



Indian River State College Administrative Procedures

TITLE:	Procedures Regarding Sexual Assault, Sexual Misconduct, or Other Crimes of Violence
NUMBER:	AP-3.151
REFERENCE(S):	6Hx11-3.151, Sexual Assault, Sexual Misconduct or Other Crimes of Violence 6Hx11-3.15 Campus or Workplace Violence 6Hx11-3.513 Protection of Vulnerable Persons AP-3.13 Non-Discrimination and Non-Harassment Procedures AP-3.132 Cyber-Bullying
RESPONSIBLE ADMINISTRATOR(S):	Equity Officer/Title IX Coordinator, Vice President of Student Affairs, Dean of Human Resources, Director of Health and Wellness
ADOPTED:	8/28/02 Revised: 5/3/12, 2/5/15, 1/9/18

Introduction

Title IX of the Education Amendments of 1972 (Title IX), 20 U.S.C. §§ 1681 et seq., prohibits sex discrimination in all College programs and activities, including, but not limited to, admissions, recruiting, financial aid, academic programs, student services, counseling and guidance, discipline, class assignment, grading, recreation, athletics, housing, and employment. Sexual harassment, which includes acts of sexual violence, is a form of sex discrimination prohibited by Title IX.

Members of the 'College Community,' which includes all full-time, part-time, and temporary employees, including administrators, faculty, staff, employment applicants, students and prospective students, non-employee volunteers who work subject to the control of a College employee, guests, contractors, vendors and/or other affiliates for conduct that occurred in the course of official College business, have the right to be free from sexual discrimination, sexual assault, misconduct or violence.

The College has a zero tolerance policy for sex-based misconduct and therefore, all members of the 'Campus Community' are expected to conduct themselves in a manner that does not infringe upon the rights of others.

ADMINISTRATIVE PROCEDURES

Overview of Procedural Expectations with Respect to Physical Sexual Misconduct

Definition of Terms:

Consent: “Consent” means intelligent, knowing, and voluntary consent and does not include coerced submission. “Consent” shall not be deemed or construed to mean the failure by the alleged victim to offer physical resistance to the offender (F.S. 794.011). In order for individuals to engage in sexual activity of any type with each other, there must be clear, knowing and voluntary consent prior to and during sexual activity. Non-verbal consent is not as clear as verbal consent. Consent to some form of sexual activity cannot be automatically taken as consent to any other form of sexual activity. Silence, without actions demonstrating permission, cannot be assumed to show consent. Previous relationships or prior consent cannot imply consent to future sexual acts. In order to give effective consent, one must be of legal age.

Force: The use of physical violence and/or imposing on someone physically to gain sexual access. Force also includes: threats, intimidation (implied threats) and coercion.

Coercion: Unreasonable pressure for sexual activity. When someone makes clear to you that they do not want sex, that they want to stop, or that they do not want to go past a certain point of sexual interaction, continued pressure beyond that point can be considered coercive resistance.

Incapacitation: A state where someone cannot make rational, reasonable decisions because they lack the capacity to give knowing consent (e.g., to understand the “who, what, when, where, why or how” of their sexual interaction). This procedure also covers a person whose incapacity results from mental disability, sleep, involuntary physical restraint, or from the taking of rape drugs.

Use of Alcohol and/or Drugs: The use of alcohol or other drugs will never function as a defense to a violation of this procedure. When alcohol or other drugs are being used, a person might be considered unable to give valid consent if they cannot fully understand the details of a sexual interaction (who, what, when, where, why, or how) because they lack the capacity to reasonably understand the situation. Individuals who consent to sex must be able to understand what they are doing. Under this procedure, “No” always means “No,” and “Yes” may not always mean “Yes.” Anything but a clear, knowing and voluntary consent to any sexual activity is equivalent to a “No.”

Positions of Authority and Consensual, Amorous Relationships

The College’s mission is to foster an educational climate characterized by professional and ethical behavior free of discrimination and conflicts of interest in faculty, staff, and student relationships. Actions of faculty, staff, and students that harm this atmosphere undermine professionalism and hinder fulfillment of the College’s mission.

ADMINISTRATIVE PROCEDURES

Amorous relationships defined as consensual relationships of a romantic or sexual nature between College employees and other persons within the 'College Community' may impair or undermine the learning and work environments when the relationship is based on unequal authority or power, and/or when one person in the relationship is evaluating the other. Accordingly, it is the policy of IRSC that an employee shall not engage in an amorous relationship with another person within the 'College Community' over whom the employee exercises supervisory authority or educational or professional responsibility. Students taking a class with faculty with whom they are romantically involved are prohibited.

An employee who is involved in such an amorous relationship must recuse himself/herself from an authoritative or evaluative role with respect to the other person. In rare cases where this would not be possible, arrangement must be made, in consultation with the appropriate supervisor, to ensure that the relationship does not threaten the integrity of the educational process and/or impair the work environment.

Sexual Violence and Risk Reduction

Suggestions to avoid committing or becoming a victim of a non-consensual sexual act are offered below:

- If you have limits, make them known as early as possible. Tell a sexual aggressor "NO" clearly and firmly.
- Try to remove yourself from the physical presence of a sexual aggressor.
- Find someone nearby and ask for help.
- Take affirmative responsibility for your alcohol intake/drug use and acknowledge that alcohol/drugs lower your sexual inhibitions and may make you vulnerable to someone who views a person impaired by alcohol or drugs as a sexual opportunity.
- If you find yourself in the position of being the initiator of sexual behavior, you owe sexual respect to your potential partner. These suggestions may help you to reduce your risk for being accused of sexual misconduct:
- Clearly communicate your intentions to your sexual partner and give them a chance to clearly relate their intentions to you.
- Understand and respect personal boundaries.
- Don't make assumptions about consent; about someone's sexual availability; about whether they are attracted to you; about how far you can go or about whether they are physically and/or mentally able to consent. If there are any questions or ambiguity then you do not have consent.
- Mixed messages from your partner are a clear indication that you should stop, defuse any sexual tension and communicate better. You may be misreading them. They may not have figured out how far they want to go with you yet. You must respect the timeline for sexual behaviors with which they are comfortable.
- Never take advantage of someone who is impaired by alcohol or drugs.

ADMINISTRATIVE PROCEDURES

- You may have a power advantage simply because of your gender or size. Don't abuse that power. Realize that your potential partner could be intimidated by you, or fearful.
- Understand that consent to some form of sexual behavior does not automatically imply consent to any other forms of sexual behavior.
- Silence and passivity cannot be interpreted as an indication of consent. Read your potential partner carefully, paying attention to verbal and non-verbal communication and body language.

If you find yourself in the position of being the initiator of sexual behavior, you owe sexual respect to your potential partner. These suggestions may help you to reduce your risk for being accused of sexual misconduct:

- Clearly communicate your intentions to your sexual partner and give them a chance to clearly relate their intentions to you.
- Understand and respect personal boundaries.
- Don't make assumptions about consent; about someone's sexual availability; about whether they are attracted to you; about how far you can go or about whether they are physically and/or mentally able to consent. If there are any questions or ambiguity then you do not have consent.
- Mixed messages from your partner are a clear indication that you should stop, defuse any sexual tension and communicate better. You may be misreading them. They may not have figured out how far they want to go with you yet. You must respect the timeline for sexual behaviors with which they are comfortable.
- Never take advantage of someone who is impaired by alcohol or drugs.
- You may have a power advantage simply because of your gender or size. Don't abuse that power. Realize that your potential partner could be intimidated by you, or fearful.
- Understand that consent to some form of sexual behavior does not automatically imply consent to any other forms of sexual behavior.
- Silence and passivity cannot be interpreted as an indication of consent. Read your potential partner carefully, paying attention to verbal and non-verbal communication and body language.

1. Physical assaults of a sexual nature, such as rape, sexual battery, molestation, or attempts to commit these assaults; and intentional physical conduct that is sexual in nature such as touching, pinching, patting, grabbing, poking, or brushing against another individual's body.
2. Offering or implying an employment-related reward (such as a promotion, raise, or different work assignment) or an education-related reward (such as a better grade, a letter of recommendation, favorable treatment in the classroom, assistance in obtaining employment, grants or fellowships, or admission to any educational program or activity) in exchange for sexual favors or submission to sexual conduct.
3. Threatening or taking a negative employment action (such as termination, demotion, denial of an employee benefit or privilege, or change in working

ADMINISTRATIVE PROCEDURES

conditions) or negative educational action (such as giving an unfair grade, withholding a letter of recommendation, or withholding assistance with any educational activity) or intentionally making the individual's job or academic work more difficult because sexual conduct is rejected.

4. The use or display in the classroom or workplace, including electronic, of pornographic or sexually harassing materials such as posters, photos, cartoons or graffiti without pedagogical justification.
5. Unwelcome sexual advances, repeated propositions or requests for a sexual relationship to an individual who has previously indicated that such conduct is unwelcome, or sexual gestures, noises, remarks, jokes, questions, or comments about a person's sexuality or sexual experience. Such conduct between peers must be sufficiently severe, persistent, or pervasive that it creates an educational or working environment that is hostile or abusive. A single incident involving severe misconduct may rise to the level of harassment.

What to Do If You Are Raped, Sexually Assaulted, or Assaulted

If you are on Campus or at a College Function:

- Get to a Place of Safety
- Immediately Call the Police **(911)**
- Call Campus Safety and Security **462.4755**.
- Contact the IRSC Health & Wellness Center **772.462.7825**.
- Go to, or see assistance in getting to, the Health & Wellness Center, the Student Affairs Office, or Provost's Office
- Do not destroy any physical evidence.
- Do not douche, use the toilet, shower, change your clothes or disturb the crime scene.

What to Do If You Witness a Rape, Sexual Assault or Assault, or If One is Reported To You:

If you are on Campus or at a College Function:

- Get to a Place of Safety
- Immediately Call the Police **(911)**
- Call Campus Safety and Security **772.462.4755**.
- If possible, escort the alleged victim to the Health & Wellness Center or to the Office of the Vice President of Student Affairs.
- Contact the IRSC Health and Wellness Center at **772.462.7825**.
- Make sure you do not destroy any physical evidence.
- Tell the victim not to douche, use the toilet, shower, and change clothes or disturb the crime scene.

ADMINISTRATIVE PROCEDURES

How to Report a Complaint or Incident

Indian River State College has designated a Title IX Coordinator and Deputy Title IX Coordinators who will address complaints of sexual harassment, sexual violence, sex discrimination, and gender equity. Should a student, employee and/or visitor experience sexual harassment and/or sexual assault, sexual misconduct, other acts or crimes of violence, stalking and retaliation on one of IRSC's campus locations, they may report the incident to one of the Deputy Coordinators (listed below) who in turn will immediately forward the complaint to the Equity Officer/Title IX Coordinator. A copy of the complaint will be forwarded to the Office of the Vice President of Student Affairs.

Should the complaint involve an employee or visitor alleging sexual harassment and/or sexual assault, sexual misconduct, other acts or crimes of violence, stalking and retaliation on one of IRSC's campus locations, the Equity Officer/Title IX Coordinator will immediately forward it to the Dean of Human Resources to conduct the investigation.

Should the complaint involve a student, the College Equity Officer will immediately forward the complaint to the Vice President for Student Affairs to conduct the investigation.

Complaints and reports should be made as soon as immediately possible after an incident. All questions and/or complaints pertaining to sexual harassment and/or sexual assault, sexual misconduct, other acts or crimes of violence, stalking and retaliation should be directed to:

Adriene Jefferson
Equity Officer and Title IX Coordinator
3209 Virginia Ave., Ft. Pierce, FL 34981
772.462.7156
ajeffers@irsc.edu

IRSC Deputy Title IX Coordinators:
Melissa Prochaska Whigham
Assistant Dean of Human Resources
3209 Virginia Ave., Ft. Pierce, FL 33981
772.462.7282
mwhigham@irsc.edu

Beth Gaskin Chastain Campus Provost
2400 SE Salerno Rd, Stuart, FL 34997
(772) 419-5600
egaskin@irsc.edu

ADMINISTRATIVE PROCEDURES

Harvey Arnold
Pruitt Campus Provost
500 N.W. California Blvd.,
Port St. Lucie, FL 34986
(772) 879-4199
harnold@irsc.edu

Russ Brown
Dixon-Hendry Campus
Provost
2229 N.W. 9th Avenue, Okeechobee, FL 34972
(863) 824-6000
rbrown@irsc.edu

Casey Lunceford
Mueller Campus
Provost
6155 College Lane, Vero Beach, FL 32966
(772)569-0333
clunsfo@irsc.edu

Andre Hawkins
Blackburn Campus
Dean
3002 Avenue D
Fort Pierce, FL 34947
(772)462-7100
ahawkins@irsc.edu

“Responsible Employees” - Reporting Sexual Assault, Sexual Misconduct and other Acts or Crimes of Violence

In the event that any member of the ‘College Community’ receives a complaint concerning sexual harassment, sexual assault or sexual misconduct or other acts or crimes of violence directly from any other member of the ‘College Community’, he/she shall make a formal report of the incident(s) to the Equity Officer and Title IX Coordinator. Should a College Vice President, Provost (Deputy Title IX Coordinator), Dean, or other Administrator with supervisory responsibilities and/or Campus Safety and Security receive a complaint concerning sexual assault and/or sexual misconduct, it must be reported to the Equity Officer and Title IX Coordinator. The College considers these people to be “Responsible Employees.” Notice to them is official notice to the Institution.

Incidents of sex-based discrimination, sexual harassment, sexual assault and/or sexual misconduct and other acts or crimes of sexual violence are taken seriously by the College, and when formally reported, are investigated and properly resolved through administrative procedures. ‘Formal Reporting’ means that only people who need to know will be told and information will be shared only as necessary with investigators, witnesses, and the accused individual.

ADMINISTRATIVE PROCEDURES

Mandatory Employee Reporting of Sex-based Discrimination, Sexual Harassment and Sexual Misconduct Involving Students and the 'College Community'

In order to enable the College to respond effectively and to stop instances of sex-based discrimination, sexual harassment and sexual misconduct involving students and/or employees at IRSC, students, staff, faculty and administrators who become aware of conduct that might violate these policies must promptly report the conduct to the Equity Officer/Title IX Coordinator or any of the Deputy Title IX Coordinators. Employees who are statutorily prohibited from reporting such information are exempt from these reporting requirements, including licensed health-care professionals. IRSC prohibits retaliation against anyone for making a complaint of discrimination or harassment, for assisting someone else in making such a complaint, or for participating in an investigation of discrimination or harassment.

Upon receiving a report of an alleged or possible sex-based discrimination, sexual harassment, sexual assault, or sexual misconduct, the Equity Officer/Title IX Coordinator (or for employees or visitors the Dean of Human Resources) will evaluate the information received and determine what further actions should be taken. The Equity Officer/Title IX Coordinator will follow the procedures described in the Non-Discrimination and Non-Harassment Procedures (AP-3.131). The Equity Officer/Title IX Coordinator (or for employees or visitors the Dean of Human Resources) will take steps, either directly with the complainant or through a reporting employee, to provide information about the College's Non-Discrimination and Non-Harassment Procedures, as well as available health and advocacy resources and options for criminal reporting.

Bystanders

Bystanders that observe and/or witness harassment, discrimination, sexual assault, sexual misconduct and other acts or crimes of violence are strongly encouraged to intervene and prevent harm when there is a risk for these offenses, including reporting these incidents to the Equity Officer/Title IX Coordinator, the Deputy Title IX Coordinators, Responsible Employees, Campus Safety and Security and/or local law enforcement.

Filing a Sexual Assault, Sexual Misconduct, Other Acts or Crimes of Sexual Violence Complaint

For procedures to file a sexual discrimination or harassment, sexual assault, sexual misconduct, other acts or crimes of sexual violence complaint, refer to IRSC Administrative Procedure AP-3.131. In determining whether the alleged conduct constitutes sexual assault, sexual misconduct, other acts or crimes of sexual violence, a preponderance of the evidence will be used (i.e., it is more likely than not that sexual harassment or violence occurred). If the complainant insists that his or her name or other identifiable information not be disclosed to the alleged perpetrator, the College's ability to respond may be limited.

ADMINISTRATIVE PROCEDURES

Confidentiality

The privacy of all parties to a complaint of discrimination, harassment, sexual assault, sexual misconduct and other acts of violence must be respected, except insofar as it interferes with the College's obligation to fully investigate allegations of sexual misconduct. While confidentiality will be maintained to the extent possible while still meeting the requirements of conducting an appropriate investigation and reporting illegal acts to the appropriate authorities, the College cannot ensure confidentiality. The College will weigh the request of confidentiality against the following factors: the seriousness of the alleged harassment; the claimant's age; whether there have been other harassment complaints about the same individual; and the alleged perpetrator's rights to receive information about the allegations if the information is maintained by the College as an "education record" under the Family Educational Rights and Privacy Act (FERPA). Witnesses interviewed will be advised and charged with confidentiality as well. Dissemination of information and/or written materials to persons not involved in the complaint procedure is not permitted. Violations of the privacy of the complainant or the accused may lead to disciplinary action by the College.

Education and Prevention

The College will maintain ongoing educational programs for new and existing students and employees to foster the awareness of rape, domestic violence, dating violence, sexual assault, sexual misconduct and other acts or crimes of sexual violence.

Title IX Coordinators, Investigators, and Adjudicators and any other employees who are involved in processing, investigating, or resolving complaints of sexual harassment or sexual violence will be provided training and continuing education in the following:

- The College's Title IX responsibilities to address allegations of sexual harassment or violence;
- What constitutes sexual harassment, including sexual violence, and that they understand the College's grievance procedures;
- Information on the link between alcohol and drug abuse and sexual harassment or violence and best practices to address that link;
- Handling complaints of sexual harassment and sexual violence;
- How to conduct Title IX investigations; and
- Applicable confidentiality requirements.

The College offers free training on sexual misconduct issues to Students and the 'College Community':

Health and Wellness Director and Staff will:

Offer counseling, health, mental health, or other holistic and comprehensive victim services to all students, employees and visitors affected by sexual harassment or sexual

ADMINISTRATIVE PROCEDURES

violence, and notifying students, employees and visitors of campus and community counseling, health, mental health, and other student services;

Be “on call” to assist victims of sexual harassment or violence whenever needed

Provide presentations, training, and workshops to students, faculty, staff and administrators on:

- Sexual violence prevention;
- Bystander intervention;
- Healthy sexuality; and
- Responding to disclosures of sexual violence.

Office of the Equity Officer/Title IX Coordinator will:

- Students, faculty, staff and administrators;
- Orientation programs for new students, faculty, staff, and administrators;
- Campus Safety and Security personnel on the College’s Title IX responsibilities and handling of sexual harassment or violence complaints;
- All employees who interact with students regularly on recognizing and appropriately addressing allegations of sexual harassment or violence under Title IX; and
- Students informing them of their options to notify proper law enforcement authorities, including school and local police, and the option to be assisted by school employees in notifying those authorities;
- Student athletes and coaches; and
- School assemblies.

Provide free training on:

- Sexual Assault, Sexual Misconduct, or and Other Crimes of Violence;
- College policies and procedures regarding Sexual Assault, Sexual Misconduct, or and Other Crimes of Violence
- How to identify and report sexual harassment and violence;
- Sexual harassment prevention; and
- Prevention of all forms of discrimination and harassment.

Timely Warning Reporting Obligations

Those who report incidents of sexual misconduct should also be aware that the College must issue immediate timely warnings for incidents reported that are confirmed to pose a substantial threat of bodily harm or danger to members of the ‘College Community’. IRSC will make every effort to ensure that the reporter's name and other identifying information are not disclosed, while still providing enough information for ‘College Community’ members to make safety decisions in light of the danger.

ADMINISTRATIVE PROCEDURES

Enforcement

In the event that sexual assault, sexual misconduct, other acts or crimes of sexual violence occur on any one of the College campuses, sites and/or locations or off-campus locations, local law enforcement agencies with jurisdiction are responsible for investigating the crime and making any subsequent arrests, in collaboration with IRSC Campus Safety and Security. The College will cooperate fully in the enforcement of federal, state, and/or local laws. The existence of criminal proceedings will not necessarily delay or interrupt the procedures outlined in this procedure, unless the law enforcement agency or prosecution requests that the College procedures be suspended, in which case the College will determine whether and for how long to suspend its procedures. However, once notified that law enforcement has completed its gathering of evidence (not the ultimate outcome of the investigation or the filing of any charges), the College must promptly resume and complete its fact-finding for the Title IX investigation.

The College will consider the concerns and rights of both the complainant and the person accused of sexual misconduct when there is an alleged violation of sexual assault, sexual misconduct, or other acts or crimes of sexual violence. The College reserves the right to take whatever measures it deems necessary to protect the rights and personal safety of members of the 'College Community', while taking steps to minimize the burden on the complainant. The College may prohibit the alleged perpetrator from having any contact with the complainant pending the results of the College's investigation. Written notice will be provided to employee and/or student victims of options for, and available assistance in, avoiding contact with the alleged perpetrator and/or changing academic or living and working situations as appropriate, or providing transportation, if so requested by the victim and if such accommodations are reasonably available, regardless of whether the victim chooses to report the crime to Campus Safety and Security or local law enforcement.

Any member of the 'College Community' found in violation of the College's Board Policy 6Hx11-3.151 and the Administrative Procedures set forth above, will be subject to appropriate statutory authority and College disciplinary action(s) including termination and expulsion to reasonably ensure that such actions are not repeated.

Retaliation

No member of the 'College Community' shall retaliate, intimidate, threaten, coerce, or otherwise discriminate against any individual who has filed a complaint, participated in an investigation, or openly opposed any unlawful or questionable practice, and will subject the person who retaliates to disciplinary action.

Original document on file in the Office of the President.