



**Eastern Florida**<sup>SM</sup>  
STATE COLLEGE

# SEXUAL MISCONDUCT RESOURCE GUIDE

2018-2019

- **VICTIM RIGHTS AND RESOURCES**
- **INFORMATION FOR STUDENTS AND EMPLOYEES**
- **COLLEGE POLICIES AND PROCEDURES**

## ZERO TOLERANCE FOR SEXUAL MISCONDUCT

Eastern Florida State College is committed to maintaining a safe and healthy learning and working environment that promotes responsibility and respect, and where no one is unlawfully excluded from participation in, denied the benefits of, or subjected to discrimination in any College program or activity on the basis of sex or gender. To that end, the College has zero tolerance for sexual or gender-based harassment, sexual violence, dating violence, domestic violence, stalking, and other sexually-related offenses, collectively referred to as Sexual Misconduct.

Any member of the College community found to have engaged in any form of Sexual Misconduct is subject to institutional discipline in addition to any penalties that may be imposed by a court of law.

### REPORTING SEXUAL MISCONDUCT

Reports of Sexual Misconduct may be made to any of the following persons:

**Mark Renkens**

**Title IX Compliance Coordinator**  
**Melbourne Campus, Building 10, Room 215**  
**Telephone: (321) 433-7180**  
**E-mail: renkensm@easternflorida.edu**

**Darla Ferguson**

**Chief Equity and Diversity Officer**  
**Cocoa Campus, Bldg. 2, Room 113**  
**Telephone: (321) 433-7080**  
**E-mail: fergusond@easternflorida.edu**

**Joe Ambrose**

**Chief of Security**  
**Melbourne Campus, Bldg. 8, Room 201**  
**(321) 433-7007**  
**E-mail: ambrosej@easternflorida.edu**

**ANY COLLEGE EMPLOYEE WHO RECEIVES INFORMATION ABOUT AN INCIDENT OF SEXUAL MISCONDUCT MUST IMMEDIATELY NOTIFY EACH OF THE ABOVE PERSONS UPON RECEIPT OF THE INFORMATION.**



### SECURITY OFFICES ARE OPEN 24/7

To report Sexual Misconduct after regular business hours or when the College is closed, visit the nearest Campus Security office.

**Cocoa Campus: 321-403-5907**  
**Building 1, Front Lobby**

**Melbourne Campus: 321-403-5909**  
**Building 1, Room 123**

**Palm Bay Campus: 321-403-5911**  
**Building 1, Room 101B**

**Titusville Campus: 321-403-4200**  
**Building 1, Room 101A**

## IF YOU HAVE BEEN A VICTIM OF SEXUAL VIOLENCE

1. Go to a safe location.
2. Call 911 if you need emergency services.
3. For assistance on campus, contact the Security Office:
  - Cocoa Campus ..... (321) 403-5907
  - Melbourne Campus ..... (321) 403-5909
  - Palm Bay Campus ..... (321) 403-5911
  - Titusville Campus..... (321) 403-4200
4. For assistance off campus, contact local law enforcement:
  - Brevard County Sheriff's Office..... (321) 264-5209
  - Cocoa Police Department..... (321) 639-7620
  - Melbourne Police Department..... (321) 608-6731
  - Palm Bay Police Department..... (321) 952-3456
  - Titusville Police Department ..... (321) 264-7800
5. Seek immediate medical attention if you are injured or have been physically sexually assaulted.
6. You are strongly encouraged to preserve evidence to the greatest extent possible.
  - Do not alter, dispose of, or destroy any physical evidence. If there is suspicion that a drink may have been drugged, inform a medical assistance provider and/or law enforcement as soon as possible so they can attempt to collect possible evidence.
  - Preserve evidence of electronic communications by saving them and/or by taking screen shots of text messages, instant messages, social networking pages, or other electronic communications, and by keeping pictures, logs, or copies of documents that relate to the incident and/or perpetrator.
  - An individual who has been sexually assaulted should not shower, bathe, douche, smoke, brush teeth, eat, drink, or change clothes or bedding before going to the hospital or seeking medical attention.
7. Choose how to proceed. You have options and may pursue whatever combination of options is best for you:
  - You can do nothing until you are ready; but please be aware that delays in reporting an incident can jeopardize the outcome of a successful prosecution or administrative finding due to a degrading of available evidence and other factors.
  - If you wish to have an incident investigated and resolved by the College, contact the Title IX Compliance Coordinator, Chief Equity and Diversity Officer, or Chief of Security.
  - Those who wish to initiate criminal proceedings should contact the law enforcement agency serving the area where the incident took place. If you would like assistance in contacting law enforcement, please visit any Campus Security Office.
  - Petition a court for a restraining order or "injunction" If you would like to petition a court for an injunction against the perpetrator, contact a local Clerk of Courts Office. See pages 5 and 8 for information on the injunction process and your rights as a victim.
  - To pursue other civil legal remedies against the perpetrator, contact an attorney.

## REPORTING OPTIONS AND CONFIDENTIALITY

**Right to Report.** The College encourages you to talk to someone about what happened so you can get the help you need, and so the College can respond appropriately. But ultimately it's your right to report or not report the incident, and it's your right to decide who to report to, if anyone.

**Right to Contact Police.** While the College encourages police involvement whenever Sexual Misconduct is potentially criminal in nature, it's your right to decide whether to contact the police. If you would like assistance in contacting the police, visit the Security Office on campus.

**Reports to the College.** It is important to understand that when any College employee receives information alleging Sexual Misconduct, he or she is obligated to forward the information to other College officials to investigate and provide an appropriate response. Thus, any report made to a College employee is not confidential. A person who reports to a College employee may request confidentiality, and such a request will be considered by the College in determining an appropriate response, but the College may have to override the request for confidentiality in order to meet its legal obligations under Title IX and other laws. It should be noted that while confidentiality cannot be guaranteed, any information received by the College will be kept as private as possible and only shared with individuals who "need to know" in order to review, investigate, and provide an appropriate response.

**Confidential Reporting Options.** If confidentiality is important to you, please note that any reports made to sexual assault counselors, domestic violence advocates, members of the clergy, psychotherapists, psychiatrists, and other medical professionals, while such persons are acting in their official capacities, may be confidential. Please confirm the person's ability to keep confidentiality before you confide in the person. Individuals who consult with confidential resources should note that their discussions in these settings are not considered reports to the College, and will not result in any action by the College.

## REPORTS INVOLVING MINORS

Pursuant to Florida law, College officials are obligated to report known or suspected child abuse, abandonment, or neglect to the Department of Children and Families. Accordingly, the College cannot guarantee confidentiality for any report of Sexual Misconduct it receives involving a person under the age of 18.

## IF YOU REPORT SEXUAL MISCONDUCT, THIS IS HOW THE COLLEGE WILL RESPOND

- I. Initial Report to College.** When any member of the College community reports an allegation of Sexual Misconduct, College personnel will document the report and provide such person (referred to as the "reporting party") with a copy of this Resource Guide. Upon receipt of such a report, College personnel will conduct a preliminary inquiry into the reported allegations. Depending on the outcome of the preliminary inquiry, options for resolution may be explored.
- II. Informal Resolution.** In appropriate instances where it is deemed possible and safe, Informal Resolution options may be considered. The College will not use the Informal Resolution process to address matters alleging any form of Sexual Violence (see page 11). If Informal Resolution is appropriate, a college representative(s) may meet separately with



## HOW TO REQUEST AN INJUNCTION OR ACCOMMODATION

Victims of Sexual Misconduct may request an “injunction” from the court, which is an order signed by a judge that prohibits the perpetrator from contacting the victim or from being in places where the victim lives, works, attends school, etc. An injunction is obtained by going to a local Clerk of Courts Office:

**Brevard County Clerk of Courts**  
**50 South Nieman Avenue**  
**Melbourne, FL 32901**  
**(321) 637-6548**

**Brevard County Clerk of Courts**  
**400 South Street**  
**Titusville, FL 32780**  
**(321) 637-6521**

**Brevard County Clerk of Courts**  
**Moore Justice Center**  
**2825 Judge Fran Jamieson Way**  
**Viera, FL 32940**  
**(321) 637-5413 (option 2, then 0)**

In addition, regardless of whether an incident is reported to the College or whether an injunction has been requested, victims may request changes to academic, living, transportation, and/or working situations, and/or request protective measures, such as placing institutional limitations on contact, if such measures are reasonably available. Assistance with financial aid is also available if needed.

To request these type of accommodations, please contact the College’s Chief Equity and Diversity Officer, or the Title IX Compliance Coordinator (see page 2 or 15 for contact information).

both parties to present and discuss an informal resolution based on the information available. In the Informal Resolution process, the college representative(s) does not serve in the role of fact finder but rather identifies possible resolutions to the alleged conduct. If both parties are satisfied with a proposed resolution and the Title IX Compliance Coordinator believes the resolution satisfies the College’s obligation to provide a safe and non-discriminatory environment for the entire College community, the resolution will be implemented, and the matter will be closed. If these efforts are unsuccessful, the Formal Investigation process may commence.

**III. Procedures for Formal Investigation.** The College will determine whether an individual is responsible for a violation of the College’s Sexual Misconduct policy and procedure, and what, if any, disciplinary sanctions and/or remedial actions are appropriate, in accordance with the procedures described below:

1. The individual(s) accused of Sexual Misconduct shall be provided with notice of the allegations, and a copy of the College’s Sexual Misconduct policy and this procedure.
2. The reporting party and the responding party are both entitled to be advised about the estimated timeframe of the investigation.
3. The College will administer a fair and impartial investigation, which may include a formal hearing at the request of the reporting party, the responding party, or Title IX Compliance Coordinator. The person conducting the investigation (“investigator”) shall be familiar with the College’s Sexual Misconduct policy and this procedure and have training or experience in conducting Sexual Misconduct investigations.
4. Formal investigations may include, but are not limited to, conducting separate interviews with the reporting party, the responding party, and any witnesses, reviewing available law enforcement investigation documents, reviewing student and personnel files, and gathering and examining other relevant documents or evidence as appropriate. A formal investigation may also include a formal hearing, which shall afford each party the opportunity to present any relevant information to the investigator. Throughout a formal investigation, 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.
5. Upon request, the reporting party and the responding party may each have a representative (“advisor”) 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.
6. Requests for a formal hearing must be made in writing and received by the Title IX Compliance Coordinator (or designee) within five (5) business days of the report of Sexual Misconduct for reporting parties, and within five (5) business days of receipt of the notice of allegations for responding parties. A business day constitutes a day where the College is open for business. Any requests for a formal hearing made after these deadlines will only be granted upon showing of good cause.

7. Any formal hearing will be conducted by the investigator, and both parties shall be given reasonable notice and an equal opportunity to present relevant information 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 either party or any witness, and neither party, nor their advisor, may personally question or cross-examine the other party or any witness. 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. Further, no questions about a reporting party's sexual history with anyone other than the responding party shall be allowed.
8. If requested or appropriate, alternative testimony options will be given for any formal hearing, such as placing a privacy screen in the hearing room, or allowing the reporting party or any witness to testify outside the physical presence of the responding party, such as by Skype or phone. While these options are intended to help make the reporting party or witness more comfortable, they are not intended to work to the disadvantage of the responding party. Any requests for alternative testimony options must be received by the investigator at least seventy-two (72) hours prior to the formal hearing.
9. If any party or witness fails to appear for a formal hearing, the hearing will be conducted in their absence.
10. Any hearings may be recorded (audio or video), transcribed, or otherwise documented at the discretion of the investigator and/or Title IX Compliance Coordinator.
11. At the conclusion of the formal 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.
12. 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.
13. The reporting party and the responding party will be informed in writing of:
  - a. The result of the formal 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 becomes final.
  - e. In addition to the above, the reporting party shall also be informed in writing of any individual remedies offered or provided to the reporting party, and/or any sanctions imposed on the responding party, whether or not they directly relate to the reporting party. Further, the reporting party 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 responding party shall not be notified of the individual remedies offered or provided to the reporting party.
14. The reporting party and the responding party 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.
15. The reporting party and/or the responding party may appeal the result of the formal investigation. Any appeal must be submitted in writing to the College's Title IX Compliance Coordinator within seven (7) days of the result becoming final. 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. Dissatisfaction with the result is not grounds for appeal. Any sanctions imposed will not be stayed during the appeals process.

16. The appeal shall consist of a plain, concise, and complete written statement outlining the grounds for appeal. Upon receipt of the appeal, the College's Title IX Compliance Coordinator or designee will provide the other party notice of the appeal and the opportunity to respond in writing to the appeal. Any response must be submitted within seven (7) days from the notice of appeal. In the event both parties initially appeal the result, each party will be provided notice and a copy of the other party's appeal or response.

17. Any appeal will be conducted in an impartial manner by an assigned appeals officer, which may include oral argument at the sole and absolute discretion of the appeals officer.

18. In any appeal, the burden of proof lies with the party requesting the result and/or sanction be modified in some respect, as the original result and sanction are presumed to be decided reasonably and appropriately. The appeal is not a new review of the underlying matter. The appeals officer shall consider the merits of an appeal only on the basis of the three stated grounds for appeal (as identified in paragraph 15 above).

19. The appeals officer can affirm the original result, alter the result, and/or alter the sanctions, depending on the basis of the requested appeal. If the appeal is based on improper procedures, the appeals officer can ask that a new investigation and/or adjudication, or other appropriate action, occur. In the case of newly discovered material information or evidence, the appeals officer can recommend that the case be returned to the investigator to assess the weight and effect of the newly discovered information or evidence and render a determination after considering the new information or evidence.

20. The appeals officer will communicate the result of the appeal to the parties within fourteen (14) days from the date of the submission of all appeal documents by both parties, or the date of oral argument (if any), whichever is later. The decision of the appeals officer is final.



## VICTIM RIGHTS IN CRIMINAL PROCEEDINGS

If victims of Sexual Misconduct decide to initiate criminal proceedings, Chapter 960 of the Florida Statutes is intended to establish guidelines for fair treatment of victims and witnesses in the criminal justice system. Victims, including the next of kin of a homicide victim, have the right to be informed, to be present, and to be heard when relevant at all crucial stages of a criminal proceeding, to the extent that this right does not interfere with the constitutional rights of the accused. The implementation of Chapter 960 is the cornerstone of ensuring that these rights for victims are met.

## FLORIDA SEXUAL OFFENDERS AND PREDATORS

The Florida Department of Law Enforcement ("FDLE") maintains an active list of sexual offenders (which includes sexual predators) in the State of Florida. FDLE provides a variety of ways to search their database to acquire information pertaining to sex offenders in their neighborhood or on college and university campuses. To learn more about sexual offenders in our state, please visit the FDLE website at: <https://offender.fdle.state.fl.us/offender/>.

In addition, FDLE has also established the following toll-free number for public access to FDLE's Missing Persons and Offender Registration: 1-888-FL-PREDATOR (1-888-357-7332). By contacting FDLE at this number, the public can request information about Sexual Offenders living in their communities and around the state. Requests may be made using this toll-free number on business days, between 8:00 a.m. and 5:00 p.m. (EST), Monday through Friday.

*Additional information about College policies and procedures related to Sexual Misconduct can be found in the College's Annual Security Report: [www.easternflorida.edu/documents/asr.pdf](http://www.easternflorida.edu/documents/asr.pdf)*

## **VICTIM RIGHTS IN FLORIDA'S CRIMINAL JUSTICE SYSTEM**

1. Information concerning available crisis intervention services, supportive or bereavement counseling, community-based victim treatment programs, the availability of crime protection services and crime victim compensation.
2. Information about the role of the victim in the criminal justice system, the stages in the criminal and juvenile justice process which are of significance to a crime victim, and the manner in which such information can be obtained.
3. Information concerning steps that are available to Law Enforcement Officers and State Attorneys to protect victims and witnesses from intimidation.
4. Advance notification of judicial and post-judicial proceedings which relate to the offender's arrest, release or community work release, provided that the victim gives the State Attorney's Office her/his current name and address.
5. In felony crimes or homicide, consultation by the State Attorney's Office to obtain the views of the victim or in the case of a minor child, the guardian or the victim's family regarding the release of the accused, plea agreements, participation in pretrial diversion programs, and the sentencing of the accused.
6. Return of the victim's property collected by Law Enforcement or the State Attorney's Office for evidentiary purposes.
7. Assistance from Law Enforcement or the State Attorney's Office, when requested by victims, to inform the victim's employer about necessary absences from work, and to explain to the victim's creditors about serious financial hardship incurred as a result of the crime.
8. Request restitution from the offender for certain out-of-pocket losses. The State Attorney shall inform the victim if and when restitution is ordered.
9. Submit a Victim Impact Statement orally, or in writing, to the judge, prior to the sentencing of an offender who pleads guilty, nolo contendere, or is convicted of a felony crime.
10. Information concerning the escape of the offender from a state correctional institution, county jail, juvenile detention facility, or involuntary commitment facility.
11. Accompaniment by a victim advocate during any deposition of the victim or testimony of the victim of a sexual offense.
12. Request HIV testing of the person charged with committing any sexual offense (under Chapter 794 or F.S. 800.04 which involves the transmission of body fluids). HIV test results shall be disclosed to the victim or the victim's legal guardian, if the victim is a minor.
13. Prompt and timely disposition of the court case (as long as this right does not interfere with the constitutional rights of the accused).
14. In the case of minors, if the victim or any sibling of the victim and the offender attend the same school, the victim and their siblings have the right to request that the offender be required to attend a different school.
15. A victim of a sexual offense shall be informed of the right to have the courtroom cleared of certain persons as provided in F.S. 918.16 when the victim is testifying concerning that offense.
16. The victims of domestic violence shall be provided with information regarding the address confidentiality program as provided in F.S. 741.465.

## REMEDIES AND SANCTIONS

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 sanctions.

1. For **Students**, sanctions may include one or more of the following:

**a. Expulsion.** Mandatory separation from the College with no promise of future re-admission. A student who has been expelled is barred from enrolling at or visiting any of the campuses or centers of Eastern Florida State College. The Provost will present recommendations for expulsion to the President. Only the President may authorize an expulsion.

**b. Suspension.** Mandatory separation from the College for a period of time as specified in the order of suspension. A student who has been suspended is barred from enrolling at or visiting any of the campuses or centers of Eastern Florida State College during the suspension. The student may re-enroll at the College when the suspension order has elapsed. The Provost will present recommendations for suspension to the President. Only the President may authorize a suspension.

**c. Final Disciplinary Probation.** A disciplinary sanction serving notice to a student that the behavior is in flagrant violation of College standards and that the following conditions exist:

- i. The sanction is for the remainder of the student's attendance at the College.
- ii. Another violation of any College policy, procedure, or Student Code of Conduct will result in the imposition of the minimum sanction of suspension.

**d. Disciplinary Probation.** A disciplinary sanction serving notice to a student that the student's behavior is in serious violation of College standards and that continued enrollment depends upon the maintenance of satisfactory citizenship during the period of probation.

**e. Disciplinary Censure.** A disciplinary sanction serving notice to a student that the student's behavior has not met College standards. This sanction remains in effect for the duration of one complete semester. Future violations of any College policy, procedure, or Student Code of Conduct, if occurring while disciplinary censure is in effect, could result in more serious disciplinary sanctions.

**f. Trespass from the College.** A student may be trespassed from the College for behavior which is disruptive or illegal as administered by the local police municipalities. Upon notification of trespass order from the local municipality, security will notify the appropriate Associate Provost and Provost for follow up. Students will receive a letter of notification and instruction from the Associate Provost addressing the order, right to appeal and individual to contact for follow up.

**g. Restrictions or Revocation of Privileges.** Temporary or permanent restrictions and/or loss of privileges, including but not limited to:

- i. Contact or interaction with other members of the College community;
- ii. Access to, use of, or physical presence in specified areas of a campus or other property owned or controlled by the College;
- iii. Participation in any College-sponsored program, activity, event, organization, club, athletic team, or competition;
- iv. College-related employment, service, or assignments.

**h. Restitution.** Reimbursement for damage to, or misappropriate use of, property of the College or other persons. Reimbursement may take the form of rendering repair or compensating for damages.

**i. Community Service.** A student may be required to complete work assignments or other service to the College community.

**j. Educational or Counseling Assignment.** A student may be assigned sanctions, educational or supportive in nature, to aid in his/her development and better understanding of his/her choices. The student will be given a definite time frame for each assignment and is expected to complete assignments within that time frame in order to avoid further conduct action.

**k. Withholding of diplomas, transcripts, or other records.**

**l. Transcript notations.**

**m. Verbal or written warning or reprimand.**

**n. Other action as deemed appropriate.**

2. For **Staff and Faculty employees**, sanctions may include any form of discipline, up to and including termination, as set forth in the Eastern Florida State College Procedures Manual, and/or applicable collective bargaining agreement then in effect.

## TERMS, DEFINITIONS AND CONDUCT GUIDELINES

The terms set forth below and referenced in the College's Sexual Misconduct policy and procedure have the following meanings:

### 1. SEXUAL HARASSMENT

Sexual Harassment is defined as unwelcome conduct of a sexual nature, including but not limited to unwelcome sexual advances, requests for sexual favors, other verbal, nonverbal, visual, or physical conduct of a sexual nature, such as acts of Sexual Violence (defined below), or other offensive behavior directed toward an individual because of or on account of the individual's sex or sexual orientation, whether by a person of the same or opposite gender, when either:

- a. Submission to, rejection, or toleration of such conduct is made either explicitly or implicitly a term or condition of an individual's employment, education, or participation in a College program or activity, or is used as a basis or factor in decisions affecting an individual's employment, education, or participation in a College program or activity ("Quid Pro Quo Sexual Harassment"); or
- b. Such conduct creates a Hostile Environment (*defined below*).

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.

Sexual Harassment may occur in many forms. When determining whether alleged conduct constitutes Sexual Harassment, the conduct will be evaluated based upon the standard of a reasonable person in the position of the reporting party, taking into consideration the context and circumstances in which the conduct occurred. Examples of behavior that might be considered Sexual Harassment include, but are not limited to:

- Threats, either directly or by implication, of adverse employment or academic action if sexual favors are not granted or punishing, either directly or by implication, for refusing to tolerate harassment, for refusing to submit to sexual activity, or for reporting harassment;
- Promising favorable treatment or continued employment in return for sexual favors;
- Change of academic or employment responsibilities (increase in difficulty or decrease of responsibility) based on sex or gender-related status;
- Unwanted, unnecessary or objectively inappropriate physical contact or suggestive body language, such as touching, patting, pinching, hugging, kissing, or brushing against an individual's body, especially after being told to such behavior was unwanted, unnecessary or inappropriate;
- Any act of Sexual Violence (*as defined below*);

- Physical coercion or pressure of an individual to engage in sexual activity or punishment for a refusal to respond or comply with sexual advances;
- Display or distribution of pornographic material or sexual explicit drawings, pictures, or written materials;
- Sexual rumors or ratings of sexual activity/performance or the circulation, display, or creation of e-mails or websites of a sexual nature;
- Excessively offensive remarks, including unwelcome graphic or suggestive comments about an individual's body, appearance or dress,
- Jokes and humor about sex or gender-specific traits;
- Inappropriate use of sexually explicit or offensive language or derogatory language directed at another person's sexuality, gender, gender identity, sexual orientation or gender expression;
- Insults and threats based on sex, gender, gender identity, sexual orientation or gender expression;
- The display in the workplace of sexually suggestive objects or pictures which create an intimidating or Hostile Environment;
- The display or circulation of written materials or pictures degrading to an individual(s) or gender group where such display is not directly related to an educational/pedagogical, artistic, or work goal;
- Acts of verbal, nonverbal, or physical aggression, intimidation, or hostility based on sex or sex-stereotyping. Harassment for exhibiting what is perceived as a stereotypical characteristic for one's sex, or for failing to conform to stereotypical notions of masculinity and femininity, regardless of actual or perceived gender related status of the harasser or her/his/their target;
- Abusive, disruptive or harassing behavior, whether verbal or physical, which endangers another's mental or physical health, including but not limited to threats, acts of violence, or assault based on gender related status and/or in the context of intimate partner violence;
- Other unwelcome and unwanted conduct of a sexual nature, such as leering, name calling, suggestive comments and sexual propositions or innuendos and other oral, written or electronic communications of a sexual nature that an individual communicates is unwanted and unwelcome.

Sexual Harassment in any form is prohibited by the College, and the above definition and examples will be used in determining whether a responding party is responsible for committing Sexual Harassment under the College's Sexual Misconduct policy and procedure; with the understanding that while the above examples are illustrative, the list is not exhaustive.

### 2. GENDER-BASED HARASSMENT

Gender-Based Harassment is unwelcome conduct of a non-sexual nature based upon an individual's actual or perceived sex, including conduct based on an individual's

sexual orientation, gender identity, gender expression, and nonconformity with gender stereotypes.

Gender-Based Harassment that creates a Hostile Environment is prohibited by the College, and the above definition will be used in determining whether a responding party is responsible for committing Gender-Based Harassment under the College's Sexual Misconduct policy and procedure.

### 3. UNWELCOME CONDUCT

Conduct is considered unwelcome if a person did not request or invite it and considered the conduct to be undesirable or offensive. Unwelcome conduct may take various forms, including name-calling, graphic or written statements (including the use of cell phones or the Internet), or other conduct that may be physically threatening, harmful, or humiliating. Unwelcome conduct does not have to include intent to harm, be directed at a specific target, or involve repeated incidents. Unwelcome conduct can involve persons of the same or opposite sex. Participation in the conduct or the failure to complain does not always mean that the conduct was welcome. The fact that a person may have welcomed some conduct does not necessarily mean that the person welcomed other conduct. Also, the fact that a person requested or invited conduct on one occasion does not mean that the conduct is welcome on a subsequent occasion.

Unwelcome conduct is prohibited by the College.

### 4. HOSTILE ENVIRONMENT

A Hostile Environment exists when conduct is sufficiently serious to deny or limit an individual's ability to participate in or benefit from the College's programs or activities. A hostile environment can be created by anyone involved in a College's program or activity (e.g., administrators, faculty members, students, and campus visitors).

In determining whether conduct has created or evinced a Hostile Environment, the College considers the conduct in question from both a subjective and objective perspective. It will be necessary, but not enough, that the conduct was unwelcome to the individual who was harassed. But the College will also need to find that a reasonable person in the individual's position would have perceived the conduct as undesirable or offensive in order for that conduct to create or contribute to a Hostile Environment.

To make the ultimate determination of whether a Hostile Environment exists for an individual or individuals, the College considers a variety of factors related to the severity, persistence, or pervasiveness of the conduct including: (1) the type, frequency, and duration of the conduct; (2) the identity and relationships of persons involved; (3) the number of individuals involved; (4) the location of the conduct and the context in which it occurred; and, (5) the degree to which the conduct affected one or more student's education.

The more severe the conduct, the less need there is to show a repetitive series of incidents to find a Hostile Environment. Indeed, a single instance of Sexual Violence (defined below) may be sufficient to create a Hostile Environment. Likewise, a series of incidents may be sufficient even if the conduct is not particularly severe.

*First Amendment Considerations* – This procedure does not impair the exercise of rights protected under the First Amendment; rather, it prohibits only conduct that creates a Hostile Environment. In this way, the College applies and enforces this procedure in a manner that respects the First Amendment rights of students, faculty, and others.

### 5. CONSENT

Consent is defined as follows:

- 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.
- e. 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 responding party knew, or a reasonable person in the position of the responding party should have known, that the reporting party was impaired or incapacitated.
- f. 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 794.011(1)(a).*

### 6. 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 (e.g. due to the person's age or use of drugs or alcohol, or because of an intellectual or another disability that prevents the person from having the capacity to give consent). A number of different acts may fall under the category of Sexual Violence, including:

## a. Sexual Assault

Sexual Assault is defined to include actual or attempted:

*Non-Consensual Sexual Contact:* Any intentional sexual touching, however slight, with any object, by a person upon another person that is without consent and/or by force. Sexual contact includes intentional contact with the breasts, buttock, groin, or genitals, or touching another with any of these body parts, or making another touch you or themselves with or on any of these body parts; or any other intentional bodily contact in a sexual manner; or

*Non-Consensual Sexual Intercourse:* Any sexual intercourse, however slight, with any object, by a person upon another person that is without consent and/or by force. Intercourse includes vaginal or anal penetration by a penis, object, tongue, or finger, and oral copulation (mouth to genital contact), no matter how slight the penetration or contact.

Sexual Assault is prohibited by the College, and the above definition will be used in determining whether a responding party is responsible for committing Sexual Assault under the College's Sexual Misconduct policy and procedure.

## b. Sexual Coercion

Sexual Coercion is the improper use of unreasonable and persistent pressure to compel another person to initiate or continue sexual activity against a person's will. Coercion can include a wide range of behaviors, including intimidation, manipulation, threats, and blackmail. Coercion may be emotional, intellectual, psychological, or moral. A person's words or conduct are sufficient to constitute coercion if they wrongfully impair another person's freedom of will and ability to choose whether or not to engage in sexual activity.

Sexual Coercion is prohibited by the College, and the above definition will be used in determining whether a responding party is responsible for committing Sexual Coercion under the College's Sexual Misconduct policy and procedure.

## c. Force

Force is the use or threat of physical violence or intimidation to overcome a person's freedom of will to choose whether or not to participate in sexual activity.

Force is prohibited by the College, and the above definition will be used in determining whether a responding party is responsible for committing Force under the College's Sexual Misconduct policy and procedure.

## d. Inducing Incapacitation for Sexual Purposes

Using drugs, alcohol, or other means with the intent to affect, or having an actual effect on, the ability of a person to consent or refuse to consent to sexual contact.

Inducing Incapacitation for Sexual Purposes is prohibited by the College, and the above definition will be used in determining whether a responding party is responsible for committing Inducing Incapacitation for Sexual Purposes under the College's Sexual Misconduct policy and procedure.

## e. Sexual Battery

In the state of Florida, Sexual Assault is legally referred to as "sexual battery" and law enforcement the court system will utilize this definition in determining whether to pursue criminal charges. Florida Statute 794.011 defines sexual battery as "any 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.

## 7. DATING VIOLENCE

Dating Violence is violence committed by a person who is or has been in romantic or intimate nature with the victim. The existence of such a relationship shall be determined based on the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship.

Dating Violence is prohibited by the College, and the above definition will be used in determining whether a responding party is responsible for committing Dating Violence under the College's Sexual Misconduct policy and procedure.

In Florida, the term "dating violence" is statutorily defined as violence between persons 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.

Florida law enforcement agencies will utilize this definition in determining whether to pursue criminal Dating Violence charges. *See Florida Statute 784.046.*

## 8. DOMESTIC VIOLENCE

Domestic Violence is defined as 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.

Domestic Violence is prohibited by the College, and the above definition will be used in determining whether a responding party is responsible for committing Domestic Violence under the College's Sexual Misconduct policy and procedure.

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. "Family or household member" means spouses, former spouses, persons related by blood or marriage, persons who are presently residing together as if a family or who have resided together in the past as if a family, and persons who are parents of a child in common, regardless of whether they have been married. With the exception of persons who have a child in common, the family or household members must be currently residing or have in the past resided together in the same single dwelling unit. Florida law enforcement agencies will utilize this definition in determining whether to pursue criminal Domestic Violence charges. See *Florida Statute 741.28*.

## 9. STALKING

Stalking is defined as engaging in a repetitive course of conduct (e.g. repeatedly following, harassing, threatening, or intimidating another by telephone, mail, electronic communication, social media, or any other action, device, or method) directed at a specific person that would cause a reasonable person to (a) fear for his or her safety or the safety of others; or (b) suffer substantial emotional distress.

The College also considers Stalking to include the concept of Cyber-Stalking, a particular form of Stalking in which electronic media such as the internet, social networks, blogs, cell phones, texts, or other similar devices or forms of contact are used to pursue, harass, or to make unwelcome contact with another person in an unsolicited fashion.

Stalking and Cyber-Stalking are prohibited by the College, and the above definitions will be used in determining whether a responding party is responsible for committing Stalking under the College's Sexual Misconduct policy and procedure.

Stalking in Florida is defined as the willful, malicious and repeated following or harassing of 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; or an aggravated stalking, which means the willful, malicious and repeated following or harassing another with credible threats with the intent to place that person in reasonable fear of death or bodily injury; or willfully, maliciously, repeatedly following or harassing a minor under age 16; or after injunction for protection or any court-imposed prohibition of conduct, knowingly, willfully, maliciously and repeatedly follows or harasses another person.

Sexual Cyberharassment in Florida means to publish a sexually explicit image of a person that contains or conveys the personal identification information of the depicted person to an Internet website without the depicted person's consent, for no legitimate purpose, with the intent of causing substantial emotional distress to the depicted person.

Florida law enforcement agencies will utilize these definitions in determining whether to pursue criminal Stalking and/or Sexual Cyberharassment charges. See *Florida Statutes 784.048 and 784.049*.

## 10. SEXUAL EXPLOITATION

Sexual Exploitation occurs when a person takes advantage of the sexuality of another person without consent or in a manner that goes beyond the boundaries of consensual sexual activity without the knowledge of the other individual for any purpose, including sexual gratification, financial gain, personal benefit, or any other non-legitimate purpose. Examples of behavior that could rise to the level of Sexual Exploitation include:

- Viewing another person's sexual activity, intimate body parts, or nakedness in a place where that person would have a reasonable expectation of privacy, without the consent of all parties involved;
- Recording, distributing, publishing, or streaming images (e.g. video, photograph) or audio of another person's sexual activity, intimate body parts, or nakedness without that person's consent;
- Prostituting another person;
- Exposing one's intimate body parts in unwelcome or non-consensual circumstances, or inducing another person to so expose;
- Knowingly exposing another individual to a sexually transmitted infection or disease; and
- Inducing incapacitation for the purpose of making another person vulnerable to non-consensual sexual activity.

Sexual Exploitation is prohibited by the College, and the above definition will be used in determining whether a responding party is responsible for committing Sexual Exploitation under the College's Sexual Misconduct policy and procedure.

## 11. RETALIATION

Retaliation is defined as taking adverse action against an individual making a report under the College's Sexual Misconduct policy and procedure or against any person cooperating or participating in the investigation of a report or the enforcement of any interim measures or sanctions under this procedure. Retaliation includes intimidation, threats, harassment, and other adverse action including adverse job action and adverse academic action against any such complainant or third party.

Retaliation is prohibited by the College, and the above definition will be used in determining whether a responding party is responsible for committing Retaliation under the College's Sexual Misconduct policy and procedure.

## 12. AIDING OR FACILITATING SEXUAL MISCONDUCT

Aiding or Facilitating Sexual Misconduct is defined as promoting, aiding, facilitating or encouraging the commission of any behavior prohibited under the College's Sexual Misconduct policy and procedure.

Aiding or Facilitating Sexual Misconduct is prohibited by the College, and the above definition will be used in determining whether a responding party is responsible for committing Aiding or Facilitating Sexual Misconduct under the College's Sexual Misconduct policy and procedure.

## SEXUAL ASSAULT VICTIM SERVICES (SAVS)

Sexual Assault Victim Services (“SAVS”) is a certified rape crisis program working in cooperation with the Women’s Center in Brevard to provide free and confidential support and advocacy services to sexual assault victims and their loved ones.

SAVS is staffed with victim advocates who provide victims with emotional support and assistance in making informed decisions. SAVS advocates are specially trained to assist victims with options about reporting the crime and obtaining health care after the assault, as well as assist with coordination of services, information and referrals. Victim advocates also provide criminal justice information, assistance with crime victim compensation, and referrals to appropriate community resources.

SAVS advocates are available 24 hours a day to provide crisis intervention and advocacy services. SAVS has a rape crisis center staffed with sexual assault nurse examiners and advocates readily available at any time. Advocates can provide support throughout the sexual assault forensic examination as well as accompany victims to interviews with law enforcement and courtroom appearances. **To contact SAVS, call the Brevard County Rape Hotline at (321) 784-HELP (4357).**



## EFSCares

As part of a College partnership with Gee Resolutions, EFSCares is a free, confidential student counseling service available to all part- and full-time enrolled students. Simply call the phone number, (321) 631-8569, and identify yourself as an EFSC student, and the Gee Resolutions staff will connect you to a licensed and/or certified professional who will assess your personal situation and schedule you for additional counseling sessions as needed.

EFSC students are eligible to receive unlimited free telephone assessments and up to six free, individual face-to-face counseling sessions per year. It’s part of our commitment to show you that all of us at EFSC care about students. EFSC does not track your information. This is a private, confidential service designed to help you when you need it most.

## KEY EASTERN FLORIDA STATE COLLEGE CONTACTS

### Mark Renkens

Title IX Compliance Coordinator..... (321) 433-7180 | renkensm@easternflorida.edu

### Darla Ferguson

Chief Equity and Diversity Officer ..... (321) 433-7080 | fergusond@easternflorida.edu

### Joe Ambrose

Chief of Security ..... (321) 433-7007 | ambrosej@easternflorida.edu

### Jack Parker

Vice President, External Affairs ..... (321) 433-7380 | parkerj@easternflorida.edu

## EASTERN FLORIDA STATE CAMPUS SECURITY OFFICE INFORMATION

| CAMPUS     | LOCATION ON CAMPUS      | PHONE          | OFFICE LEADERSHIP  | E-MAIL                      |
|------------|-------------------------|----------------|--------------------|-----------------------------|
| Cocoa      | Building 1, Front Lobby | (321) 433-5559 | Sgt. Robert Wilson | wilsonr@easternflorida.edu  |
| Melbourne  | Building 1, Room 123    | (321) 433-5909 | Sgt. Rob Delaune   | delauner@easternflorida.edu |
| Palm Bay   | Building 1, Room 101B   | (321) 433-5911 | Sgt. Jerome Pate   | patej@easternflorida.edu    |
| Titusville | Building 1, Room 101A   | (321) 433-4200 | Sgt. Ginger Davis  | davisg@easternflorida.edu   |

## COMMUNITY RESOURCES

Brevard Rape Hotline (SAVS) ..... (321) 784-4357

Women’s Center in Brevard Domestic Violence Hotline ..... (321) 784-4357

Salvation Army Domestic Violence Hotline & Shelter ..... (321) 631-2764

Serene Harbor Domestic Violence Hotline & Shelter ..... (321) 726-8282

2-1-1 Brevard ..... (321) 632-6688

Women’s Center in Brevard..... (321) 242-3110

Circles of Care..... (321) 722-5200

Brevard County Legal Aid..... (321) 631-2500

Crimeline ..... 1(800) 423-TIPS (8477)



*Eastern Florida State College is committed to equal access/equal opportunity in its programs, activities, and employment. For additional information, visit Eastern Florida State College: [easternflorida.edu/go/equity](http://easternflorida.edu/go/equity)*