800 Compliance with the Jeanne Clery Act

The College Board of Trustees and President are fully committed to the safety and welfare of all students, faculty, staff and guests of Eastern Florida State College. In 1990, the “Crime Awareness and Campus Security Act of 1990” was implemented which expanded the “Higher Education Act of 1965.” The act required all colleges and universities receiving federal student financial assistance to openly report campus crime statistics and security information. In 1998, the law was renamed the “Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act” also known as “The Clery Act” in memory of a student who was slain in her dorm room in 1986. In an effort to make college and university campuses as safe as possible, the Clery Act was further amended in 2008 and again in 2013. The Clery Act requires colleges and universities throughout the United States to disclose information about crime on and around their campuses and properties. Enforcement of the Clery Act is provided by the United States Department of Education. As a result of this landmark federal law, the EFSC Board of Trustees shall implement governance policies and the EFSC President shall implement operational procedures that will ensure comprehensive compliance with the Clery Act.

Eastern Florida State College is committed to work in partnership with jurisdictional law enforcement agencies to enhance the safety and security of our campus communities. Eastern Florida State College strives to protect the safety and security of all faculty, staff, students and visitors at all times. In its effort to meet this objective, the College has developed policies and procedures which educate the College community regarding important safety issues. The College also provides prevention and awareness programs designed to cultivate a caring population of involved and knowledgeable people who report suspicious and unlawful behavior to law enforcement personnel and designated College officials.

The College has adopted the series of policies and procedures including those set forth in the Board Policy Governance Manual and the Eastern Florida State College Procedures Manual, which are designed to address issues of safety and security and to comply with federal and state laws and regulations including, but not limited to the “Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act” and the “Violence Against Women Reauthorization Act” of 2013.

800.1 Appointment and Procedures Committee.
To ensure that College policies and procedures continue to comply with developing laws and regulations relating to campus safety and security, the President of the College shall appoint a “Safety Policy and Procedures Compliance Committee” which will regularly review such policies and procedures and recommend approval and adoption of any new policies or procedures or revision of any existing policies or procedures to ensure continued compliance with the Clery Act.
Those persons serving on the committee shall be appointed to service by the President and shall consist of the following:

- Chief of Security
- AVP of Public Safety Institute and College Security
- AVP of Human Resources
- AVP of Information Technology
- AVP of Facilities
- AVP of Communications
- Any other member as designated by the President

It is expected that the committee members or their designees will meet no less than annually to conduct a comprehensive review of the Board of Trustees’ Policy Governance Manual and College Procedures Manual to ensure the College’s policies and procedures comply with the Clery Act and enhance the safety and security of students, faculty, staff and guests.

If any revisions to the Board Policy Governance Manual or College Procedures Manual are recommended, the committee shall within fourteen (14) days of the completion of the review, notify the President in writing of the recommendations.

800.2 Disclosure of Crime Statistics and Annual Security Report

On or before October 1st of each year, EFSC’s Chief of Security or his/her designee shall publish an Annual Security Report (ASR) containing crime, arrest, and referral statistics as required by the Clery Act.

The Clery Act requires disclosure of three general categories of reported crime statistics:

- Criminal offenses including murder and non-negligent manslaughter, negligent manslaughter, rape, fondling, incest, statutory rape, robbery, aggravated assault, burglary, motor vehicle theft, arson, domestic violence, dating violence, sexual assault, and stalking;
- Hate crimes where the offender’s actions were motivated by bias on the basis of actual or perceived race, gender, religion, national origin, sexual orientation, gender identity, ethnicity, or disability, involving any of the above criminal offenses, as well as larceny-theft, simple assault, intimidation, or destruction-damage-vandalism of property; and
- Arrests and referrals for disciplinary action for weapons, drugs or alcohol violations.

The College’s crime statistics shall be available on the College website, as well as included in the Annual Security Report.


See www.easternflorida.edu/documents/asr.pdf

When compiling the crime, arrest, and referral statistics, the Chief of Security or his or her designee shall apply the rules and regulations set forth in The Handbook for Campus Safety and Security Reporting, as it may be amended from time to time, or as otherwise established by the U.S. Department of Education.

Crimes will be reported regardless of the status of the victim or the offender or whether or not either the victim or the offender was a student or employee of the College.

The ASR is to include the number of reported crimes, not the identity of the victim or the person accused of committing the crime. Although the Clery Act does not require crimes to be reported
anonymously, it does prohibit personally identifiable information from being included in the College’s crime statistics. Although, it is expected that College Case Reports and witness statements provided to Campus Security Authorities (CSA) may include personally identifiable information to aid in crime investigation, the information must be omitted in the Annual Security Report and redacted from any publicly accessible web-based data collection or Campus Crime Log(s). Efforts must also be made not to disclose a fact which could lead to identifying a single person on campus.

If a person is being referred for a Student Code of Conduct violation for a drug or alcohol offense, even if the offense did not violate the law, or the person was not arrested, it is still a reportable offense under the Clery Act.

When recording reports of stalking that include activities in more than one calendar year, the College must record a crime statistic for each and every year in which the course of conduct is reported. The College shall record each report of stalking as occurring at only the first location within the College’s Clery geography in which the perpetrator engaged in the course of conduct, or the victim first became aware of the course of conduct.

The ASR shall include all reported crimes, however the College may withhold, or subsequently remove, a reported crime from its crime statistics in the rare situation where sworn or commissioned law enforcement personnel have fully investigated the reported crime, and based on the results of this full investigation and evidence, have made a formal determination that the crime report is false or baseless, and therefore “unfounded.” Only sworn or commissioned law enforcement personnel may “unfound” a crime report, which can only be determined to be false if the evidence from the complete and thorough investigation establishes that the crime reported was not, in fact, completed or attempted in any manner. Crime reports may only be determined to be baseless if the allegations reported did not meet the elements of the offense or were improperly classified as crimes in the first place. A case cannot be designated “unfounded” if no investigation was conducted or the investigation was not completed. Nor can it be designated unfounded merely because the investigation failed to prove that the crime occurred; this would be an inconclusive or unsubstantiated investigation. The recovery of stolen property, the low value of stolen property, the refusal of the victim to cooperate with the prosecution, and the failure to make an arrest shall not “unfound” a crime report.

In the event a crime report is “unfounded”, the College shall notify the U.S. Department of Education, disclose the “unfounded” report in its annual security report, and maintain accurate documentation of the reported crime and the basis for “unfounding” the crime. This documentation must demonstrate that the determination to “unfound” the crime was based on the results of the law enforcement investigation and evidence.

In preparing the Annual Security Report, the College’s Chief of Security or his/her designee shall survey and compile statistics reported to Campus Security Department personnel, College Campus Security Authorities (CSAs), and law enforcement agencies having jurisdiction over each campus, public property within or immediately adjacent to each campus, and non-campus property owned or controlled by the College. A crime is formally “reported” when it is brought to the attention of Security Department personnel, CSAs, or local law enforcement agents by a victim, witness, other third party (even the offender) regardless of their affiliation with the College. If a CSA receives a report, that person should document the incident and immediately notify the Security Department or jurisdictional law enforcement agency. If the CSA contacts a law enforcement agency, they must also contact the Security Department immediately following their contact with law enforcement.
CSAs consist of four groups of individuals and organizations associated with the College:

- All members of the College’s Security Department.
- Any individual who has responsibility for campus security but are not official members of the EFSC Security Department to include contracted security officers, student security escorts, and others having responsibilities for observing campus areas for safety reasons.
- Any individual or organization recognized by the College as a point of contact to whom students and employees may report criminal offenses.
- A representative of the College who has significant responsibility for student and campus activities, including, but not limited to student discipline and campus judicial proceedings who has the authority and the duty to take action or respond to particular issues on behalf of the student.

At Eastern Florida State College, CSAs include but are not limited to, Vice-Presidents, Associate Vice-Presidents, Provosts, Associate Provosts, Deans, Directors, Coaches, Assistant Coaches, Security Personnel and any other persons designated by the President. The Chief of Security shall maintain a list of those College officials designated as CSAs. Pastoral and professional counselors are exempt from CSA responsibilities if acting in their role as pastor or counselor. The Chief of Security shall work with the AVP of Human Resources to ensure the CSA’s receive annual training regarding their responsibilities as a CSA.

In addition to crime statistics, the Annual Security Report shall also provide a summary of College policies and procedures relating to safety and security, information about how to report a crime or suspicious behavior, and a description of crime prevention tips and security initiatives and resources available to students, staff, and guests of Eastern Florida State College.

On or before October 1st of each year, the AVP of Communications or his/her designee will notify all faculty, staff and enrolled students by e-mail of the availability of the Annual Security Report, and provide a brief description of its contents and the web address where it may obtained. The notice must also provide notification that paper copies of the report may be obtained at no cost at the Campus Security Office on each of the college’s four campuses (Melbourne, Cocoa, Titusville, or Palm Bay) or by calling the Campus Security Office at (321) 433-7555.

The AVP of Human Resources will also ensure that all new employees are made aware of the Annual Security Report during their orientation process.

Upon request, prospective students and employees may also obtain a copy of the report without charge from the EFSC Human Resources Office in Building 2 on the Cocoa Campus at 1519 Clearlake Road, Cocoa, Florida, 32922 or by calling (321) 433-7070. The website address to electronically access the Annual Security Report will also be included with admission and employment applications.


800.3 Crime Reporting and Relationship with Local Law Enforcement

Eastern Florida State College utilizes the personnel of its Security Department along with assistance from various law enforcement agencies to provide security and emergency services for each campus. Security Department personnel do not have arrest authority, but may issue parking and traffic citations, and may question individuals on College property and request that they provide identification and the reason for their presence. In cases where individuals fail to
comply with the legal and appropriate requests of College Security Officers, local law enforcement officers may be called to the scene for assistance.

Eastern Florida State College encourages its students, faculty, staff, and guests to report crime, suspicious activity, or emergency situations to Security Department personnel and to the appropriate law enforcement agency in a timely manner.

To report a crime in progress, or to report an incident requiring immediate police or fire/rescue response, please first contact 911, immediately followed by a call to the campus Security Department Office so that Security Officers can help stabilize the scene and assist arriving first responders.

If using a campus/classroom phone, you may dial 8911, 9911 or 911 to reach 911 emergency dispatchers.

Campus Security Offices:
Palm Bay Campus Security Office: (321) 403-5911
Melbourne Campus Security Office: (321) 403-5909
Cocoa Campus Security Office: (321) 403-5907
Titusville Campus Security Office: (321) 403-4200

EFSC Security Officers liaison with the local law enforcement agencies and are accessible to students, faculty, staff and guests 24 hours a day, every day of the year, on all campuses. Students and employees are encouraged to contact an EFSC Security Officer if they have any knowledge or suspicion that a crime has taken place (or may take place), or if a student has been a victim of a crime on or off campus. All persons are encouraged to report any suspicious activity or persons to the Campus Security Officers immediately for investigation. EFSC Security Officers will quickly assess the situation and contact local law enforcement if needed.

Students, faculty, staff, and guests are also welcome to directly contact the jurisdictional law enforcement agency serving the campus in non-emergency situations.

Palm Bay Campus: Palm Bay Police Department (321) 952-3456
Melbourne Campus: Melbourne Police Department (321) 608-6731
Cocoa Campus: Cocoa Police Department (321) 639-7620
Titusville Campus: Titusville Police Department (321) 264-7800
Any Campus: Brevard County Sheriff’s Office (321) 264-5100

In cases where students or employees may not feel comfortable reporting a crime or suspicious behavior to a police or security officer, individuals are also free to report any crimes or suspicious behavior to any of the identified Campus Security Authorities (CSA’s) to include Vice Presidents, Associate Vice Presidents, Chief Financial Officer, Chief of Security, Provosts, Associate Provosts, Deans, Coaches, Assistant Coaches or the Athletic Director and other CSA’s as assigned by the President.

However, in cases requiring an immediate response from law enforcement, students and employees are encouraged to utilize 911. Students and employees who may be concerned or fearful about reporting the incident are not required to identify themselves to 911 dispatchers.

It is never too late to report criminal or suspicious information. Sometimes unusual or suspicious incidents are not readily apparent to the casual observer and it may be hours, or sometimes even days later when a person believes the event should have been reported. In these cases, persons
are encouraged to report the information immediately as the information may still be critically needed to solve or prevent a crime.

**Relationship with Local Law Enforcement.**
Although Eastern Florida State College does not have a formal memorandum of understanding with any law enforcement agency, the College maintains close working relationships with the Cocoa Police Department for matters concerning the Cocoa campus, the Melbourne Police Department for matters concerning the Melbourne campus, the Palm Bay Police Department for matters concerning the Palm Bay campus, the Titusville Police Department for matters concerning the Titusville campus, and the Brevard County Sheriff's Office for any matters concerning any campus or other location within Brevard County.
The College desires to maintain an outstanding relationship with each of these agencies. To encourage a strong partnership, the College provides law enforcement substations on each campus for the convenience of law enforcement officers and to encourage their presence on campus to the highest extent possible. Law enforcement officers are welcome and encouraged to patrol campuses and visit with students, faculty, staff, and guests whenever time permits. Students and employees are encouraged to share any suspicious or criminal information they have with law enforcement officers both on and off campus. The College appreciates the assistance of local law enforcement agencies when developing crime prevention and security awareness programs and materials.

**800.4 Security and Access to College Facilities**
While Eastern Florida State College recognizes the importance of making its facilities on each campus open and available during normal hours of operation, the College also recognizes that reasonable limitations may be necessary to ensure the safety and security of each campus facility. College facilities have varying hours of operation according to schedules developed by the department responsible for the facility. When a facility is to be closed, it shall be locked by Security Department personnel or other designated officials. During these times, only approved persons may gain entry, and access shall be by key or access control cards, or by admittance via the College’s Security Department.

Section 301.7 of the College’s Procedures Manual shall govern key requests. Unauthorized duplication of College keys is prohibited.

College Security Department personnel do not have arrest authority, but may issue parking and traffic citations, and may question individuals on College property to request that they provide identification and the reason for their presence. College employees are provided with identification badges.

Section 203.1 of the College’s Procedures Manual shall apply to building and equipment security.

Sections 204.3, 204.4, and 204.5 of the College’s Procedures Manual shall govern smoking, alcoholic beverages, and animals in College facilities.

Section 302.5 of the College’s Procedures Manual shall govern illicit drugs in College facilities.

Section 420.1 of the College’s Procedures Manual shall apply to College parking facilities. Vehicles parked illegally and without a proper annual parking permit are subject to ticketing and a fine will be imposed. College parking lots are lighted, and Security Department personnel shall escort individuals to their vehicles at night upon request. Neither the College nor the Board is
responsible for any damage or theft to vehicles parked in the College parking lots or any location on College property.

All laws governing the use of motor vehicles in the State of Florida apply to College parking areas, drives and roadways. Security Department and local law enforcement personnel regularly patrol all College campuses and may issue traffic citations.

Section 112 of the College’s Procedures Manual shall govern weapons on College property.

800.5 Timely Warning Procedure
In the event of a Clery Act crime which is reported to campus security authorities and which, in the judgment of the President of the College or his or her designee in consultation with the Chief of the College’s Security Department, constitutes a serious or continuing threat to students or employees, the College shall issue a “timely warning.” In addition, timely warnings may, but are not required to be issued for incidents which are not reportable under the Clery Act.

Decision to Issue Timely Warning – Responsibility:
The decision to issue a timely warning will be made by the President of the College or his or her designee in consultation with the Chief of Security, or his or her designee.

Timing, Content, and Decision Criteria for a Timely Warning:
A timely warning should be issued as soon as the pertinent information is available because the intent of a timely warning is to alert the campus community of continuing threats, especially concerning safety, thereby enabling community members to protect themselves.

The issuing of a timely warning must be decided on a case-by-case basis in light of all of the facts surrounding a crime, including factors such as the nature of the crime, the continuing danger to the campus community and the possible risk of compromising law enforcement efforts.

Clery Act regulations do not specify what information should be included in a timely warning. However, because the intent of the warning is to enable members of the campus community to protect themselves, the warning should include all information that would promote safety. Generally, the warning will specify the type of reported crime, the time and location at which the reported crime occurred, and specific advice to the campus community regarding steps to take to avoid becoming a victim and to protect them.

A timely warning WILL NOT include any information that would identify the victim.

How Timely Warnings are Issued:
1. Timely warnings will be issued upon the confirmation of a serious or continuing threat impacting the campus community and/or the surrounding area.
2. Once the President has decided that a Timely Warning shall be issued, the Chief of Security, Associate Vice President for Communications, and Associate Vice President for Information Technology, or their respective designees, will communicate and/or convene without delay to implement the notification process.
3. This information may be disseminated to campus community members via a variety of mechanisms or mediums. Eastern Florida State College will use one or more of the following means:
   - electronic mail messages
   - text messaging to cell phones of those enrolled in the College’s text message alert service
• emergency messages on the College website
• public/media announcements
• public address system
• postings and signage in campus buildings and other highly visible locations throughout campus including staff/faculty lounges
• other methods deemed appropriate by the President or his or her designee

800.6 Emergency Notification Procedure
In the event of a significant emergency or dangerous situation involving an immediate threat to the health or safety of students or employees, the College shall issue an “emergency notification.” The emergency notification may contain only the information that is reasonably necessary to promote the safety of the campus community as dictated by the situation.

Examples of situations that may constitute the College’s decision to issue an Emergency Notification include, but are not limited to:
1. **Situations where serious injuries may or have occurred.** Examples include, but are not limited to, an active shooter, fire, explosion, hazardous chemical spill, or ongoing criminal activity.
2. **Situations that cause major disruption to campus operations.** Examples include, but are not limited to, a gas leak, tornado, hurricane, or extreme weather conditions, power outages, water emergencies, civil unrest/rioting, or serious acts or threats to campus property.

Decision to Issue Emergency Notification – Responsibility:
The Chief of Security, Associate Vice President for Communications, or their respective designees, shall be responsible for confirming whether an emergency or dangerous situation exists; and if confirmed, shall notify the individuals listed below, or their respective designees, to determine the content of any emergency notification to be sent, the method of communicating the notification, and the segment of the campus community to be notified:
• President
• Vice President, Finance & Technical Services
• Associate Vice President, Facilities
• Associate Vice President, Information Technology
• Associate Vice President, Public Safety Institute and College Security

Under normal circumstances when time permits, the President shall decide whether or not an Emergency Notification should be issued after consulting with his or her management team. However, in an extreme emergency when timing is critical, the Chief of Security may choose to act alone to determine the content of notification to be sent, the method of communication, and the segment of the campus community to be notified.

An emergency notification will be released as soon as reasonably necessary and without delay, unless in the professional judgment of any of the individuals identified above, or any law enforcement authorities responding to the scene, it is determined that it would compromise the efforts to assist a victim or to contain, respond to, or otherwise mitigate the emergency or dangerous situation.
How Emergency Notifications are Issued:

1. The Chief of Security, Associate Vice President for Communications, or their respective designees shall be responsible for confirming whether an actual emergency or dangerous situation exists.

2. If confirmed, the Chief of Security, Associate Vice President for Communications, or their respective designees shall notify the President or his or her designee who may confer as needed with his or her management team to determine the content of any emergency notification to be sent, the method of communicating the notification, and the segment of the campus community to be notified.

3. The Chief of Security, Associate Vice President for Communications, Associate Vice President for Information Technology, or their respective designees shall be responsible for disseminating the message as directed by the President.

4. This information may be disseminated to campus community members via a variety of mechanisms or mediums. Eastern Florida State College will use one or more of the following means:
   - electronic mail messages
   - text messaging to cell phones of those enrolled in the College's text message alert service
   - emergency messages on the College website
   - public/media announcements
   - public address system
   - postings and signage in campus buildings and other highly visible locations throughout campus including staff/faculty lounges
   - other methods deemed appropriate by the President or his or her designee

5. Unlike a timely warning which must be sent campus wide, an emergency notification may be confined to a specific campus or building or may be segmented to a specific group of individuals in an area. If an emergency notification is issued, there is no need to issue a timely warning for the same circumstance.

6. The College may utilize other notifications for students, guests and/or employees (such as "Safety Advisories") which do not rise to the level of issuing Emergency Notifications or Timely Warnings.

800.7 Emergency Response and Evacuation

The College shall maintain an Emergency Management Response Plan (EMRP), which shall be reviewed annually by the “Safety Policy and Procedures Compliance Committee” which includes the Chief of Security, AVP of Public Safety Institute and College Security, AVP of Human Resources, AVP of Information Technology, AVP of Facilities, AVP of Communications, the College’s designated Emergency Manager and any other member as designated by the President. If any revisions to the EMRP are recommended, the committee shall within fourteen (14) days of the completion of the review, notify the President in writing of the recommendations.

The purpose of the EMRP is to provide a standard administrative guideline to define the functions, response, and actions that need to be implemented for specific emergency and disaster events that may impact the operation of the College. The sole intent of the guideline is to create a response to minimize the impact an event has on quality of life, operations of College activities, and continuation of instructional and business functions, and, above all, promote the safety and security of students, faculty, staff and guests.
The EMRP has been developed to promote efficient and effective decision making and response to an emergency or disaster event that occurs on or in close proximity to any of the College campuses or properties that may cause a negative impact to the delivery of instructional programs and business functions or create life safety issues. The EMRP can be accessed at www.easternflorida.edu/discover-efsc/documents/emergency-management-response-plan.pdf.

The College reserves the right to redact certain portions of the EMRP when the interest of public disclosure is outweighed by the interest of nondisclosure as determined by the Chief of Security for safety and security purposes.

The EMRP shall include detailed information about what actions take place in an emergency to include listing the responsible persons and their roles in an emergency, communications directives, and expectations of affected students and staff.

The College’s EMRP shall be tested at least annually through scheduled drills, exercises, and appropriate follow-through activities, designed for assessment and evaluation of emergency plans and capabilities. The College shall conduct at least one test per year which shall be coordinated by the Chief of Security, the College’s designated Emergency Manager, the AVP of Communications and the AVP of Information Technology which can be announced or unannounced, and must:

- Be scheduled. The test cannot be as a result of an actual emergency situation or a false emergency alarm.
- Contain a drill. A drill is an activity that conducts a single procedural operation to test a component of the plan. It is permissible for multiple operations to be tested simultaneously.
- Contain an exercise. An exercise is a test involving coordination of efforts typically involving different professional disciplines. (e.g., Faculty – Security, Security – Law Enforcement, Police – Fire).
- Contain follow-through activities. A follow-through activity is an activity designed to review the exercise or drill in an effort to obtain feedback from participants (e.g., surveys, interviews).
- Contain Measurable Objectives which can be assessed.

The Chief of Security shall be responsible for coordinating the tests and maintaining documentation of each test for at least seven years.

800.8 Sexual Offender Registration and Awareness

In accordance with the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (“Clery Act”), and the Campus Sex Crimes Act of 2000, Eastern Florida State College provides a website address to the Florida Department of Law Enforcement (FDLE) Sexual Offender and Predator Registry. In addition to providing this link, these laws require all sexual offenders (to include sexual predators) to provide notice to each institution of higher education where they are enrolled, employed, or carrying on a vocation. Convicted sexual offenders and sexual predators must register with their local sheriff's office and must disclose their sexual offender and sexual predator status on College student and employment applications. Failure to do so may result in the student’s immediate suspension or expulsion from EFSC in addition to additional criminal charges.
To access FDLE’s Sexual Offenders and Predators Registry please go to http://offender.fdle.state.fl.us/offender/Search.jsp and click on the link titled “Offender Search,” then click on the link titled “University Search.”

The Brevard County Sheriff’s Office also offers an additional resource for information pertaining to Sexual Offenders and Sexual Predators. Please go to www.brevardsheriff.com and click the link titled “Brevard Sex Offenders” which will allow the search for sexual offenders and sexual predators in a specific area.

Persons may also register to receive email alerts from the Brevard County Sheriff’s Office and/or the Florida Department of Law Enforcement when a registered sexual offender or sexual predator relocates to an area of interest.

To learn more about Sexual Offenders and Predators, you are encouraged to visit the “Frequently Asked Questions” about Sexual Offenders on the FDLE website at http://offender.fdle.state.fl.us/offender/FAQ.jsp

800.9 Crime Prevention and Security Awareness Programs

Eastern Florida State College recognizes its ongoing responsibility to provide the campus community with timely information on crime prevention and security awareness, as well as primary and ongoing prevention and awareness programs relating to dating violence, domestic violence, sexual assault, and stalking. The College is firmly committed to presenting students, faculty, and staff with educational seminars, workshops, media clips, printed materials, or similar offerings, at regular intervals, and not less than once per academic year. The College may consult with local law enforcement agencies and other community resources in addition to utilizing internal resources when developing crime prevention and security awareness programs or materials.

All incoming students and new employees shall be provided with information on crime prevention and security awareness, as well as information about the College’s primary prevention and awareness programs for dating violence, domestic violence, sexual assault, and stalking. In addition, all incoming students and new employees shall be provided with the following information: the College’s statement prohibiting dating violence, domestic violence, sexual assault, and stalking, definitions of those terms, as well as the term “consent” in the State of Florida, information on risk reduction, descriptions of safe and positive options for bystander intervention, reporting procedures to be followed by victims of alleged sexual misconduct, descriptions of resources available to victims of alleged sexual misconduct, and procedures for institutional disciplinary action against perpetrators of alleged sexual misconduct.

Crime prevention programs will be provided to students, faculty, and staff on a continuing basis. Periodically throughout the year, the College will host crime prevention awareness workshops or seminars dealing with various subject matters designed to make campuses safer and to provide strategies and tips on how to better protect individuals from sexual assault and other crimes. The subject matters will include a variety of important crime prevention topics such as preventing sexual assault, dating and domestic violence, stalking, deterring theft, and preventing alcohol and drug abuse in an effort to improve personal safety both on and off campus. Students and employees will also be made aware of programs such as "EFSCares" and other services available when in need of assistance.

Students and employees can learn important crime prevention information and be made aware of upcoming crime prevention programs and seminars by going to www.easternflorida.edu.
In addition to workshops and seminars, the College may produce and disseminate media clips, printed materials, or similar offerings to promote safety awareness.

Each semester, the College shall provide all students with information relating to the partnership between the College and the Cocoa, Melbourne, Palm Bay, and Titusville Police Departments, as well as the Brevard County Sheriff’s Office.

Students and employees are encouraged to be responsible for their own safety and to read the College’s Annual Security Report (ASR) available at www.easternflorida.edu/documents/asr.pdf. In addition, students and employees are strongly encouraged to participate in the various seminars and workshops available on and off campus when offered by the College or local law enforcement agencies or community agencies specializing in safety awareness training.

The Chief of Security shall be responsible for ensuring the College’s compliance with this procedure, and shall maintain documentation of the type and frequency of programs and materials offered by the College.

800.10 Sexual Misconduct – Campus Sexual Harassment, Sexual Violence, Domestic Violence, Dating Violence, Sexual Assault, and Stalking.

Eastern Florida State College is firmly committed to maintaining a campus environment free from all forms of unwelcome sexual conduct and non-consensual sexual contact, including sexual harassment, sexual violence, dating violence, domestic violence, sexual assault, and stalking (collectively referred to in this procedure as “Sexual Misconduct”).

Sexual Misconduct diminishes individual dignity, jeopardizes the welfare of our students and employees and impedes access to educational, social and employment opportunities. Sexual Misconduct violates our institutional values of Respect, Integrity, Accountability and Excellence. Sexual Misconduct is expressly prohibited by College policies and procedures as well as federal and state law.

The following procedures exist to prevent Sexual Misconduct when possible, explain the steps that should be taken if Sexual Misconduct occurs, and provide the manner in which the College will respond once it is made aware of reported Sexual Misconduct. These procedures are to be implemented in keeping with Section 800.10 of the Board Policy Governance Manual and to meet the College’s legal obligations under Title IX, the “Jeanne Clery Act,” the “Violence Against Women Reauthorization Act” (VAWA), and other applicable state and federal laws. Every member of the College community should be aware that the College strictly prohibits all forms of Sexual Misconduct. The College will respond promptly and effectively to reports of Sexual Misconduct and will take any and all appropriate actions to prevent, correct, and when necessary, to discipline behavior that violates the College’s policy and procedures regarding Sexual Misconduct.

A. Implementation of the Sexual Misconduct Policy & Procedures

The Vice President for Financial & Technical Services, the Vice President of Academic and Student Affairs, and the Associate Vice President of Human Resources are the Responsible Officers for the Sexual Misconduct policy and have the authority to implement the policy and to develop procedures for the President’s review and implementation to support the implementation of the policy. Responsible Officers may apply appropriate and consistent interpretations to clarify the policy provided that the interpretations do not result in substantive changes to the underlying policy.
B. **Prohibited Acts**  
The College prohibits all forms of Sexual Misconduct as defined in Section R of this procedure, as well as any unwelcome conduct of a sexual nature and any non-consensual sexual contact with another person.

C. **Retaliation**  
This procedure also prohibits retaliation in any form against a person who reports Sexual Misconduct, assists someone with a report of Sexual Misconduct, or participates in any manner in an investigation or resolution of a Sexual Misconduct report. Retaliation includes threats, intimidation, stalking, reprisals, and/or adverse actions related to employment or education.

D. **Consensual Relationships**  
This procedure specifically covers unwelcome conduct and non-consensual contact of a sexual nature. Consensual romantic relationships not involving Sexual Misconduct as contemplated by this procedure between members of the College community are subject to other College policies and procedures. While romantic relationships may begin as consensual, they may evolve into situations that lead to reports of Sexual Misconduct which are subject to this procedure.

E. **Dissemination of the Policy, Educational Programs, and Employee Training**  
As part of the College’s commitment to providing a working and learning environment protected from Sexual Misconduct, this procedures shall be disseminated widely to the College community through publications, websites, new employee orientations, student orientations, and other appropriate channels of communication. Educational materials shall be available to all members of the College community to promote compliance with this procedure and familiarity with reporting procedures. Education and awareness programs/materials shall include information on risk reduction to recognize warning signs of abusive behavior and how to avoid potential attacks, as well as safe and positive options for bystander intervention that may be carried out by an individual to prevent harm or intervene when there is a risk of domestic violence, dating violence, sexual assault or stalking against a person other than the individual. In addition, the Title IX Compliance Coordinator/Chief Equity Officer (the Associate Vice President of Human Resources) may designate employees responsible for handling reports of Sexual Misconduct and provide training to those designated employees at least annually.

F. **Reporting Sexual Misconduct**  
Inquiries regarding Sexual Misconduct may be directed to the Title IX Compliance Coordinator/Chief Equity Officer, Ms. Darla Ferguson, George Washington Carver Administration Building 2, Cocoa Campus, 1519 Clearlake Road, Cocoa, Florida 32922; phone: (321) 433-7080; e-mail: fergusond@easternflorida.edu.

The College has an obligation to promptly and effectively respond to reports of Sexual Misconduct, even if the individual making the report requests that no action be taken. Reports of Sexual Misconduct should be brought forward as soon as possible after the alleged conduct occurs. While there is no stated timeframe for reporting, prompt reporting will better enable the College and local law enforcement authorities to investigate the acts, determine the issues, and provide an appropriate remedy and/or action.

All incidents should be reported even if a significant amount of time has passed. However, delay in reporting may impede the College’s or law enforcement’s ability to conduct an
investigation and/or effect appropriate remedial and disciplinary actions. The College will respond to reports of Sexual Misconduct to the greatest extent possible, taking into account the amount of time that has passed since the alleged conduct occurred.

All members of the College community are encouraged to contact the Title IX Compliance Coordinator/Chief Equity Officer if they observe or encounter conduct that may be subject to the Board of Trustees’ Sexual Misconduct policy or this procedure. This includes conduct by employees, students, or third parties. Reports may also be made to any College Security Supervisor, Associate Vice President or Vice President, or any Campus Security Authority designated by the College.

Any Campus Security Authority or other College responsible employee who receives a report that involves Sexual Misconduct shall immediately notify the Title IX Compliance Coordinator/Chief Equity Officer or designee.

If the person to whom Sexual Misconduct normally would be reported is the individual accused of Sexual Misconduct, the report may be made to any Vice President.

G. Intentionally False Reports

Individuals who make reports that are later found to have been intentionally false or made maliciously without regard for truth may be subject to disciplinary action and possible arrest and criminal action. This provision does not apply to reports made in good faith, even if the facts alleged in the report cannot be substantiated by an investigation.

H. Informing the Reporting Individual about Options for Resolution

Individuals making reports of Sexual Misconduct shall be informed about options for resolving potential violations of the policy. These options shall include procedures for Early Resolution, procedures for Formal Investigation, and filing complaints or grievances under applicable College complaint resolution or grievance procedures. Individuals making reports also shall be informed about policies applying to confidentiality of reports under this procedure. The College shall respond to the extent possible to reports of Sexual Misconduct brought anonymously or brought by third parties not directly involved in the asserted offenses. However, the response to such reports may be limited if information contained in the report cannot be validated by independent facts.

Individuals bringing reports of Sexual Misconduct shall be informed about the range of possible outcomes of the report, including interim protections, (including options for changing academic, living, transportation, and working situations, if requested by the complainant and if reasonably available), remedies for the individual harmed by the incident and disciplinary actions that might be taken against the accused as a result of the report, including information about the procedures leading to such outcomes.

An individual who is subjected to retaliation (e.g., threats, intimidation, reprisals, or adverse employment or educational actions) for having made a report of Sexual Misconduct in good faith, who assisted someone with a report of Sexual Misconduct, or who participated in any manner in an investigation or resolution of a report of Sexual Misconduct, may make a report of retaliation under these procedures. The report of retaliation shall be treated as a report of Sexual Misconduct and will be subject to the same procedures.
I. **Information to be provided for Reports of Sexual Misconduct**

For reports of Sexual Misconduct, whether the offense occurred on or off campus, complainants shall be advised of the procedure to follow and the following information in writing about:

- Their option to contact law enforcement authorities immediately and directly.
- Their ability to obtain assistance of Campus Security Officers or College staff in notifying law enforcement authorities if the complainant so chooses.
- Their option to decline to notify law enforcement authorities.
- The procedures and contact information needed to obtain orders of protection, no contact orders, restraining orders, or similar lawful orders issued by criminal or civil courts.
- The importance of preserving evidence as may be necessary to prove criminal domestic violence, dating violence, sexual assault, sexual battery or stalking, or to assist in obtaining a protection order.
- Existing counseling, health, mental health, victim advocacy, legal assistance, visa and immigration assistance, student financial aid, and other services available for victims both on-campus and in the community.
- Options for, and available assistance in, changing academic, living, transportation, and working situations, if requested by the complainant and if reasonably available.
- If a student or employee reports to the College that the student or employee has been a victim of domestic violence, dating violence, sexual assault, sexual battery or stalking, whether the offense occurred on-campus or off-campus, the student or employee shall be provided with a written explanation of the student or employee’s rights and options as a crime victim in the State of Florida.

J. **Response to Reports of Sexual Misconduct**

The College shall provide a prompt and effective response to reports of Sexual Misconduct. The fact that an act may be subject to criminal investigation and/or prosecution does not alleviate the College’s responsibility to conduct an administrative investigation to determine if any violation of College policy or procedures were violated and to take prompt corrective action as appropriate. It is possible that the College may determine a policy or procedure violation and take corrective action long before the criminal case is fully resolved.

Upon administrative findings of policy or procedure violations of Sexual Misconduct, the College may offer remedies to the individual or individuals harmed. For students, such remedies may include counseling, an opportunity to repeat course work without penalty or cost, changes to student housing assignments, or other interventions deemed appropriate to assist the student. For employees, such remedies may include counseling, a change of work location and other interventions deemed appropriate to assist the employee.

Any member of the College community who is found to have engaged in any form of Sexual Misconduct is subject to institutional disciplinary action, in addition to any remedies as determined by the court or penalties resulting from criminal prosecution.

Generally, College disciplinary action will be recommended when the conduct is sufficiently severe, persistent, or pervasive that it alters the conditions of employment or
limits the opportunity to participate in or benefit from educational programs. Any manager, supervisor, or designated employee responsible for reporting or responding to the Sexual Misconduct issue who knew about the incident and took no action to stop it or failed to report the prohibited act also may be subject to disciplinary action. Conduct by an employee that constitutes any form of Sexual Misconduct, in violation of the Sexual Misconduct policy or this procedure, is considered to be outside the normal course and scope of employment.

K. Procedures for Early Resolution
The goal of Early Resolution is to resolve concerns at the earliest stage possible, with the cooperation of all parties involved. Early Resolution options may be utilized when the parties desire to resolve the situation cooperatively and/or when a Formal Investigation is not likely to lead to a satisfactory outcome. Early Resolution may include an inquiry into the facts, but typically does not include a formal investigation. Means for Early Resolution shall be flexible and encompass a full range of possible appropriate outcomes. Early Resolution includes options such as mediating an agreement between the parties, separating the parties, referring the parties to counseling programs, negotiating an agreement for disciplinary action, conducting targeted educational and training programs, and/or providing remedies for the individual harmed by the offense.

Early Resolution also includes options such as discussions with the parties, making recommendations for resolution, and conducting a follow-up review after a period of time to assure that the resolution has been implemented effectively. Early Resolution may be appropriate for responding to anonymous reports and/or third party reports. Steps taken to encourage Early Resolution and agreements reached through Early Resolution efforts should be documented.

While the College encourages Early Resolution of complaints of a less severe nature, the College does not require that parties participate in Early Resolution prior to the College’s decision to initiate a formal investigation. A Complainant has the right to end the Early Resolution stage at any point and begin the Formal Investigation stage at any point.

Early Resolution and mediation is not appropriate under the following circumstances:

- The complaint involves an allegation of Sexual Violence.
- The reported incident is of a serious or criminal nature
- The facts are in dispute in reports of serious misconduct
- When the accused has shown a pattern of inappropriate behavior
- When a criminal investigation is necessary or on-going by a Law Enforcement Agency
- When a formal administrative investigation is necessary or ongoing by the Title IX Coordinator or College Equity Officer

In cases involving allegations of sexual violence, mediation is not appropriate even on a voluntary basis and will never be used to resolve sexual violence complaints.
Procedures for Formal Administrative Investigation

In response to reports of Sexual Misconduct in cases where Early Resolution is inappropriate or in cases where Early Resolution is unsuccessful, the College may conduct a Formal Investigation. In such cases, the complainant may file a written request for Formal Investigation with the Title IX Compliance Coordinator or his or her designee. In cases where there is no written request, the Title IX Compliance Coordinator, in consultation with the administration, may initiate a Formal Investigation on their own after making a preliminary inquiry into the reported facts. The wishes of the individual making a report of Sexual Misconduct shall be considered, but are not determinative, in the decision to initiate a Formal Investigation.

In cases where a complainant states he or she does not want to pursue a Formal Investigation, the Title IX Compliance Coordinator or designee should inform the complainant that the College’s ability to investigate may be limited. In determining whether to go forward with a Formal Investigation, the Title IX Compliance Coordinator may consider: 1) the seriousness of the allegation, 2) in the case of a student complainant, the age of the student, 3) whether there have been other complaints or reports against the accused, and 4) the rights of the accused individual to receive information about the complainant and the allegations if formal proceedings with sanctions may result. Even if a complainant does not want to pursue an investigation, under some circumstances, the Title IX Compliance Coordinator may have an obligation to investigate, such as when there is a risk to the campus community if the accused remains on campus. The complainant should be made aware of this independent obligation to investigate the complaint.

In order to provide a prompt, fair, and impartial administrative investigation and resolution, any formal administrative investigation of reports of Sexual Misconduct shall incorporate the following standards:

1. The individual(s) accused of Sexual Misconduct shall be provided a copy of the written request for Formal Investigation or otherwise be given a written statement of the allegations, and a copy of the College’s Sexual Misconduct policy and this procedure.

2. The complainant and the accused are both entitled to be advised about the estimated timeframe of the investigation.

3. The College’s Title IX Compliance Coordinator/Chief Equity Officer, or his or her designee(s), will conduct a fair and impartial administrative investigation, which may include a hearing at the request of the complainant, the accused, or the person(s) conducting the administrative investigation (“investigator”). The investigator shall be familiar with the College’s Sexual Misconduct policy and this procedure and have training or experience in conducting administrative investigations.

4. Administrative investigations may include, but are not limited to, conducting separate interviews with the complainant, the accused, and any witnesses, if available, reviewing available law enforcement investigation documents if applicable, reviewing student and personnel files, and gathering and examining other relevant documents or evidence as appropriate.

5. At any time during the investigation, if requested or appropriate, reasonable accommodations will be made so that the complainant and the accused do not have to be present in the same room at the same time. Disclosure of facts to parties and witnesses shall be limited to what is reasonably necessary to conduct a fair and thorough investigation and hearing (if applicable) and in accordance with state and Federal laws.
6. Upon request, the complainant and the accused may each have a representative present when he or she is interviewed and at any subsequent proceeding, hearing, or related meeting. Other witnesses may have a representative present at the discretion of the investigator or as required by applicable College policy or collective bargaining agreement.

7. Any hearings shall be conducted by the investigator, and both the complainant and the accused shall be given reasonable notice and an equal opportunity to present relevant evidence and witnesses to the investigator, as well as have an advisor of their choice present, although that advisor’s role may be limited at the discretion of the investigator. The investigator shall have no authority to compel the attendance of witnesses, including the complainant, and neither party, nor their advisor, may personally question or cross-examine the other party. Any questions for cross-examination must be submitted to the investigator, who shall have the sole discretion to ask or not ask a particular question as he or she deems appropriate. No questions about a complainant’s sexual history with anyone other than the accused shall be allowed.

8. The “preponderance-of-the-evidence” standard (i.e. more likely than not) shall be used in determining whether or not there has been a violation of the College’s Sexual Misconduct policy and procedure.

9. At any time during the administrative investigation, the investigator may recommend that interim protections or remedies for the parties or witnesses be provided by appropriate College officials. These protections or remedies may include separating the parties, placing limitations on contact between the parties, or making alternative working or student housing arrangements. Failure to comply with the terms of interim protections may be considered a separate violation of the College’s Sexual Misconduct policy and procedure. The investigation shall be completed as promptly as possible and in most cases within 60 working days of the date the request for Formal Investigation was filed. This deadline may be extended as necessary with the approval by a College official designated by the President.

10. At the conclusion of the administrative investigation, a written report shall be prepared and contain, at a minimum, a statement of the allegations and issues, the positions of the parties, a summary of the evidence, the findings of fact, and a determination as to whether the College’s Sexual Misconduct policy and procedure has been violated.

11. The complainant and the accused will be informed in writing of:
   a. The result of the administrative investigation (i.e. whether the College’s Sexual Misconduct policy and procedure was violated);
   b. The procedures for appealing the result of the investigation;
   c. Any change to the result that occurs prior to the time that such result becomes final; and
   d. When the result become final.
   e. In addition to the above, the complainant shall also be informed in writing of any individual remedies offered or provided to the complainant, and/or any sanctions imposed on the accused, whether or not they directly relate to the complainant. Further, the complainant shall be informed of steps the College has taken to eliminate the hostile environment, if the College finds one to exist, and steps taken to prevent recurrence. The accused shall not be notified of the individual remedies offered or provided to the complainant.
   f. The complainant and the accused may request a copy of the investigative report pursuant to College policy
governing privacy and access to personal information. However, the report shall be redacted to protect any confidential information in accordance with College policy and state law.

The complainant and/or the accused may appeal the result of the administrative investigation. Any appeal must be submitted in writing to the College’s Title IX Compliance Coordinator/Chief Equity Officer within five business days of receipt of the result. A business day constitutes a day where the College is open for business. All appeals shall be based upon one or more of the following: (1) improper procedures materially affected the result of the investigation; (2) newly discovered material information or evidence was obtained that was not available at time of the investigation or hearing (if applicable) and would have a significant impact on the result; or (3) the sanction imposed was inappropriate for the offense in question. Any sanctions imposed will not be stayed during the appeals process.

M. Dual Agency Investigation Procedures – Criminal and Administrative

If the alleged conduct is also the subject of a criminal investigation, the College is not permitted to wait for the conclusion of the criminal investigation to begin an administrative investigation, as criminal investigations and successful prosecutions can take months and sometimes years to conclude. However, the College may need to temporarily delay the fact-finding portion of a Sexual Misconduct investigation while law enforcement authorities are gathering evidence for their criminal case. Once notified that the Police Department or Sheriff's Office has completed its gathering of evidence, the College shall promptly resume and complete its fact-finding for the Sexual Misconduct investigation. The gathering of evidence may include the interviewing of witnesses and subjects. Prior to interviewing persons involved with a criminal case, efforts should be made by College representatives to discuss intentions with law enforcement investigators to ensure administrative efforts are not interfering with the criminal case.

N. Other Complaint or Grievance Procedures

An individual who believes he or she has been subjected to Sexual Misconduct may file a complaint or grievance pursuant to any applicable complaint resolution or grievance procedure provided in the Student Handbook or any applicable collective bargaining agreement. Such complaint or grievance may be filed either instead of or in addition to making a report of Sexual Misconduct to the Title IX Compliance Coordinator/Chief Equity and Diversity Officer or other appropriate official designated to review and investigate Sexual Misconduct complaints under this procedure. A complaint or grievance alleging Sexual Misconduct must meet all the requirements under the applicable complaint resolution or grievance procedure, including time limits for filing.

1. If a complaint or grievance alleging Sexual Misconduct is filed in addition to a report made to the Title IX Compliance Coordinator/College Equity Officer or other appropriate official designated to review and investigate Sexual Misconduct complaints under this procedure, the Early Resolution or Formal Investigation shall constitute the first step or steps of the applicable complaint resolution or grievance procedure.

2. Once a complaint or grievance is filed, the following written notifications must be given to the complainant:
   a. Notification about existing counseling, health, mental health, victim advocacy, legal assistance, and other services available for victims both on and off campus.
b. Notification to complainants about options for, and available assistance in, changing academic, living, transportation, and working situations, if requested by the complainant and if reasonably available, regardless of whether the complainant chooses to report the crime to local law enforcement.

c. If the report to the College involves allegations of domestic violence, dating violence, sexual assault, sexual battery or stalking, whether the offense occurred on or off campus or any College location, the complainant shall be provided with a written explanation of their rights and options.

O. Remedies and Referral to Disciplinary Procedures
If a report, complaint, or grievance alleging a violation of the College’s Sexual Misconduct policy and procedure is substantiated, the College will determine the appropriate remedies and/or sanctions. Violations may include engaging in Sexual Misconduct, retaliating against a complainant reporting Sexual Misconduct, violating interim protections, and filing intentionally false charges of Sexual Misconduct. Investigative reports made pursuant to this policy may be used as evidence in subsequent complaint resolution, grievance, and disciplinary proceedings as permitted by the applicable procedures. Sanctions may include one or more of the following: verbal or written warning or reprimand, referral for counseling or employee assistance program services, participation in educational or other training programs, community service hours, probation (which may include restrictions on participation in College or student activities, representation of the College on athletic teams or in other leadership positions, and entrance onto College property), suspension (with or without pay), transfer, demotion, restriction or revocation of privileges, immediate expulsion and/or termination, withholding of diplomas, transcripts, or other records, revocation of degree, transcript or employment record notations, payment of restitution, and temporary or permanent restrictions on contact with specified people or entrance onto College property.

P. Privacy Concerns
The College shall protect the privacy of individuals involved in a report of Sexual Misconduct to the extent permitted by law and College policy. A report of Sexual Misconduct may result in the gathering of extremely sensitive information about individuals in the campus community. College policy, procedure, or applicable law regarding access to public records and disclosure of personal information may require disclosure of certain information concerning a report of Sexual Misconduct. In such cases, every effort shall be made to redact the records in order to protect the privacy of individuals to the extent the law allows. An individual who has made a report of Sexual Misconduct may be advised of sanctions imposed against the accused when the individual needs to be aware of the sanction in order for it to be fully effective (such as restrictions on communication or contact with the individual who made the report). In addition, when the offense involves a crime of violence or a non-forcible sex offense, the Family Educational Rights and Privacy Act permits disclosure to the complainant of the final results of a disciplinary proceeding against the alleged accused, regardless of whether the College concluded that a violation was committed.

Q. Confidentiality of Reports of Sexual Misconduct
Reports of Sexual Misconduct are not generally confidential due to the duties required by law and policy to respond to such reports. College employees, such as the Title IX Compliance Coordinator/College Equity Officer, managers, supervisors, and other
responsible employees have an obligation to respond to reports of Sexual Misconduct, even if the individual making the report requests that no action be taken. It may also be necessary for College representatives to contact law enforcement authorities if they believe a crime has been committed or if an individual is in danger. An individual’s requests regarding the confidentiality of reports of Sexual Misconduct will be considered in determining an appropriate response; however, such requests will be considered in the dual contexts of the College’s legal obligation to ensure a working and learning environment free from Sexual Misconduct and the due process rights of the accused to be informed of the allegations and their source.

The State of Florida places a high value on being transparent with regards to public records. As a result, many documents and records maintained by public entities including public colleges and universities are public records. There are provisions under the law which protects the identity of victims of sexual abuse and other criminal acts. Any release of public information will be done in compliance with state and federal laws. In addition, all College employees shall protect the confidentiality of victims and other necessary parties in any publicly available records, reports, or disclosures, and shall maintain as confidential any accommodations or protective measures provided to a victim to the extent that maintaining such confidentiality would not impair the College’s ability to provide the accommodations or protective measures.

Licensed counselors and pastors, acting in their official capacity, are considered Confidential Resources and are not required to disclose reports made to them. Individuals who consult with Confidential Resources shall be advised that their discussions in these settings are not considered reports of sexual harassment or sexual violence and that without additional action by the individual, the discussions will not result in any action by the College to resolve their concerns.

R. **Terms, Definitions and Conduct Guidelines**

The terms set forth below and referenced in this procedure have the following meanings:

1. **Consent**
   a. Consent is informed. Consent consists of an affirmative, conscious decision by each participant to engage in mutually agreed-upon sexual activity. Consent to some form of sexual activity does not imply consent to other forms of sexual activity.
   b. Consent is voluntary. It is given without coercion, force, threats, or intimidation; it is a positive cooperation in the act or expression of intent to engage in the act pursuant to an exercise of free will.
   c. Consent is given when the person is not impaired or incapacitated. A person cannot consent if s/he is unconscious or coming in and out of consciousness. A lack of “no” does not mean “yes.” A person cannot consent if s/he is under the threat of violence, bodily injury or other forms of coercion, or has a mental disorder, developmental disability, or physical disability that would impair his/her understanding of the act. Consent cannot be given by persons who have not yet reached the legal age of consent in the State of Florida.
   d. Incapacitation is the physical and/or mental inability to make informed, rational judgments. States of incapacitation include, but are not limited to, unconsciousness, sleep and blackouts.
Where alcohol and/or drugs are involved, incapacitation is distinct from drunkenness or intoxication, and is defined with respect to how the alcohol or other drugs consumed impacts a person’s decision-making capacity, awareness of consequences, and ability to make fully informed judgments. The factors to be considered include whether the accused knew, or a reasonable person in the position of the accused should have known, that the complainant was impaired or incapacitated.

In Florida, the term "consent" is statutorily defined as 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. See Florida Statute 784.011(1)(a).

2. **Sexual Harassment**

   Sexual harassment is a form of discrimination based on sex. Sexual harassment may include incidents between any members of the College community, including faculty and other academic appointees, staff, coaches, residents and interns, students, student employees (when acting within the course and scope of employment), and non-student or non-employee participants in College programs, such as vendors, contractors, visitors, and patients. Sexual harassment may occur in hierarchical relationships or between peers, or between persons of the same sex or opposite sex. In determining whether the reported conduct constitutes sexual harassment, consideration shall be given to the record of the conduct as a whole and to the totality of the circumstances, including the context in which the conduct occurred. Sexual harassment is not tolerated by the College. The College will respond promptly to all reports of sexual harassment among employees, students, and College visitors.

   a. **Elements of Sexual Harassment**

   Sexual harassment is defined by EFSC as unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct or communications of a sexual nature when:

   - Submission to such a conduct or communication is made a term or condition either explicitly or implicitly to obtain employment, public accommodations or public services, educational services, or housing.

   - Submission to or rejection of such conduct or communication by an individual is used as a factor in decisions affecting such individual’s employment, public accommodations or public services, educational services or housing. Such conduct or communication has the purpose or effect of substantially interfering with an individual’s employment, public accommodations or public services, educational services or housing, or creating an intimidating, hostile, or offensive employment, public accommodations, public services, educational services, or housing environment.

   For the purpose of the above regulation, the College interprets unwelcome to mean:

   - Conduct or communication that a reasonable person in a similar circumstance would consider unwelcome.
- Conduct or communication that continues after notice is given that the conduct or communication is unwelcome.

b. **Conduct Guidelines**
Not all conduct or speech which a person might find inappropriate constitutes sexual harassment, neither do occasional compliments nor remarks of a socially acceptable nature. Rather, the law forbids behavior on the basis of sex that is so objectively offensive as to substantially interfere with an individual’s employment, public accommodations or public services, educational services or housing. However, to avoid any misunderstandings about what might constitute sexual harassment, the following guidelines are provided for behavior which is not appropriate.

i. **Physical**
- Any unwanted, non-consensual, or offensive physical contact of a sexual nature, including unnecessary touching, patting, hugging, brushing the body, impeding or blocking movement
- Unwanted sexual gestures or pantomiming sexual acts
- Leering or Ogling

ii. **Verbal/Auditory**
- Sexual advances or propositions
- Sexually explicit, suggestive or abusive talk
- Sexually explicit jokes, teasing or anecdotes (including jokes and comments about a person’s body parts, types or conditions)
- Remarks of a sexual nature about a person’s body, sexual performance, activity or prowess
- Sexually suggestive or insulting sounds, including whistling or continuing to express interest after being informed the interest is unwelcome

iii. **Visual**
- Display of sexually-oriented graphic pictures, posters or other visual material
- Displaying or transmitting any sexually explicit material via e-mail or the Internet

3. **Non-Consensual Sexual Contact**
Non-consensual sexual contact is any intentional sexual touching, including intercourse, however slight, with any object, by one person upon another person that is without consent and/or by force. Non-consensual sexual contact is not tolerated by the College.

4. **Sexual Violence**
Sexual violence is defined as physical sexual acts perpetrated against a person’s will or where a person is incapable of giving consent. This includes: non-consensual sexual contact, sexual battery, sexual assault, domestic violence, dating violence, lewd and lascivious acts and stalking. In most cases, sexual
violence will be a violation of state law in addition to a policy or procedural violation. Sexual violence is not tolerated by the College.

5. **Dating Violence**
The term “dating violence” means violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim.

(i) The existence of such a relationship shall be determined based on the reporting party’s statement and with consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship.

(ii) For the purposes of this definition—
(A) Dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse.
(B) Dating violence does not include acts covered under the definition of domestic violence.

In Florida, the term “dating violence” is statutorily defined as violence between individuals who have or have had a continuing and significant relationship of a romantic or intimate nature. The existence of such a relationship shall be determined based on the consideration of the following factors:

1. A dating relationship must have existed within the past 6 months;
2. The nature of the relationship must have been characterized by the expectation of affection or sexual involvement between the parties; and
3. The frequency and type of interaction between the persons involved in the relationship must have included that the persons have been involved over time and on a continuous basis during the course of the relationship. See Florida Statute 784.046.

Dating violence is not tolerated by the College.

6. **Domestic Violence**
The term “domestic violence” includes felony or misdemeanor crimes of violence committed by a current or former spouse of the victim, or by a person with whom the victim shares a child in common, or by a person who is cohabitating with or has cohabitated with the victim as a spouse, or by a person similarly situated to a spouse of the victim under the domestic or family violence laws of Florida, 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 Florida. Domestic violence is not tolerated by the College.

In Florida, the term “domestic violence” is statutorily defined as any assault, aggravated assault, battery, aggravated battery, sexual assault, sexual battery, stalking, aggravated stalking, kidnapping, false imprisonment, or any criminal offense resulting in physical injury or death of one family or household member by another family or household member. See Florida Statute 741.28.

7. **Stalking**
The term “stalking” means engaging in a repetitive course of conduct directed at a specific person that would cause a reasonable person to:
- fear for his or her safety or the safety of others; or
- suffer substantial emotional distress

For purposes of this definition,
Course of conduct means two or more acts, including, but not limited to, acts in which the stalker directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with a person’s property.

Reasonable person means a reasonable person under similar circumstances and with similar identities to the victim.

Substantial emotional distress means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling.

In Florida, a person who willfully, maliciously, and repeatedly follows, harasses, or cyberstalking another person commits the offense of stalking. See Florida Statute 784.048.

Stalking is not tolerated by the College.

8. Sexual Assault

An offense that meets the definition of rape, fondling, incest, or statutory rape under the uniform crime reporting (UCR) system of the Federal Bureau of Investigation (FBI) (see below).

Rape - The penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the victim.

Fondling - The touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental incapacity.

Incest - Sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.

Statutory Rape - Sexual intercourse with a person who is under the statutory age of consent.

In Florida, the term “sexual assault” is legally referred to as sexual battery. The term “sexual battery” is statutorily defined as oral, anal, or vaginal penetration by, or union with, the sexual organ of another or the anal or vaginal penetration of another by any other object; however, sexual battery does not include an act done for a bona fide medical purpose. See Florida Statute 784.011(1)(h).

Sexual assault and sexual battery are not tolerated by the College.

S. Retention of Records Regarding Reports of Sexual Misconduct

The office of the Title IX Compliance Coordinator/College Equity Officer is responsible for maintaining records relating to sexual harassment and sexual violence reports, investigations, and resolutions. Records shall be maintained in accordance with College records policies, generally five years after the date the complaint is resolved or five years after the termination of employment, whichever is later. Records may be maintained longer at the discretion of the Title IX Compliance Coordinator/College Equity Officer in cases where the parties have a continuing affiliation with the College. All records pertaining to pending litigation or a request for records shall be maintained in accordance with instructions from legal counsel.
T. Noncompliance with the Sexual Misconduct Policy & Procedures
Noncompliance with the policy and procedures is managed in accordance with the EFSC Board Policy Governance Manual, the EFSC Procedures Manual, the Student Code of Conduct and any other official College documents such as the collective bargaining agreement.

U. Free Speech and Academic Freedom
The faculty and other academic appointees, staff, and students of the College enjoy significant constitutionally-guaranteed free speech protections. This procedure is intended to protect members of the College community from sexual harassment and other forms of Sexual Misconduct, not to regulate protected speech. This procedure shall be implemented in a manner that recognizes the importance of these rights. However, freedom of speech and academic freedom are not limitless and do not protect speech or expressive conduct that violates federal or state anti-discrimination or Sexual Misconduct laws.

800.11 Alcohol and Drug Prevention
Sections 204.4 and 302.5 of the College’s Procedures Manual govern alcoholic beverages and illicit drugs on College property.

The enforcement of state and federal alcohol and drug laws is primarily the responsibility of the local law enforcement agencies having jurisdiction over College property. Security Department personnel do not have arrest authority, but serve as liaisons to the various law enforcement agencies, and support efforts to enforce alcohol and drug laws.

Persons in violation of state and federal alcohol and drug laws are subject to arrest, criminal prosecution, fine, and imprisonment. In addition to criminal sanctions, students and employees violating the College’s alcohol or drug policies and procedures may also be subject to disciplinary action up to and including expulsion or termination of employment. For students, Associate Provosts shall be notified of a violation, and shall be responsible for initiating the disciplinary process. For employees, the Human Resources Department shall be notified of a violation, and shall be responsible for initiating the disciplinary process. Sections 201.5 and 201.6 of the College’s Procedures Manual shall apply to student-related disciplinary action. Sections 308.3, 308.4, and 308.5 of the College’s Procedures Manual shall apply to employee-related disciplinary action.

The College reserves the right to terminate any contracts or agreements it may have with vendors, independent contractors, student organizations, or other affiliates whose agents or members violate the College’s alcohol or drug policies and procedures.

The College’s Human Resources Department shall be responsible for preparing and disseminating an annual notification to all students and employees, which shall contain College policies and procedures related to alcohol and drugs, along with a clear statement that the College will impose disciplinary sanctions for violations, and a description of the possible sanctions. In addition, the annual notification shall contain a summary of the applicable state and federal laws related to alcohol and drugs, their possible legal sanctions, known health risks, and information on counseling, treatment, and rehabilitation services available in the community, including employee assistance programs. The annual notification may be disseminated in any manner, including e-mail, as long as it is reasonably certain to be received by all students and employees.
The College’s Safety Policy and Procedures Compliance Committee shall conduct an annual review of the College’s alcohol and drug policies, procedures, and prevention programs to determine effectiveness and consistency of sanction enforcement. The Committee shall prepare a written report of its conclusions, containing at a minimum, a description of current alcohol and drug prevention programs, and their strengths, weaknesses, and recommendations for improvement to the College President within 14 days of meeting.

800.12 Crime Log
The Eastern Florida State College Security Department shall maintain a daily “crime log” in the Security Office of each campus, containing at a minimum, the date a crime was reported, the date and time the crime occurred, a brief description of nature of the crime, the general location of the crime, and the disposition of the complaint, if known.

The purpose of the daily crime log is to record criminal incidents and alleged criminal incidents that are reported which shall be immediately available for public review during normal business hours:

- Crime log entries include all criminal offenses reported to the EFSC Security Department for the required geographic locations, not just Clery Act crimes.
- The crime log discloses specific information about criminal incidents, not crime statistics.
- The crime log is designed to disclose crime information more quickly than the annual report.
- The UCR hierarchy rule does not apply to the crime log. If multiple criminal offenses are committed during a single incident, all of the offenses must be recorded in the log.
- The log has a more specific location focus than the statistical disclosures. For example, the location might be recorded as “on the second floor of the administration building” rather than “on campus.”

An entry, an addition to an entry, or a change in the disposition of a complaint, must be recorded within two business days of the reporting of the information to the EFSC Security Department. Exceptions to this requirement would be if disclosure is prohibited by law, or would jeopardize the confidentiality of a victim. Disposition updates are not required to be updated if more than 60 days has passed since the original entry date.

Information may be temporarily withheld from the crime log in cases where there is clear and convincing evidence that the release of information would jeopardize an ongoing investigation, jeopardize the safety of an individual, cause a suspect to flee or evade detection, or result in the destruction of evidence. The request for withholding the information must be forwarded to the Chief of Security for consideration and approval.

If a reported crime is investigated by law enforcement personnel, and it is determined that a crime did not occur, the crime log should indicate that the disposition of the crime is “unfounded.” Only an active, sworn law enforcement officer that has jurisdictional authority over the case can make this determination. A Campus Security Authority or Security Officer cannot determine a crime to be unfounded.

The crime log may be either hard copy or electronic. If an electronic crime log becomes inaccessible for technical reasons, efforts should be made to use a hard copy log as a temporary replacement until the problems are resolved.

The College will make a good faith effort to advise students and employees that the crime log is available, the information it contains, and how it may be accessed. The College may post notices
on the College website, in Campus Security offices, and other locations frequented by students and employees.

The crime log for the most recent 60-day period must be open to public inspection, upon request, during normal business hours at all Campus Security offices. Security Department personnel may not request nor require a written request or disclosure of identification prior to complying with the request to review the crime log. Any person may have supervised access to the crime log, whether or not they are associated with the College. Persons requesting a copy of the crime log may have one at no cost to the requestor.

Because the crime log must be made available for immediate public inspection, the log should contain no information that is confidential in nature. Case reports and incident reports that may accompany the crime log may be viewed by the public as long as the confidential information has been fully redacted.