



## INDIAN RIVER STATE COLLEGE

### ADMINISTRATIVE PROCEDURES

<b>TITLE:</b> Procedures for Responding to Allegations of Title IX Sexual Misconduct including Sexual Harassment, Sexual Assault, Impersonal Violence, and Stalking	<b>PROCEDURE:</b> AP-3.151(b)
<b>REFERENCES:</b>  6Hx11-3.151 Policy	<b>RESPONSIBLE ADMINISTRATOR:</b>  Equity Officer/Title IX Coordinator
<b>DATE ADOPTED:</b> August 14, 2020  <b>LAST REVISION:</b> N/A	<b>PAGE:</b> 1 of 16

#### Purpose

This procedure represents Indian River State College's grievance process for Title IX complaints of sexual harassment, beginning Aug. 14, 2020.

The procedure applies only to qualifying allegations of sexual harassment (including sexual assault, dating violence, domestic violence, and stalking involving administrators, students, faculty members, and staff. Students/employees are not required to exhaust these procedures regarding any report alleging violation before pursuing remedies outside the College with any applicable external enforcement agencies, including Equal Employment Opportunity Commission, Florida Commission on Human Relations, Office for Civil Rights of the Department of Education, Department of Justice, and Department of Labor.

This procedure provides a grievance procedure addressing sexual harassment, a form of sex discrimination, as prohibited under Title IX. Indian River State College responds promptly and supportively to individuals alleged to be a target of sexual harassment, resolves allegations of sexual harassment promptly under a predictable, fair grievance process that provides due process protections to complainant and respondent regarding sexual harassment, and effectively implements remedies addressing the conduct.

#### Scope of Title IX Misconduct

In order for alleged behavior to be addressed under these procedures, one or more of the following must be present, on the basis of sex which occurs in the College's educational program or activity within the United States and jeopardizes an individual's equal access to education:



## INDIAN RIVER STATE COLLEGE ADMINISTRATIVE PROCEDURES

Procedures for Responding to Allegations of Title IX Sexual Harassment, Title IX Sexual Assault, Title IX Impersonal Violence, and Title IX Stalking (Title IX Sexual Misconduct)	PAGE: 2 of 16
---	---------------

1. Allegations of quid pro quo harassment demonstrated by an employee;
2. Unwelcome conduct that a reasonable person would find so severe, pervasive, and objectively offensive that it denies a person equal educational access;
3. Any instance of Title IX Misconduct (Title IX Sexual Harassment, including any instance of Title IX Sexual Assault, Title IX Interpersonal Violence or Title IX Stalking) as defined in this policy.

### **Reporting Allegations of Title IX Sexual Misconduct including Sexual Harassment, Sexual Assault, Interpersonal Violence and Stalking**

The College encourages all individuals to report Allegations of Title IX Sexual Misconduct to the College and, if appropriate, to local law enforcement. Both College and criminal reports may be pursued simultaneously.

1. All reports of Title IX Misconduct must be made to the College's Title IX Coordinator or to a Deputy Title IX Coordinator.

Title IX Coordinator  
Ms. Adriene Jefferson  
3208 Virginia Avenue  
Fort Pierce, Pierce, Florida 34981  
Email: [ajeffers@irsc.edu](mailto:ajeffers@irsc.edu)  
Telephone: 772-462-7156

2. Any person may make a report of sex discrimination, including Title IX Misconduct, whether or not the person reporting is the Complainant.
3. Reports of Title IX Sexual Misconduct can be made in person, via mail, email, telephone, or by an online form found on IRSC's [Equity and Diversity webpage](#).

Office for Civil Rights  
61 Forsyth Street S.W., Suite 19T10  
Atlanta, GA 30303-8297  
Email: [OCR.Atlanta@ed.gov](mailto:OCR.Atlanta@ed.gov)  
Telephone: 404-974-9406 or (800) 421-3481



## INDIAN RIVER STATE COLLEGE ADMINISTRATIVE PROCEDURES

<b>TITLE:</b> Procedures for Responding to Allegations of Title IX Sexual Harassment, Title IX Sexual Assault, Title IX Impersonal Violence, and Title IX Stalking (Title IX Sexual Misconduct)	<b>PAGE:</b> 3 of 16
---	----------------------

### **Discrimination and Harassment Based on Disability**

The following individuals are responsible for coordinating the College's efforts with regard to Section 504 of the Rehabilitation Act of 1970 and Title II of the Americans with Disabilities Act of 1990 and their implementing regulations. Those wishing to report discrimination or harassment based on disability should contact the following:

Jennifer Brown (Employees)  
Associate Vice President of Human Resources  
3209 Virginia Avenue  
Fort Pierce, Florida 34981

Adriene Jefferson (Students)  
Equity Officer/Title IX Coordinator  
3209 Virginia Avenue  
Fort Pierce, Florida 34981

Email: [jbrown17@irsc.edu](mailto:jbrown17@irsc.edu)  
Telephone: 772-462-7282

Email: [ajeffers@irsc.edu](mailto:ajeffers@irsc.edu)  
Telephone: 772-462-7156

### **Receipts of Reports of Title IX Misconduct**

Upon receipt of a complaint or notice to the Title IX Coordinator of an alleged violation of the Policy, IRSC initiates a prompt initial assessment to determine the next steps IRSC needs to take. The Title IX Coordinator will reach out to the complainant to discuss the availability of supportive measures (without the need to file a formal complaint) and provide information on how to file a formal complaint.

Additionally, IRSC will initiate at least one of three responses:

- 1) Offering supportive measures because the Complainant does not want to proceed formally; and/or
- 2) An informal resolution; and/or
- 3) A Formal Grievance Process including an investigation and a hearing.

The investigation and grievance process will determine whether or not the Policy has been violated. If so, IRSC will promptly implement effective remedies designed to ensure that it is not deliberately indifferent to harassment or discrimination, their potential recurrence, or their effects.



# INDIAN RIVER STATE COLLEGE

## ADMINISTRATIVE PROCEDURES

**TITLE:** Procedures for Responding to Allegations of Title IX Sexual Harassment, Title IX Sexual Assault, Title IX Impersonal Violence, and Title IX Stalking (Title IX Sexual Misconduct)

**PAGE:** 4 of 16

### Initial Assessment and Supportive Measures

When the College receives a report/complaint the Title IX Coordinator determines and implements effective supportive measures for the complainant and the respondent. Supportive measures are non-disciplinary, non-punitive individualized services, offered as appropriate, and reasonably available, free of charge, and offered to a Complainant or Respondent before or after a formal complaint of Title IX Sexual Misconduct has been filed. These supportive measures offered to a Complainant or Respondent will remain confidential to the extent that maintaining confidentiality would not impair the College's ability to provide these measures.

The Title IX Coordinator conducts an individualized safety and risk analysis, with appropriate College officials<sup>2</sup>, to determine when an immediate threat to the physical health or safety of any student, employee or College affiliate arises from the sexual harassment alleged. If an immediate threat is verified, the College will apply existing College policies and procedures:

- a. **For removal of a student:** Student Handbook, Emergency Administrative Action/Temporary Suspension from Classes and College Premises
- b. **For removal of an employee:** Employee Handbook

Where the report of Title IX sexual misconduct poses a substantial and immediate threat of harm to the safety or well-being of an individual, members of the campus community, or the performance of normal College functions, the Title IX Coordinator (or designee) may place a student or a registered student organization on interim suspension or impose leave, or place an employee on administrative leave in accordance with College's Employee Handbook on Leave of Absence. Pending resolution of the report, the individual or organization may be denied access to campus, campus facilities, and/or all other College activities or privileges for which they might otherwise be eligible, as the College determines appropriate action. When interim suspension or leave is imposed, the College will make reasonable efforts to complete the investigation and resolution within an expedited time frame, in accordance with the timeframes established by the United States Department of Education regulations.

In circumstances where the College issues an interim suspension to a student Respondent based on the alleged behavior, this interim suspension must occur after an individualized risk and safety analysis performed by the College which resulted in a determination of an actual or perceived immediate threat to the physical health or safety to a member or members of the College community.

- a. The student Respondent will be notified of this action in writing and given an opportunity to immediately challenge the College's decision within five (5) College business days of notice of interim suspension. The interim suspension will remain in effect pending the challenge, which



## INDIAN RIVER STATE COLLEGE

### ADMINISTRATIVE PROCEDURES

<b>TITLE:</b> Procedures for Responding to Allegations of Title IX Sexual Harassment, Title IX Sexual Assault, Title IX Impersonal Violence, and Title IX Stalking (Title IX Sexual Misconduct)	<b>PAGE</b> 5 of 16
---	---------------------

may be submitted in writing to the Vice President of Student Affairs. (Business day is defined as a day where the College is open for business. It shall exclude Saturdays, Sundays, College holidays, and other official College closures as applicable.)

- b. Upon receipt of a written challenge of the interim suspension, the Vice President of Student Affairs (or designee) will review the individualized risk and safety analysis along with all other relevant information regarding the issuance of the interim suspension and will communicate their decision to the Respondent within five (5) College business days of receipt of the written challenge. The decision of the Vice President of Student Affairs (or designee) is final.

#### **Final Complaints of Title IX Sexual Misconduct -Determination of Jurisdiction; Notifications**

When the College receives a complaint and all conditions to consider it a Title IX complaint are met, the Title IX Coordinator follows Title IX regulations and established College practices regarding determination of jurisdiction and notifications. Reporting an allegation to a member of the College is not sufficient to be considered a formal complaint. The formal complaint is a document submitted by the Complainant alleging Title IX Sexual Misconduct under this policy and indicates a request by the Complainant that the College investigate the allegations under this policy. The College makes the decision to accept or decline the complaint within five days, notifying the complainant and respondent simultaneously. A notification regarding acceptance of the complaint states all elements required by Title IX regulations. A decision to decline the complaint states the basis, as required by regulation.

#### **Dismissal of Formal Complaints**

1. If the allegations in a formal complaint do not meet the definition under Title IX Sexual Misconduct under this policy, or did not occur within the College's Educational Program or Activity as defined in this policy, the College must dismiss the allegations under these procedures. Depending on the reported allegations, the College may review the allegations under Procedures Section III below or other relevant College policies.
2. The College may dismiss a formal complaint of Title IX Sexual Misconduct if the Complainant informs the Title IX Coordinator in writing of their request to withdraw their formal complaint or the allegations against the Respondent.
3. The College may dismiss a formal complaint if the Respondent is no longer enrolled or employed at the College or if specific circumstances exist preventing the College from gathering sufficient information to make a determination. The College may pursue remedies under other policies arising



## INDIAN RIVER STATE COLLEGE ADMINISTRATIVE PROCEDURES

<b>TITLE:</b> Procedures for Responding to Allegations of Title IX Sexual Harassment, Title IX Sexual Assault, Title IX Impersonal Violence, and Title IX Stalking (Title IX Sexual Misconduct)	<b>PAGE:</b> 6 of 16
---	----------------------

out of the facts or circumstances in a Formal Complaint subsequent to this dismissal, provided the remedies are not pursued for the purpose of interfering with any right or privilege under Title IX.

4. The College will inform both the Complainant and Respondent notice of the dismissal and reason for the dismissal in writing.
5. A complainant may appeal the decision to dismiss review of the allegations under these procedures through the process outlined in Appeal Process, below.

### Appeal Process if Complaint is Declined

Following the determination of responsibility, the Complainant and/or Respondent may submit an appeal of the determination to the Title IX Coordinator. An individual who has filed a complaint of sexual harassment that is declined by the College under this procedure may appeal that decision within two days of the College's notification date. The appeal must inform the Title IX Coordinator in writing why the individual believes that there was:

- a. A procedural irregularity that affected the outcome or new evidence that was not reasonably available at the time the College made the determination regarding responsibility or dismissal, that could affect the outcome of the matter, or
- b. Material deviation(s) from written procedures that significantly affected the outcome; and/or
- c. A conflict of interest or bias for or against complainants or respondents generally or the individual complainant or respondent, on the part of the Title IX Coordinator, that affected the outcome of the matter.

The Title IX Coordinator gathers all reasonable sources of information to evaluate the appeal and provides the report, with a recommendation, to the College-assigned decision maker. The decision maker for the appeal issues a decision within five days following the date the College receives the appeal.

### Investigating Formal Complaints

1. All parties who are part of the review or decision making under these procedures will be free from any conflict of interest or bias for or against complainants or respondents.



## INDIAN RIVER STATE COLLEGE

### ADMINISTRATIVE PROCEDURES

<b>TITLE:</b> Procedures for Responding to Allegations of Title IX Sexual Harassment, Title IX Sexual Assault, Title IX Impersonal Violence, and Title IX Stalking (Title IX Sexual Misconduct)	<b>PAGE</b> 7 of 16
---	---------------------

2. After receipt of a formal complaint and determination to proceed under the Title IX procedures based on the information provided in the formal complaint, the Title IX Coordinator (or designee) will provide written notice to the Complainant and Respondent. This notice will be provided before any initial interview is conducted with the Respondent to include, and not limited to, the following:
  - a. Indication that the College's process does not discriminate against a Complainant or Respondent on the basis of sex;
  - b. A link to this policy which outlines the grievance process; and the policies that outline the sanctioning process for students and employees: College Policy 6Hx3.13 and Student Code of Conduct respectively;
  - c. Information regarding the opportunity for informal resolution;
  - d. Key details of allegations;
  - e. A statement that the Respondent is not presumed responsible until a final determination is made under the College's process;
  - f. Information regarding the role of a Title IX Advisor in the process, and the College's ability to provide a Title IX Advisor to a Complainant or Respondent at their request;
  - g. An opportunity to review evidence as part of the investigation and hearing process; and
  - h. Information prohibiting false information as part of the College's review.
3. Should the College decide to investigate any additional complaints not referenced in the notification the College will notify the Complainant and Respondent in writing notifying them of additional allegations under investigation.
4. The College will provide advance written notice to Complainants and Respondents in advance of any subsequent interviews, meetings, or requests for meetings.
5. Information considered as part of this investigation will not include information protected under a legally recognized privilege unless the person holding such privilege has waived the privilege.



## INDIAN RIVER STATE COLLEGE ADMINISTRATIVE PROCEDURES

<b>TITLE:</b> Procedures for Responding to Allegations of Title IX Sexual Harassment, Title IX Sexual Assault, Title IX Impersonal Violence, and Title IX Stalking (Title IX Sexual Misconduct)	<b>PAGE</b> 8 of 16
---	---------------------

6. Both the Complainant and Respondent will have an equal opportunity to provide information for review by the investigator which may include inculpatory and exculpatory evidence as well as information from witnesses (including expert witnesses).
7. Both the Complainant and Respondent may select a Title IX Advisor to participate as outlined in Title IX Misconduct Procedures Section II, investigation and hearing:
  - a. The Title IX Advisor may be an attorney;
  - b. The College will provide a Title IX Advisor upon request to a Complainant or Respondent, at no cost. The Title IX Advisor provided to the requesting individual may, but is not required to be an attorney.
  - c. Upon selecting a Title IX Advisor, the Complainant or Respondent must notify the Title IX Coordinator of the Title IX Advisor's name, telephone number and email address.;
  - d. Title IX Advisors provided by the College will receive appropriate, required training as outlined by the Department of Education. Title IX Advisors selected by Complainants or Respondents independent of those provided by the College will not be provided training by the College on matters related to Title IX as outlined by the Department of Education but are nonetheless expected to participate in the College's process as outlined in these procedures;
  - e. The Title IX Advisor will not participate or represent the Complainant or Respondent with the exception of cross examination of the opposing party during the Title IX Hearing. In order to adequately provide cross examination support, the Title IX Advisor must be selected and their name provided to the Title IX Coordinator no less than ten (10) College business days prior to a Title IX Hearing. Should either party not have identified a Title IX Advisor by ten (10) College business days prior to the scheduled Title IX Hearing, the College will appoint a Title IX Advisor to be assigned.;
  - f. Should either party select a different Title IX Advisor at any time during these procedures, the party must notify the Title IX Coordinator in writing and provide the new Title IX Advisor's name, telephone number and email address.
8. The College will keep private the identity of the Complainant, Respondent and witnesses, except as may be permitted under FERPA, as required by law, or as necessary to carry out a review of this process.





## INDIAN RIVER STATE COLLEGE ADMINISTRATIVE PROCEDURES

<b>TITLE:</b> Procedures for Responding to Allegations of Title IX Sexual Harassment, Title IX Sexual Assault, Title IX Impersonal Violence, and Title IX Stalking (Title IX Sexual Misconduct)	<b>PAGE:</b> 9 of 16
---	----------------------

9. Formal complaints by multiple Complainants and/or against multiple Respondents arising from the same set of facts or circumstances may be consolidated into one formal investigation process, whereas the College will identify individual Complainants and/or Respondents as appropriate.
10. The College will make attempts to gather all evidence directly related to the allegations as part of a formal complaint within twenty (20) College business days.

### Review of Information

1. Upon review of all information gathered, and prior to the finalization of an investigation report, the Title IX Coordinator (or designee) will provide via electronic or hard copy format, to the Complainant and Respondent and their respective Title IX Advisors, all evidence directly related to the allegations with at least ten (10) College business days to inspect, review, and respond.
2. After the ten (10) College business day review period has passed, and upon review of any written response from the Complainant and/or Respondent, the investigator will provide a final investigation report to the Complainant and Respondent and their respective Title IX Advisors summarizing all relevant evidence. This investigation report will be provided to both the Complainant and Respondent and each will be given ten (10) College business days to provide a written response to the investigator/Title IX Coordinator.
3. After the ten (10) College business days have passed for both the Complainant and Respondent to have reviewed the final investigation report, the investigator will forward the final investigation report to the Title IX Coordinator.
4. Upon review of all information gathered, and prior to the finalization of an investigation report, the Title IX Coordinator (or designee) will provide via electronic or hard copy format, to the Complainant and Respondent and their respective Title IX Advisors, all evidence directly related to the allegations with at least ten (10) College business days to inspect, review, and respond.
5. After the ten (10) College business day review period has passed, and upon review of any written response from the Complainant and/or Respondent, the investigator will provide a final investigation report to the Complainant and Respondent and their respective Title IX Advisors summarizing all relevant evidence. This investigation report will be provided to both the Complainant and Respondent and each will be given ten (10) College business days to provide a written response to the investigator.



## INDIAN RIVER STATE COLLEGE ADMINISTRATIVE PROCEDURES

<b>TITLE:</b> Procedures for Responding to Allegations of Title IX Sexual Harassment, Title IX Sexual Assault, Title IX Impersonal Violence, and Title IX Stalking (Title IX Sexual Misconduct)	<b>PAGE:</b> 10 of 16
---	-----------------------

### Completion of Investigation

1. Following the parties' opportunity to review the evidence, and supplementation as needed, evidence collection is complete and final. No further evidence may be submitted for the investigation by any party after this point. The Title IX Coordinator provides the investigation report (including analysis of the evidence) and the evidence in simultaneous notifications to the complainant and respondent within 10 days following the date the evidence becomes final.
2. The complainant and respondent may provide a response to the final investigation. This information may not include additional evidence. The response must be submitted within 10 days following the notification of the investigation's completion. The notification letter specifies that the response material does not become part of the investigation documents.

### Title IX Hearing Process

1. Upon receipt of the final investigation report, the Title IX Coordinator will notify both the Complainant and Respondent in writing, of the date, time, and location (including a virtual location) of a hearing. Both parties will have no less than ten (10) College business days to prepare for the Title IX Hearing.
2. Each party must provide the name of an advisor (if they plan to choose one) and their list of witnesses no later than five days after the College issues the notification of the hearing date, as instructed in the notification letter. If a party does not choose an advisor, the College assigns one. Only an advisor may pose cross-examination questions in a hearing.
3. Either the Complainant or Respondent can request in writing that they participate virtually in the Title IX Hearing. Requests must be submitted to the Title IX Coordinator no less than five (5) College business days prior to the scheduled date of the Title IX Hearing. If requested, the College will make arrangements for either or both parties to participate in a virtual setting, while still allowing for all parties to hear and physically view all participants, including the Title IX Hearing Officer.
4. The purpose of the hearing is for both the Complainant and Respondent to provide evidence to the Title IX Hearing Officer who will determine, based on a preponderance of evidence standard, if the Respondent has violated Title IX Sexual Misconduct as defined in this policy.
5. The Title IX Hearing Officer will maintain control of the Title IX Hearing and all parties involved are expected to adhere to instructions given by the Title IX Hearing Officer as well as engage in civil



## INDIAN RIVER STATE COLLEGE ADMINISTRATIVE PROCEDURES

<b>TITLE:</b> Procedures for Responding to Allegations of Title IX Sexual Harassment, Title IX Sexual Assault, Title IX Impersonal Violence, and Title IX Stalking (Title IX Sexual Misconduct)	<b>PAGE:</b> 11 of 16
---	-----------------------

behavior throughout the hearing process, in accordance with College policies. Any party who disrupts the hearing may be subject to dismissal from the hearing by the Title IX Hearing Officer, and the Title IX Hearing may continue without the participation of the dismissed party. To the extent permitted by Florida law, the Title IX Hearing will be audio recorded and those conducted via virtual participation by any party are also subject to video recording.

6. Both parties will be afforded an opportunity to present evidence to the Title IX Hearing Officer in verbal statements as well as to address any relevant documentary evidence already provided.
7. The Title IX Hearing Officer may ask relevant questions of the Complainant, Respondent, or witness(es) in an effort to gather relevant evidence to make a determination of responsibility.
8. Relevant cross-examination by Title IX Advisors, and other questions of a Complainant, Respondent, and/or any witness by the Title IX Hearing Officer may be asked orally and in real-time. Before a cross-examination question is answered, the Title IX Hearing Officer will first determine whether the question is relevant and will explain to the Title IX Advisor any decision to exclude a question as not relevant. Questions referencing a Complainant's previous sexual behavior will be prohibited, unless deemed by the Title IX Hearing Officer to be relevant in determining that someone other than the Respondent committed the alleged misconduct or is relevant to indicate consent.
9. If a Complainant, Respondent or witness does not submit to cross-examination by a Title IX Advisor, the Title IX Hearing Officer will not rely on any statement provided by that individual in reaching their determination regarding responsibility. Additionally, no inferences may be made by a Title IX Hearing Officer regarding responsibility based on an individual's absence or lack of participation in the Title IX Hearing.

### Elements of a Hearing

The College provides the details for the hearing in writing to both parties. The College-assigned decision maker presides at the hearing and observes the following:

1. Reschedules the hearing if video and audio connections cannot be established within 15 minutes of the scheduled hearing time.
2. Reschedules the hearing if any party fails to appear for the hearing within 15 minutes of the scheduled time, without notification as provided in the notification letter. Each party is limited by the College to requesting or causing one rescheduled hearing before the decision maker will proceed without their participation.



## INDIAN RIVER STATE COLLEGE ADMINISTRATIVE PROCEDURES

<b>TITLE:</b> Procedures for Responding to Allegations of Title IX Sexual Harassment, Title IX Sexual Assault, Title IX Impersonal Violence, and Title IX Stalking (Title IX Sexual Misconduct)	<b>PAGE:</b> 12 of 16
---	-----------------------

3. Limits the hearing to a scheduled four-hour period in any single day. Hearings may be continued on another day, considering opportunities for both parties to participate meaningfully in all elements of the hearing without creating undue burden or disruption.
4. Designates a “technical monitor.”
5. Ensures participation of both parties with viable audio and video actively confirming their presence.
6. Limits presentation of the complainant’s position to five minutes.
7. Limits presentation of the respondent’s position to five minutes.
8. Facilitates presentation of the complainant’s witnesses, in any order, from the list provided.
9. Facilitates presentation of the respondent’s witnesses, in any order, from the list provided.
10. The College makes an audio/visual record of the hearing available to both parties within three days.

### Process for Cross-Examination by Title IX Advisor

The process for cross-examination at the hearing is specified under on the College website. Only an advisor poses questions on cross-examination. The decision maker excludes from consideration statements from a witness who fails to participate in cross-examination. The College reserves for the judgment of the decision maker any processes necessary to provide a fair and impartial hearing, consistent with College practice.

### Finding of Responsibility; Notifications

Within ten days following the hearing, the decision maker considers available relevant evidence and makes a finding or determination of responsibility. That requires one of two decisions: that the respondent is responsible for the conduct alleged or that the respondent is not responsible for the conduct alleged. The standard for the decision is preponderance of evidence.

The Title IX Hearing Officer may seek and consider impact statements from the parties during the hearing or at another point prior to providing the written determination of responsibility. The Title IX Hearing Officer will communicate an appropriate sanction. The decision maker communicates the finding of responsibility to the complainant and respondent simultaneously. That notice includes:

1. The allegations potentially constituting sexual harassment.
2. A description of the procedural steps taken from the receipt of the formal complaint through the determination of responsibility, including any notifications to the parties, interviews with parties and witnesses, site visits, methods used to gather other evidence and hearings held.
3. Findings of fact supporting the determination of responsibility.
4. Conclusions regarding the application of College Policy 6H3.13, Student Code of Conduct, or Employee Discipline, to the facts.



## INDIAN RIVER STATE COLLEGE ADMINISTRATIVE PROCEDURES

<b>TITLE:</b> Procedures for Responding to Allegations of Title IX Sexual Harassment, Title IX Sexual Assault, Title IX Impersonal Violence, and Title IX Stalking (Title IX Sexual Misconduct)	<b>PAGE:</b> 13 of 16
---	-----------------------

5. A finding of responsibility for each allegation, with supporting reasoning.
6. Disciplinary actions imposed on the respondent.
7. Remedies designed to restore or preserve equal access to College's education program or activity provided to the complainant, with supporting reasoning.
8. Appeal process.

The finding of responsibility becomes final under one of two conditions:

- a) If an appeal is filed, the date on which the College provides the parties with the written result of the appeal regarding the finding of responsibility, or
- b) If no appeal is filed, the date immediately following the last day to request an appeal regarding the finding of responsibility.

### Appeal Regarding Finding of Responsibility

Either the complainant or the respondent may appeal the finding of responsibility using the process specified in the communication of the finding, per section 14h. That process includes a statement that the party is appealing the finding of responsibility, based on factors a, b or c below, with supporting information. Each party has five days from the date of the College's notification document to appeal. Permissible bases for appeal:

- a) A procedural irregularity that affected the outcome, or
- b) New evidence that was not reasonably available at the time the College made the determination regarding responsibility or dismissal, that could affect the outcome of the matter, or
- c) A conflict of interest or bias for or against complainants or respondents generally or the individual complainant or respondent, on the part of the decision maker, that affected the outcome of the matter.

The College selects a different decision maker to consider an appeal to the finding of responsibility. The decision maker at the appeal stage notifies both parties that an appeal has been filed and communicates a decision on the appeal to both parties within 10 days following the date on which the appeal is received by the College. That decision is the final step in the Title IX Grievance Procedure.

### Supportive Measures Following Finding of Responsibility

The College may continue the supportive measures implemented at the time the conduct was reported, amend them or enact new supportive measures following the finding of responsibility.



## INDIAN RIVER STATE COLLEGE ADMINISTRATIVE PROCEDURES

<b>TITLE:</b> Procedures for Responding to Allegations of Title IX Sexual Harassment, Title IX Sexual Assault, Title IX Impersonal Violence, and Title IX Stalking (Title IX Sexual Misconduct)	<b>PAGE:</b> 14 of 16
---	-----------------------

### Process to Close Complaint

The Title IX Coordinator preserves a record of the complaint consistent with Title IX rules and any applicable Florida record retention laws.

### The College Prohibits Retaliation against Complainants, Respondents, Witnesses and College Representatives Participating in this Process.

Retaliation is a form of discrimination prohibited by College Policy 6 Hx3.13, under which violations are investigated.

### Definitions

- **Advisor:** the individual chosen by the complainant or respondent to support them, to accompany them as permitted by Title IX and its regulations, and/or to pose questions to the other party during the cross-examination phase of a hearing following an investigation. An advisor under this procedure is not the same person or role as a student's academic advisor.
- **Complainant:** an individual who alleges conduct that could constitute sexual harassment. The complainant may be a student, employee or individual attempting to participate, such as an applicant.
- **Complaint; formal complaint:** a document presented by a complainant or signed by the Title IX Coordinator alleging sexual harassment by a respondent and requesting that the College investigate the allegation. On the date of filing a complaint, a complainant must be participating in or attempting to participate in an education program or activity of the College.
- **Cross-examination:** presentation of questions by the advisor of the complainant to the respondent, and by the advisor of the respondent to the complainant, during the cross-examination phase of a hearing following an investigation.
- **Days:** within all timelines, "days" are defined as business days. A business day is a day that is not a Saturday, Sunday, day of College closure to the public (Spring Break, Winter Break, Convocation, certain Fridays in the months of May, June and July, etc.) or legal holiday. Additionally, any period specified in notification to both parties by the College as supported by good cause shall not be considered a business day.
- **Decision maker:** the individual assigned by the College to make a determination related to the complaint, whether at the finding of responsibility stage or upon appeal. The Title IX Coordinator may not serve as the decision maker at any stage. An investigator may not serve as a decision maker at any stage. Unless otherwise specified in this procedure, by applicable law, or by the Title IX Coordinator, the Title IX Coordinator shall serve as the investigator.
- **Effective remedies:** strategies and actions that support the education of both parties, whenever possible, while designed to restore or preserve an education program or activity free from discrimination based on sex.



## INDIAN RIVER STATE COLLEGE

### ADMINISTRATIVE PROCEDURES

<b>TITLE:</b> Procedures for Responding to Allegations of Title IX Sexual Harassment, Title IX Sexual Assault, Title IX Impersonal Violence, and Title IX Stalking (Title IX Sexual Misconduct)	<b>PAGE:</b> 15 of 16
---	-----------------------

- **Finding of responsibility:** the decision reached by the decision maker related to the complaint, following an investigation and/or a hearing. Options for findings: “responsible” or “not responsible” for the alleged conduct.
- **Investigation:** implementation of a plan to obtain and evaluate available evidence.
- **Investigator, alternate investigator:** individual(s) assigned by the College to obtain and evaluate available evidence. These individuals will be trained to conduct investigations without bias or conflict of interest.
- **Live hearing, hearing:** a prescribed time and method of synchronous communication that may be requested by either party (complainant or respondent) following the conclusion of the investigation report and finding of responsibility by the decision maker.
- **Relevance:** the decision that evidence tends to illuminate the facts related to conduct that is alleged to violate Title IX. Evidence is relevant if it has any tendency to make a fact more or less probable than it would be without the evidence and the fact is of consequence in determining the action.
- **Respondent:** term used in a complaint for an individual named as the alleged perpetrator of conduct that could constitute sexual harassment, applied following acceptance of the complaint. The respondent may be a student, employee or individual attempting to participate in a College program or activity, such as an applicant.
- **Sexual harassment under Title IX:** conduct based on sex described by at least one of the following:
  1. A College employee offering to take a College-related action if a student will participate in unwelcome sexual conduct
  2. Unwelcome conduct (in the view of a reasonable person) so severe, pervasive and objectively offensive that it effectively denies an individual equal access to the College’s education program or activity
  3. Sexual assault, dating violence, domestic violence or stalking.<sup>1</sup>
- **Supportive measures:** individualized actions taken by the College to restore or preserve equal access to the education program or activity for the complainant and respondent. They protect the safety of the parties and the College community and/or deter sexual harassment. The Title IX Coordinator offers and coordinates supportive measures regardless of the decision to file a formal complaint.
- **Title IX Coordinator:** individual designated by the College president to coordinate overall compliance with Title IX or respond in a given situation. This individual’s conduct precludes conflict of interest or bias relating to complainants, respondents or individuals involved.

All definitions above comply with 34 CFR §106.30 (Definitions), Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance. Details of specific actions required in Title IX regulations are provided under [Equity and Diversity webpage](#) on the College website. If a term is defined in 34 CFR Part 106 and used but not defined in this procedure, that term shall have the meaning given to it in the federal regulations.



# INDIAN RIVER STATE COLLEGE

## ADMINISTRATIVE PROCEDURES

<b>TITLE:</b> Procedures for Responding to Allegations of Title IX Sexual Harassment, Title IX Sexual Assault, Title IX Impersonal Violence, and Title IX Stalking (Title IX Sexual Misconduct)	<b>PAGE:</b> 16 of 16
---	-----------------------

<sup>1</sup> Per 34 CFR 106.45.c.7, sexual assault is defined in 20 U.S.C. 1092(f)(6)(A)(v). “Dating violence” is defined in 34 U.S.C. 12291(a)(10). Domestic violence is defined in 34 U.S.C. 12291(a)(8). Stalking is defined in 34 U.S.C. 12291(a)(30).

**NOTE:** The appropriate officials normally will include the Behavior Intervention Team. Consultation will exclude any members likely to be designated as decision makers at a later stage of the complaint.