be able to work and study in an environment free from discrimination, harassment or intimidation based on race, creed, color, national origin, gender, gender identity, sex, sexual orientation, marital status, pregnancy, religion, age, disability, political opinions or affiliations, genetic information, veteran or military status as protected under the Vietnam Era Veterans' Readjustment Assistance Act, and any other protected category under federal or state law or local ordinance.

Discrimination and harassment are in direct conflict with the mission of the College. It exposes the College and the individuals involved to liability under the law. Accordingly, the College prohibits any physical, written, or spoken conduct that violates the prohibitions on discrimination set forth in the policy.

Discriminatory conduct in the form of sexual misconduct/sexual harassment (including sexual violence, dating violence, and stalking) is also prohibited and allegations of violations in that regard are addressed in the ***Florida Southern College Policy on Sexual Misconduct & Sexual Harassment***. Please refer to the policy for detailed information regarding the investigation of these allegations.

I. NON-DISCRIMINATION STATEMENT

It is the policy of the College that that no member of the College community shall be subjected to any form of discrimination or harassment, including sexual harassment by any other member of this institution. It is the policy of the College to provide fair, equitable, reliable, and compassionate responses to reports of any type of discrimination or violence. Examples of harassment are provided in the next section. Discrimination, including harassment, is prohibited and subject to disciplinary action up to and including termination of employment or expulsion. All forms of discrimination involve unwelcome and/or nonconsensual actions.

The College's Commitment to Non-Discrimination can be found in the Academic Catalogue, the Student Handbook, and on the College's website <http://www.flsouthern.edu/policies/notice-of-non-discrimination.aspx> . In the interest of protecting the college community, the College has developed procedures to investigate and resolve such reports. Those procedures are set forth below, under **Section III** of this policy.

Discrimination occurs when a person, or group of individuals, suffers adverse action due to membership in a legally protected class such as race, gender, national origin, disability, age, etc.

A. Harassment

For the purpose of this policy, harassment is defined as sexual harassment or harassment due to race, color, religion, gender, gender identity, age, national origin, mental or physical disability, marital status, medical condition, veteran status, citizenship or sexual orientation. Verbal, physical or electronic conduct constitutes harassment when:

- Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment, academic advancement or campus involvement;

- Submission to or rejection of such conduct by an individual is used as the basis for employment decisions, academic decisions, or residential and other campus involvement opportunities affecting such individual; or
- Such conduct has the purpose or effect of unreasonably interfering with an individual's work or academic performance or creating an intimidating, hostile, or offensive living, working, academic, or campus involvement environment.

Harassment, including sexual harassment, includes harassment of any gender identity by any gender identity (ie, women by men, men by women, women by women and men by men). It can occur between faculty and students, faculty and staff, staff and students, and those at different levels of management, as well as between persons of the same College status, i.e., student-student, faculty-faculty, and staff-staff. Harassment, including sexual harassment, can also occur between any Florida Southern community member (student, faculty, or staff) and a third party.

Harassment, including sexual harassment, can manifest in many different forms. The College will evaluate the severity and/or pervasiveness of the behavior on a case by case basis to determine if harassment occurred. The following behaviors are examples of harassment and therefore prohibited, even if not unlawful in and of themselves:

- Verbal: Inappropriate noises, remarks or jokes; negative stereotyping; hate words; unwelcome remarks about a person's body, color, physical characteristics or appearance; sexual propositions; sexual innuendoes or sexual remarks about clothing, body or sexual activities.
- Nonverbal: Demeaning or offensive pictures, posters, calendars, objects, cartoons, cards, clothing, inappropriate gestures or offensive notes or letters. Messages or clothing with derogatory or inflammatory remarks about an individual's or group's race, religion, national origin, physical attributes, disability, age, gender, or sexual preference will not be tolerated or transmitted; unwanted, protracted staring or leering are also forms of nonverbal harassment.
- Physical: Aggressive or violent touching, imitating or exaggerating another's physical characteristics, threatening or intimidating behavior; touching, hugging, patting, or pinching that is uninvited and/or unwanted.
- Retaliatory: Assigning low grades, changing work assignments, or refusing to cooperate with a person who has complained about or resisted harassment or discrimination; denying participation, membership; making retaliating verbal or physical threats to a person who has reported or resisted harassment or discrimination; imposing physical, social, or emotional sanctions on a person who has reported or resisted harassment or discrimination (see also section on Retaliation and Reprisals in **Section IX**).

However, it is not harassment to espouse a religious belief or political viewpoint or an opinion on any subject which another person might strongly disagree with or find offensive or which that person does not wish to hear, as long as that viewpoint or opinion is expressed with civility and is not in a manner as to cause harassment, intimidation, or otherwise violate a policy of the College. Students and other members of the College community should be free to express opinions which others might strongly disagree with or even find offensive or ugly but when that speech crosses the line into targeted harassment or threats, or creates a pervasively hostile environment, said speech may, on a case-by-case basis, be considered harassment and as such may violate this policy.

II. SEXUAL DISCRIMINATION

Title IX of the Education Amendments Act of 1972 prohibits sex discrimination in educational institutions. It states, “No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving federal financial assistance”. Title IX compliance is overseen by the Office of Civil Rights of the U.S. Department of Education. It is an amendment to the Higher Education Act of 1965 which, itself, sprang from the Civil Rights Act of 1964, including Title VI, which broadly prohibits harassment and discrimination on the basis of race, color, and national origin under any program or activity receiving federal financial assistance. Consequently, the College has a responsibility to promptly, equitably, and reliably address reports of sexual harassment, discrimination, violence, and retaliation. The College’s “Just Ask” Title IX program was established to respond to reports of Title IX violations and provide campus-wide education on prevention and awareness.

Title IX protects against sexual discrimination in 10 categories including: access to Higher Education; athletics equity; career education; education for pregnant and parenting students; employment; learning environment; math and science; sexual harassment; standardized testing; and technology.

Claims of sexual discrimination are addressed under this policy, the College’s policy on **Non-Discrimination and Anti-Harassment**, unless the claim is that of sexual harassment as defined by Title IX. Discriminatory conduct in the form of sexual misconduct/sexual harassment (including sexual violence, dating violence, and stalking) as defined by Title IX is prohibited and allegations of violations in that regard are addressed in the **Florida Southern College Policy on Sexual Misconduct & Sexual Harassment**. Please refer to the **Florida Southern College Policy on Sexual Misconduct & Sexual Harassment** for detailed information regarding the investigation of these allegations.

Claims of sexual harassment that do not meet the definition of sexual harassment under Title IX shall be addressed under this Policy.

A. Prevention Education

The College provides sexual harassment education and preventive information to all campus community members through the Office of Student Conduct and the Office of Human Resources, in collaboration with the Student Health Center, the Office of Community Living, and the Office of Campus Safety and Security.

The College’s Student Counseling Center offers sexual harassment, misconduct, and violence counseling as needed.

Matriculating first-year students receive alcohol usage and sexual violence education and prevention information through online education programs, and other programs throughout the year help educate students regarding sexual violence prevention. The online programs will also be used by other student and employee groups.

In accordance with NCAA guidelines, every College student athlete completes an annual comprehensive online sexual violence prevention program. The education is specifically targeted to athletic situations involving college athletics. Additionally, every College Athletics staff member, coach, athletic trainer, and professor in Exercise Science/Athletic Training also completes a

comprehensive online sexual violence prevention program targeted to the adults who work with student-athletes.

B. Investigator Training

The Title IX Co-Coordinators and response team members receive annual training in techniques to investigate all forms of sexual discrimination and harassment including sexual assault, dating violence, domestic violence, and stalking. All Florida Southern College employees receive training about sexual discrimination, including sexual harassment and violence, and on the procedures outlined in this policy.



“Just Ask” is Florida Southern College’s Title IX education and prevention **initiative developed especially for students. Posters, brochures, Passport** events, and campus programs are included through this initiative. Learn more at

<https://www.flsouthern.edu/campus-offices/offices-directory/office-of-student-conduct/title-ix-just-ask>

III. REPORTING POLICIES AND PROCEDURES

The College conducts prompt and equitable investigations in response to claims of all forms of harassment and discrimination. Persons who have engaged in acts of discrimination, based on a “preponderance of the evidence” standard (*i.e.*, it is more likely than not that discrimination or harassment occurred), may receive institution-imposed sanctions. Additionally, anyone who retaliates against an individual who has made a report or against an individual about whom a report has been filed will be subject to appropriate disciplinary actions. Finally, anyone who has knowingly made false accusations related to discrimination will also be subject to disciplinary actions.

The College provides members of the academic community prompt, equitable, and reliable mechanisms for reporting incidents of discrimination, including harassment based on a protected category, retaliation, and false accusations. A discrimination or harassment report does not have to result in filing charges. However, a report shall be investigated. Claims of discrimination or harassment should be reported to the appropriate office identified below.

Additionally, if you are concerned you will be named or identified as the responding party in a discrimination report, you are also encouraged to contact the college’s Title IX Coordinator or the office of Student Conduct. **We promptly, equitably, and reliably support the rights of all College community members- reporting parties, responding parties, and witnesses.**

This Policy does not include complaints regarding sexual harassment/sexual discrimination as defined by Title IX. For those reports or complaints see the *Florida Southern College Policy on Sexual Misconduct & Sexual Harassment.*

A. Forms

Report, investigation, and appeal procedures, as well as complaint forms, can be found in the Student Handbook and online at <https://www.flsouthern.edu/campus-offices/offices->

[directory/office-of-student-conduct/file-a-report](#) . A report should be filed using the college’s **[Discrimination Complaint Form](#)**. A person may also anonymously report an incident using the online **[Anonymous Incident Report](#)** forms.

It’s important to note that the opportunity to file a complaint or the filing of a complaint does not prevent any person from telling the individual whose actions he or she finds offensive that such behavior or conduct must stop and /or that it is unwelcome.

B. Mandatory Reporters

Florida Southern College firmly believes we must all share in the responsibility to create a workplace and a campus free of discrimination. Therefore, all Florida Southern College employees, including student employees and Residential Advisors (with the exception of those persons or offices who offer confidential counseling such as the Counseling Center, the Chaplain’s office, and the Student Health Center) are required to promptly report (either verbally or through written communications) allegations, reports, or instances of discrimination/harassment by or against any College employee(s), students(s), or group(s). Instances of discrimination include reports of or knowledge of misconduct or mistreatment toward another based on race, color, ethnicity, national origin, gender, gender identity, religion and other protected categories under the law. Staff and faculty who fail to report such knowledge shall be subject to disciplinary action up to and including termination of employment.

C. Report or Complaint Contacts

1. Reporting a Student

When discrimination reports are brought against a student, a visitor of a student, or a third party acting against a student, this report will typically be investigated by the office of Student Conduct. Students who have experienced discrimination, misconduct or violence, or know of such a student, can report this and /or file a report (also known as a grievance) call, email, or come to see a staff member in the office. A staff member will assist in discrimination investigations involving students, working with students on “next steps” and being sure the people necessary for moving forward receive proper communication.

Office of Student Conduct

Rogers Building Student Center, Second Floor
111 Lake Hollingsworth Drive, Lakeland, FL 33801

FSCJustAsk@flsouthern.edu

Richard Gebauer

Director of Student Conduct

Telephone: (863)680-6216; rgebauer@flsouthern.edu

If you are in immediate danger or in need of medical assistance, please dial “911” (9-911 if calling from a campus phone) for local emergency assistance or the Campus Safety Office at (863) 680-4125.

Discrimination in Athletics – Reports regarding discrimination in sports programs are investigated by Associate Athletic Director and Senior Women’s Associate Jill Stephens.

Jill Stephens

Associate Athletic Director and Senior Women’s Associate

Jenkins Field House, 111 Lake Hollingsworth Drive, Lakeland, FL 33801

Telephone: (863) 680-4474; jstephens@flsouthern.edu

2. Reporting an Employee or Other Individual

An employee, or other individual, should bring reports of harassment or discrimination against any other individual(s) to:

Katherine Pawlak

Assistant Vice President of Operations and Director of Human Resources/Title IX Coordinator

Raulerson Building, 111 Lake Hollingsworth Drive, Lakeland, FL 33801

Telephone: (863) 680-3964; E-mail: kpawlak@flsouthern.edu

IV. INVESTIGATION PROCEDURES

Investigations are conducted by officials who do not have a conflict of interest or bias for or against the accuser or the accused. Any person involved in performing an investigation, or making determinations on such, who is found to have a family or business relationship with parties involved in an investigation will be asked to remove himself or herself from the investigation so that the College can ensure all parties involved receive a fair and equitable process.

A. Process

This process involves an immediate preliminary assessment to determine if there is reasonable cause to believe the Non-Discrimination and Anti-Harassment policy has been violated. If there is insufficient evidence to support reasonable cause or if the reported conduct does not on its face constitute discrimination or harassment, the report should be closed with no further action.

The College has no authority or disciplinary recourse against former students and employees who are no longer enrolled or employed by the College or involved in College programs. Therefore, complaints against such individuals will be dismissed though supportive measures will be made available to the complainant.

If it is determined that there is reasonable cause to believe the Policy has been violated, the College will initiate a prompt, thorough and impartial investigation. This investigation is designed to provide a fair and reliable determination about whether the College's Non-Discrimination and Anti-Harassment policy has been violated. If so, the College will implement a prompt and effective remedy designed to end the discrimination, prevent its recurrence and address its effects. During this phase the appropriate College official will interview parties involved including the reporting party or complainant, responding party (if known) and any witnesses. The College retains the right to partner with an outside source or vendor to conduct the investigation.

Depending on the facts and circumstances known to it, the College, in its discretion and judgment, may determine that the allegations of discrimination or retaliation will be investigated and resolved outside of the procedures described here and in related websites and written policies, and may take interim action as it deems appropriate to address the safety and protection of the College.

If an investigation is initiated, the investigation process may include any of the following:

- In coordination with the appropriate campus Officer, initiate any necessary remedial actions (see Interim Steps below);
- Identify the correct policies allegedly violated;
- Meet with the reporting party to finalize the report or complaint.
- Provide notice to both the reporting party and the responding party that equal opportunities for presenting evidence, receiving notification of the outcome, and exercising rights to appeal are available to both.
- Prepare the notice of charges on the basis of the investigation.
- Make a finding of responsible or not responsible, based on a preponderance of the evidence standard (whether a policy violation is more likely than not).
- Present the findings to the accused individual.
- Share the findings and update the reporting and responding party on the status of the investigation and the outcome.

If the investigator(s) believe the matter may be resolved by informal means, the investigator(s) may undertake to obtain such a result with the assistance of a third party (mediator or counselor) for as long as both reporting party and responding party consent to such methods. The reporting party and responding party may end informal resolution mechanisms and initiate a formal investigation at any point. The College reserves the right to ensure that any resolution is designed to stop problematic behavior.

Depending on the facts and circumstances known to it, the College, in its discretion and judgment, may determine that the allegations of crime, discrimination, harassment or retaliation will be investigated by outside law enforcement officials, and the College may take interim action as it deems appropriate to address the safety and protection of the College. Additionally, the reporting party or the responding party may decide to file civil or criminal charges. In such cases, the College may have to temporarily suspend its own investigation but will resume within a reasonable amount of time.

Upon conclusion of the investigation into the report or claim, the appropriate College official will prepare written record to that effect. The principle parties will receive notice of the conclusion. The parties will sign their notice or record in rapid succession of one another (i.e., as close to simultaneously as is reasonable). If a signed written record is not needed, appropriate College official will complete a description of the resolution and how the reporting party and responding party were informed, privately but otherwise simultaneously.

If a complainant or respondent refuses to cooperate and/or respond to requests for information in a timely manner, the College will proceed with an investigation based on the information already provided. In the event that this information does not allow for an effective investigation, the complaint will be closed with notice to the complainant and respondent.

B. Time Line

Every effort will be made to strictly adhere to the time tables in this document. However, if investigations extend to when school is out for prolonged periods or if there are unavoidable challenges in communications or evidence-collection with the reporting party, responding party, or others involved in an investigation, the College may require extensions to the below time tables.

Such extensions will be approved by the Vice President for Finance and Administration Terry Dennis (if the incident involves an employee) and/or the Vice President of Student Development Lauren Albaum (if the incident involves a student) and the reporting party and responding party notified accordingly.

Upon a report being filed, an investigation will proceed as follows:

- Within 3 calendar days of receiving a report or complaint, or during the next business day, the appropriate college official will initiate an investigation, if warranted, into the incident and notify the —reporting party as soon as practicable regarding the status of the investigation.
- If the act of discrimination occurs after business hours or during holidays and does not involve eminent physical or emotional peril to the employee or student, the notification should be made to the appropriate Reporting Contact office within four (4) hours of regular business hours resuming.
- Incidents that could reasonably involve eminent physical or emotional peril to the employee or student need to be reported immediately and the reporter should either call 9-1-1- (9-911 from a campus phone) and/or should be directed to Florida Southern’s Campus Safety Office, (863) 680-4125. The Campus Safety Office will notify the necessary College officers.
- The investigation will look at the totality of the circumstances, including the nature of the conduct and the context in which it occurred. While strictly observing or tightly maintaining privacy, the appropriate College official will communicate with others as necessary to facilitate a prompt, equitable, and reliable investigation and will attempt to resolve the complaint or report within 90 calendar days of the initial filing of the complaint. In some circumstances, more time may be required to complete an investigation. Both the reporting party and the responding party will be kept apprised of the progress of the investigation and of any delays that may arise in meeting institutional timetables.

C. Interim Steps and Supportive Measures

Depending on the facts and circumstances known to it the College, in its discretion and judgment, may take appropriate interim steps to support and protect the complainant or responding party prior to the outcome of an investigation. Accordingly, Director of Human Resources (if the incident involves an employee) and/or the Director of Student Conduct (if the incident involves a student) may approve interim conditions, which are available to both the complainant and responding party and which would include, but would not be limited to:

- Establishing a No Contact Directive
- Changes in residence hall residency
- Changes in employment location or schedule
- Changes in academic schedule, exams, and assignments
- Academic support services
- Withdrawing from a course without grade penalty
- Providing Safety GPS Device to electronically alert Campus Safety if an on-campus emergency situation arises
- Getting Campus Safety Driving Escorts for on-campus transportation
- Use of the “Safe Ride Home” College-sponsored taxi service to safely transport the student to off-site locations.

- Medical, counseling, and spiritual assistance offered for free by campus resources
- Medical, counseling, and spiritual assistance through off-campus referral, based on student preference
- Connecting the student or employee with off-campus victim advocacy resources
- Connecting the student or employee with assistance for filing a police report
- Voluntary withdrawal
- Emergency Interim Suspension of the responding party

Any Interim Measure can potentially serve as a remedial measure at the discretion of the complainant or responding party. Additionally, appropriate community remedies might be provided (e.g., improved campus lighting, educational programming, staff training, climate assessments).

These actions are not intended to be punitive but to protect the safety of individuals and the greater community and to promote accountability. Every effort will be made to minimize unnecessary or unreasonable burdens to both the complainant and responding party. All College investigative, protective, and interim measures and remedies will be available to both the complainant and responding party whether or not either party files a police report.

D. Rights of Reporting Parties and Responding Parties

Reporting Parties/Complainants and responding parties share equally in the right to have private interviews. Additionally, both the Complainant and the Responding Party have the right to

- Respond to reports, claims or statements in writing.
- Produce documentation, witnesses or other evidence to support their statements or claims.
- Be kept up to date by the College on the progress of the investigation and associated proceedings.
- Receive written/electronic notification about existing on- and off-campus resources.
- Not suffer any retaliation or reprisals for truthfully reporting any incidents or making any complaints or for participating in any investigation.
- Notification when results become final. The complainant and the responding party shall concurrently receive notification of the outcome. The College will inform the complainant whether it found that the alleged conduct occurred, and individual remedies offered to the complainant or any sanctions imposed on the responding party that directly relate to the complainant, and other steps the College has taken to eliminate the hostile environment, if the College finds one to exist.
- File an appeal with the appropriate College official following the defined Appeal Process.
- Written outcome of the appeal, including any changes in final results of the investigation.
- Bring an Advisor or support person. (Attorneys will not be permitted in interviews or proceedings that are not sexual harassment claims as defined by Title IX).
- File a criminal complaint with local law enforcement though the College operates its investigation independently from local police
- Contact an attorney for legal counsel on matters involving criminal or civil action
- Agree to informal resolution. If all parties voluntarily agree to participate in an informal resolution that does not involve a full investigation and adjudication after receiving a full disclosure of the allegations and their options for formal resolution and if the College determines that the complaint is appropriate for such a process, the College may facilitate

an informal resolution, including mediation, to assist the parties in reaching a voluntary resolution.

E. Advisor Rights

All parties are entitled to an advisor of their choosing to guide and accompany them throughout the campus resolution process. The advisor may be a friend, mentor, family member, or any other supporter a party chooses to advise them. **Attorneys are not acceptable advisors for claims or reports of discrimination which are not sexual harassment as defined by Title IX.** Advisors are not eligible to be trained by the College. Parties may not select an advisor which creates a conflict of interest to other parties in the claim. For example, a witness may not be accompanied by an advisor who also advises the reporting party or responding party.

The parties are entitled to be accompanied by their advisor in all meetings and interviews at which the party is entitled to be present, including intake, interviews, and appeals. Advisors are expected to advise ethically, with integrity and in good faith.

The College does not provide advisors. The College cannot guarantee equal advisor skill and knowledge. If one party selects an advisor who is more knowledgeable than the other advisor regarding matters related to the complaint the College is not obligated to provide an advisor to the other party.

All advisors are subject to the same campus rules. Advisors may not address campus officials in a meeting, interview or hearing unless invited to. Advisors 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 advisors should ask for breaks or step out of meetings to allow for private conversation. Advisors, accompanied by their reporting party/ responding party, will typically be given an opportunity to meet in advance of any interview with the administrative officials conducting that interview or meeting. This pre-meeting will allow advisors to clarify any questions they may have, and allows the College an opportunity to clarify the role the advisor is expected to take. Any advisor who steps out of their role in any meeting under the campus resolution process will be warned once and only once. If the advisor continues to disrupt or otherwise fails to respect the limits of the advisor role, the advisor will be asked to leave the meeting. When an advisor is removed from a meeting, the meeting will typically continue without the advisor present. Subsequently, the campus investigator, official, or a deputy will determine whether the advisor may be reinstated, may be replaced by a different advisor, or whether the party will forfeit the right to an advisor for the remainder of the process.

The College expects that the parties will wish to share documentation related to the allegations with their advisors. If a claimant or respondent wishes their advisor to have access to records, the party may provide party's own copies to their advisor. Advisors are expected to maintain the privacy of the records shared with them. These records may not be shared with 3rd parties, disclosed publicly, or used for purposes not explicitly authorized by the College. The College may seek to restrict the role of any advisor who does not respect the sensitive nature of the process or who fails to abide by the College's privacy expectations. The College will not share records directly with an advisor.

The College expects an advisor to adjust their schedule to allow them to attend College meetings when scheduled. The College does not typically change scheduled meetings to accommodate an advisor's inability to attend. The College may, however, make provisions to allow an advisor who

cannot attend in person to attend a meeting by telephone, video and/or virtual meeting technologies as may be convenient and available.

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

NOTE: Discrimination Investigations Conducted by the College Are Not Criminal Investigations

Discrimination, including sexual violence, dating violence, domestic violence, and stalking, are potential crimes that can be reported to the police or other law enforcement agencies. **Florida Southern College is committed to addressing and preventing discrimination in all its forms regardless of whether or not such activity constitutes a crime. Please see the final pages of this document for information about how to file a police report or request injunctions in response to sexual violence, dating violence, domestic violence, and stalking.**

V. RESOLVING THE REPORT OR NOTICE

Upon completing the investigation of a complaint or report involving students, the office of Student Conduct will summarize findings and review with the Dean of Students. The Dean of Students will decide upon the College's response and any associated disciplinary action if applicable. Upon completing the investigation of a complaint or report involving employees, the Human Resources Director will decide upon the College's response and any associated disciplinary action if applicable. The Dean of Students or Human Resource Director may reach out to other appropriate parties before making a final determination. The College's findings and intended actions will be communicated to both the complainant and responding party.

Just because the information the College was able to obtain does not meet a "preponderance of the evidence" standard and so it cannot find that discrimination took place does not affirm or prove that such discrimination did not, in fact, take place.

Any report of false accusations will be evaluated as well and the reporting party and responding party duly notified of the findings and any associated disciplinary actions (see **Section VI for Sanctions**).

VI. SANCTIONS

Individuals found to have engaged in discrimination based on a "preponderance of the evidence" standard (*i.e.*, it is more likely than not that discrimination occurred) as defined in this policy, will be disciplined, up to and including discharge, removal, suspension, or expulsion from the College. The range of possible sanctions includes, but would not be limited to:

- Ongoing No Contact directive remains in place
- Written warnings
- Educational interventions
- Targeted community service
- Social, campus residential facilities, or other probationations
- Suspension (for varying lengths of time)
- Expulsion

- Termination of employment or suspension

Appropriate student sanctions will be determined by the Dean of Students while employee sanctions will be determined by the Director of Human Resources in conjunction with the Vice President for Finance and Administration. In addressing incidents of discrimination, the College's response at a minimum will include reprimanding the offender and preparing a written record. Additional action may include: referral to sensitive or other relevant training, reassignment, temporary suspension (if an employee, without pay), reduction in duties, discharge, or removal or expulsion from the College.

VII. RIGHT TO APPEAL

Both the complainant and responding party have the right to appeal the decision of the Dean of Students or the Human Resources Director within five (5) business days, in writing, to the appropriate College administrator. Appeals can be made only on the following grounds:

1. There is significant, new information that was not available at the time of the initial investigation which could reasonably alter the facts and outcome of the investigation. A written appeal must delineate these new facts and explain how they could impact the outcome.
2. There was a procedural error that significantly affected the outcome. A written appeal must describe the procedural error and support how that error affected the outcome.

Student appeals should be addressed to Vice President of Student Development Dr. Lauren Albaum (Carlisle Rogers Building, 111 Lake Hollingsworth Drive, Lakeland, FL 33801; telephone 863-680-5110; e-mail lalbaum@flsouthern.edu).

Employee appeals should be addressed to the Vice President for Finance and Administration Terry Dennis (Raulerson Building, 111 Lake Hollingsworth Drive, Lakeland, FL 33801; telephone 863-680-4148; fax 863-680-4207; e-mail vdennis@flsouthern.edu).

In the event it is determined that there is merit in the appeal, the appropriate College official may promptly remand the matter to the Director of Human Resources or the office of Student Conduct for reconsideration. In the event it is determined that there was insufficient evidence and/or no defect in the proceedings, then the recommendation of the Director of Human Resources or the office of Student Conduct shall be affirmed.

Both the complainant and responding party will be notified of any changes to the final outcomes of the investigation.

VIII. REASONABLE ACCOMODATION FOR PERSONS WITH DISABILITIES

Any College faculty, staff or student with a disability involved in a discrimination or harassment investigation has the right to request reasonable accommodations in order to ensure their full and equal access to these processes. Students wishing to request reasonable accommodations should make those requests directly to the Coordinator of Student Disability Services. Employees seeking reasonable accommodations during a harassment/discrimination investigation should make those requests to the

Director of Human Resources. In the case of a Title IX investigation (see **Section II**), students do not have to disclose information about the report or grievance to receive accommodations, except to the extent that it assists in the determination of reasonable accommodations. Because the Director of Human Resources is also the Title IX Coordinator, details about the Title IX issues will likely be known.

Accommodations are determined in an engaged and individualized process with the Office of Student Disability Services or the Office of Human Resources and, for students, are implemented in consultation with the Office of Student Conduct. Examples of reasonable accommodation include but not are limited to full physical access to meetings and programs, sign language interpretation, real-time communication access during hearings, large print documents, extended time to review documents, or assistance with transcribing questions during interviews or hearings.

Assistant Dean for Student Disability Services

Sandy Calvert, PhD

Carlisle Rogers Building, 111 Lake Hollingsworth Drive, Lakeland, FL 33801

Telephone: (863) 616-6468; scalvert@flsouthern.edu

Assistant Vice President of Operations and Director of Human Resources

Katherine Pawlak, MBA/HRM, PHR, SHRM-CP

Raulerson Building, 111 Lake Hollingsworth Drive, Lakeland, FL 33801

Telephone: (863) 680-3964; kpawlak@flsouthern.edu

IX. PRIVACY AND CONFIDENTIALITY

College employees, including faculty, staff, and Residential Advisors, are obligated to respond to reports of a crime or discrimination even if the individual reporting the incident requests that no action be taken. Florida Southern College understands that prompt, equitable, and reliable responses to harassment and discrimination reports often require obtaining sensitive information about the reporting party and other members of the College community. The privacy of reports will be strictly kept when possible, or tightly maintained among persons who have a need to know to keep the complainant and the community safe when strict privacy is not possible. The identity of the complainant and/or the responding party will be disclosed only on a need-to-know basis to the extent feasible in light of the need to conduct an investigation and to promote community safety. Persons with whom the College may share investigation-related information include, but might not be limited to:

- Florida Southern College employees working in an official capacity who require information for the proper performance of their professional responsibilities, particularly in matters of conducting an investigation and/or protecting individual student and campus-wide safety. These could include the Vice President of Student Development and appropriate senior staff, the Director of Campus Safety and Security, and the Director of Human Resources.
- A reporting party/complainant or responding party of an investigation, when such information is necessary for the effectiveness of interim conditions (e.g., enforcing a “No Contact” directive).
- A reporting party or responding party of an investigation, concerning the final results of the investigation.
- Appropriate persons in case of health or safety emergencies.
- Outside law enforcement officials, when the College deems this appropriate or necessary

- Local, state, or federal entities that require College reporting of sexual assault and other violent incidents e.g., Clery Act, Campus SaVE Act (personally identifiable information about the participants will be redacted whenever permissible).

Students or employees may report any concern about discrimination anonymously. The College has a link on the Portal to which anonymous reports can be made. Reporting persons may decline to name themselves and the College will investigate the report, establish Interim Measures, refer any named parties to resources, and take other actions as possible. Anonymous reporters must realize the College will be limited in its ability to respond or investigate in such cases, but will do all it can with limited information to promptly investigate the report of discrimination, stop the reported discrimination, and prevent its recurrence.

The College seeks to adequately protect confidential Student Education Records while also conducting a prompt, equitable, and effective investigation. Determining which College officials reporting parties, responding parties, witnesses, and other parties need to know about discrimination investigations, interim measures, final investigation outcomes, sanctions, remedial actions, and other details shall be decided in compliance with FERPA requirements and College policies.

Confidentiality

There are four groups of professionals who, in some circumstances, can maintain confidentiality in the case of reported sexual discrimination, including sexual harassment, sexual misconduct, and sexual violence, dating violence, domestic violence, stalking, and other crimes. These include:

1. Clinical Counselors such as someone's personal, licensed therapist or those in the College's Counseling Center;
2. Licensed Health Care Providers such as someone's personal healthcare provider or those in the College's Student Health Center;
3. The College Chaplain and other ordained ministers who are acting in their ministerial capacities for the College;
4. Off-Campus Rape Crisis Facilities (please see resource information at the end of this document).

However, even they **must** report information when

- A minor is involved (in Florida, this is anyone under the age of 18)
- There is imminent potential for harm to self, and/or
- There is imminent potential for harm to others.

X. RETALIATION AND REPRISALS

The College prohibits any form of retaliation or reprisal for reporting incidents or making claims of discrimination or for participating in any investigation of incidents of discrimination or perceived discrimination. Acts of retaliation or reprisal under these circumstances are prohibited by the College. Reprisal and retaliation, either through direct actions or as a third party, will result in disciplinary consequences. Examples of retaliations or reprisals would include, but would not be limited to:

- Assigning low grades, changing work assignments, or refusing to cooperate with a person who has reported about or resisted harassment or discrimination;

- Denying participation, membership, or relationship to a person who has reported or resisted harassment or discrimination;
- Imposing physical, social, or emotional sanctions on a person who has reported or resisted harassment or discrimination;
- Failing to comply with No Contact Directives, acting in ways that interfere with the process or outcome of a discrimination or harassment investigation, or failing to respect the privacy and dignity of those involved in such an investigation.

A range of sanctions is possible, up to and including removal, suspension, or expulsion from the College. Sanctions will be determined by the appropriate College officials. The College reserves the right to take appropriate action for any misinformation or false reports. See **Section VI**.

XI. FALSE ACCUSATIONS

If an investigation results in a finding by a preponderance of the evidence that a reporting party intentionally, falsely and/or maliciously accused another of discrimination the reporting party will be subject to appropriate sanctions, as described above, including the possibility of expulsion, suspension and /or termination (if an employee).

The fact that no action is taken as a result of a complaint or report against another party does not mean that the complaint was intentionally, falsely and maliciously made.

XII. POSSIBLE ILLEGAL ACTIVITIES/BEHAVIOR

In compliance with federal, state, and local requirements and college policy, certain crimes shall be reported to the Director of Campus Safety and Security for *Clery* reporting and other tracking purposes and, when permissible, such reports may not include the reporting party's name unless authorization is granted by the offended party. When required, reporting will be made to other organizations such as the Florida Department for Children and Families at <http://reportabuse.dcf.state.fl.us> or 1-800-96-ABUSE.

XIII. MAINTAINING A WRITTEN RECORD OF THE COMPLAINT OR REPORT

The College shall maintain a complete written record of each complaint or report and how it was investigated and resolved. Written records shall be maintained in a confidential manner to the extent practical and appropriate in the Office of Human Resources for investigations and incident reports involving an employee, and in the office of the Student Conduct for all investigations involving a student.

Written records will be maintained for ten (10) years from the date of the resolution, unless new circumstances dictate that the file should be kept for a longer period of time. These records shall document that a complaint was filed and the resolution of the complaint or report.

XIV. DEFINITIONS

Advisor: An individual who provides support, guidance, and/or assistance to the complainant or responding party throughout the investigation, hearing, appeals, and/or informal resolution process. Complainants and respondents have the right to select an advisor of their choice. Additional information about the role of advisors can be found in **Section IV, part E**.

Child Abuse: when a crime has been committed against a minor. In the State of Florida, a child is anyone under the age of 18.

Complaint/Grievance: A complaint is defined as the claim of a student or employee (the “reporting party”) that s/he has been adversely affected by a substantial breach or violation of the College’s rules, regulations, and policies as approved by the President and/or the Board of Trustees.

Complainant: Any member of the College community who files a complaint of discrimination, based on a protected category.

Consent: “Consent” must be informed, voluntary, and mutual, and can be withdrawn at any time. There is no consent when there is force, expressed or implied, or when coercion, intimidation, threats, or duress is used. Whether a person has taken advantage of a position of influence over another person may be a factor in determining consent. Consent can be expressed verbally or nonverbally. Consent must be active, not passive. Silence or absence of resistance does not imply consent.

Consent in terms of sexual conduct is freely and actively agreeing together, with clear understanding, to engage in mutually agreed-upon sexual activities. Persons who can never provide Consent include:

- Minors (in Florida, this is anyone under the age of 18);
- People with cognitive or social limitations that render them incapable of providing Consent;
- Incapacitated persons. Incapacitation can occur through excessive alcohol or drug use or for other reasons such as unconsciousness, being asleep, or being otherwise physically unable to respond fully and effectively to the environment, such that they cannot make a knowing agreement to sexual activity.

Consent is dynamic and ongoing throughout any given sexual encounter. It can be revoked by either party. It does not “carry over” to future encounters. If one person’s response is unclear or ambiguous, it is the other person’s responsibility to confirm Consent. Finally, intoxication is not the same as incapacitation. Being “drunk” doesn’t necessarily mean one is unable to give consent. Conversely, the use of alcohol or other drugs does not release anyone from the requirement to seek and provide Consent.

Dating Violence: Also known as **Intimate Partner Violence** - violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim; and where the existence of such a relationship shall be determined based on a consideration of the following factors:

- The length of the relationship
- The type of relationship
- The frequency of interaction between the persons involved in the relationship

Dating Violence/Intimate Partner Violence is abuse or the reasonable fear of abuse by someone you have had a continuing and significant romantic or intimate relationship that is seen by both parties as going beyond friendship within the past six months. It does not apply to casual or merely social relationships. Dating Violence is not limited to male-female heterosexual relationships but can occur between couples of any sex or gender-identity partnership. Dating Violence behaviors can include, but would not be limited to:

- Controlling behavior, such as not allowing a partner to socialize with friends or family, texting/phoning a partner excessively, dictating attire, conversation and activities, and insisting on continuously being together;
- Verbally/emotionally abusive behavior, such as repeatedly speaking to a partner in a degrading or belittling way, an abuser threatening to harm a partner, a partner's loved one, or the abuser him/herself if the abuser's needs are not met, and unreasonable or excessive jealousy.
- Physically abusive behavior including pinching, striking, hair pulling, shoving, or strangling.

Discrimination: when a person, or group of individuals, suffers adverse action due to membership in a legally protected class such as race, gender, national origin, disability, age, etc.

Domestic Violence: Felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction. 34 U.S.C. 12291 (a)(8). Domestic violence can be physical, sexual, emotional, economic, or psychological actions or threats of actions that influence another person. This includes any behaviors that intimidate, manipulate, humiliate, isolate, frighten, terrorize, coerce, threaten, blame, hurt, injure, or wound someone. A Domestic partner could include a current or former spouse or intimate partner; a person related to you by blood or marriage such as a cousin, parent-in-law, etc.; any person who has lived in the same home with you as "part of the family", including a roommate or boyfriend/girlfriend; and the parent of your child, even if you have never been married or lived together.

Gender-Based Discrimination or Sexual Discrimination: Unwelcome sexually discriminatory conduct based on a person's actual or perceived sex, including conduct based on gender identity, gender expression, and nonconformity with gender stereotypes. Discriminatory acts on the basis of Gender Identity are considered "hate crimes".

Incest: Sexual intercourse between persons who are related within the degrees to which marriage would be prohibited by law.

Investigator: A designated member of College administration responsible for collecting and examining the information and facts surrounding a claim or report.

Preponderance of the Evidence: The standard of evidence used to determine if a policy violation occurred. The College uses a "preponderance of evidence" standard, which means that the evidence demonstrated in the grievance process demonstrates that it is more likely than not that the alleged conduct or policy violation occurred.

Proceeding: All activities related to the College’s non-criminal resolution of an institutional disciplinary report, including a report of any form of discrimination. Proceedings include fact-finding interviews, investigations, and formal and informal meetings. Proceedings do not include communications and meetings concerning accommodations or protective measures to be provided to the reporting party or the responding party.

Report: Sharing that discrimination has occurred either on campus or off campus at a College-sponsored function does not mean a student must file charges, but the College must investigate such reports (**See Section IX for Privacy and Confidentiality options**). A report also does not mean a person must file charges with local law enforcement. The decision to file charges or not to file charges with local law enforcement is the reporting party’s choice. Please see the final pages of this document for information on how to do so.

Reporting Party: Any member of the College community who files a report of discrimination or knowledge of discrimination, based on a protected category.

A reporting party can be a person with knowledge of an incident(s) but may not always be the person who was allegedly subjected to the incident(s) of discrimination.

Responding Party: Any member of the College community who becomes the subject of a discrimination report or claim, based on a protected category.

Result: Any initial, interim, or final decision/outcome by any official or entity authorized to resolve disciplinary matters, including those related to all forms of discrimination, within the institution. Final results will include any sanctions imposed by the College.

Sexual Misconduct: Sexual misconduct occurs in the absence of consent, including when the person is unable to refuse to participate, or despite a person’s refusal to participate in the activity. Sexual misconduct activities would include, but are not limited to:

- Giving sedative or “date rape” drugs such as GHB or Rohypnol to someone;
- Obscene or indecent behavior such as exposing one’s genitals/breasts without Consent or despite refusal;
- Deliberate observation, photography, or other forms of recording of others for sex-related reasons, including posting such images without Consent or despite refusal;
- Possessing or distributing illegal or unwanted pornographic images;
- Intentional transmission of HIV or other sexually transmittable infections (STIs);
- Prostitution;
- Being an accomplice in the commission of sexual misconduct;
- Attempting sexual misconduct.

Sexual Violence: when someone is forced to take part in a sex act when this person has not provided consent, including when the person is unable to refuse to participate, or despite a person’s refusal to participate in the activity. “Force” includes the use of threatening words, gestures, or weapons to convey the intent to harm in order to intimidate someone into having sexual contact. Sexual Violence would include, but would not be limited to:

- Sexual Assault: Any offense that meets the definition of rape, fondling, incest, or statutory rape;

- **Non-Consensual Sexual Intercourse:** Sexual intercourse of any duration, using any object (animate or inanimate), imposed upon a person without their consent or despite their refusal.
- **Non-Consensual Sexual Touching:** Also called “forcible fondling”, the touching of private body parts (for example, of another person’s genitals/breasts/mouth) of any duration, including the use of an object (animate or inanimate), imposed upon a person without their consent or despite their refusal. This includes making one person sexually touch another person against her/his will;
- Continuing sexual activity of any sort after one person has clearly communicated, through words or actions that she/he does not wish to continue the sexual contact;
- Sexual contact with a minor or child;
- Being an accomplice to sexual violence; and
- Attempting acts of sexual violence

Stalking: A pattern of repeated and unwanted attention, harassment, contact, or any other course of conduct directed at a specific person that would cause a reasonable person to feel fear for their own or another’s safety or to experience emotional distress. Willfully, maliciously, and repeatedly following, harassing, or cyberstalking another person and making a credible threat to that person.

Statutory Rape: Sexual intercourse with a person who is under the statutory age of consent. In Florida, the age of consent is 18.

Student Accountability System: Any student-student Title IX investigation, and other reports of harassment or discrimination, falls under the college’s Student Accountability System and will be tracked accordingly.

Student Development Title IX Intake Team: (same as Student Development Intake Team) Works with the Officer for Title IX Compliance to serve the special needs of students in sexual discrimination situations. The Student Development Title IX Intake Team helps investigate and resolve student-student, student-employee, and student-third party reports or claims of discrimination or harassment.

Title IX Co-Coordinators: Human Resources Director Katherine Pawlak will act as Equal Opportunity Officer (EOO)/Officer of Title IX Compliance and ensure continuity in resolving reports of discrimination or harassment along with co-coordinator Richard Gebauer. The obligation of this position is:

- To distribute and make available the Anti-Discrimination/Anti-Harassment Procedures to every student and employee at the College;
- To implement Anti-Discrimination/Anti-Harassment Procedures;
- To keep ongoing statistics and report them as requested by senior management;
- To maintain records of all cases noting any patterns of misconduct and advising the appropriate administrator(s); and
- To ensure that policies, procedures and the educational programs are properly administered.

Unwelcome Sexual Experiences: Conduct is considered “unwelcome” if the recipient did not request or invite it and considers the conduct to be undesirable or offensive.

Resources for Reports of Discrimination

ON-CAMPUS RESOURCES

Safety: Emergency/Sexual or Violent Crime Report <i>Corner of Ingraham Avenue and Duke Place</i>	(863) 680-4125
Safety: Assistance, non-emergency reports	(863) 680-4305 (4305 if dialing from campus phone)
Counseling Center - <i>Thrift Building</i>	(863) 680-6236 (confidential)
Chaplain Tim Wright - <i>Fannin Campus Ministries Bldg.</i>	(863) 680-4297 (confidential)
Student Health Center <i>Thrift Building</i>	(863) 680-4292
Employee Assistance Program for College staff and faculty	1-800-96-HELPS (The Hartford)

Discrimination

Title IX Coordinators

For Employees

Assistant Vice President of Operations and Director of Human Resources Katherine Pawlak
(863) 680-3964 (3964 if dialing from a campus phone); kpawlak@flsouthern.edu ; *Raulerson Bldg, near Water Dome*

For Students

Director of Student Conduct Richard Gebauer
(863) 680-6216 (6216 if dialing from campus phone); fscjustask@flsouthern.edu
Carlisle Rogers Building, 2nd Floor

Dean of Students Mike Crawford

(863) 680-3967 (3967 if dialing from a campus phone); mcrawford@flsouthern.edu ; *Carlisle Rogers Building*

Associate Athletic Director and Senior Women's Associate Jill Stephens

(863)680-4474 (4474 if dialing from a campus phone); jstephens@flsouthern.edu ; *Jenkins Field House*

Vice President of Student Development Lauren Albaum

(863) 680- 5110 (5110 if dialing from a campus phone); lalbaum@flsouthern.edu ; *Student Development Offices, Rogers Building*

Vice President of Finance & Administration V. Terry Dennis

(863) 680-4148 (4148 if dialing from campus phone); vdennis@flsouthern.edu ; *Raulerson Bldg., next to Water Dome*

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