

INTERCOAST COLLEGES CAMPUS SEXUAL MISCONDUCT POLICIES & PROCEDURES GUIDANCE MEMORANDUM

InterCoast Colleges (the “College”) is committed to providing a working and educational environment for all students, faculty and staff that is free from sex discrimination, including sexual misconduct. Every member of the College community should be aware that the College is strongly opposed to sexual misconduct, and that such behavior is prohibited by state and federal laws.

As part of the College’s commitment to providing a working and learning environment free from sexual misconduct, the College has developed the Campus Sexual Misconduct Policies & Procedures (the “Policy”). The College will respond promptly and equitably to all reports of sexual harassment, and will take appropriate action to prevent, to correct, and if necessary, to discipline behavior that violates this Policy. The Policy is available online at <https://www.intercoast.edu/docs/Campus%20Sexual%20Misconduct%20Policies%20and%20Procedures.pdf> or a copy can be obtained from the College’s Title IX Coordinator. This Guidance Memorandum is a summary of the Policy.

The Policy governs sexual misconduct involving students that occurs on any College property or in connection with any College-sponsored program or event. Under the Policy, the College will assess the effects of off-campus misconduct to evaluate whether there is a hostile environment on campus. This includes a review of misconduct that did not occur in the context of an education program or activity but may have had such an impact. This Policy applies to alleged sex discrimination and harassment carried out by students, employees, and third parties conducting business with the College, regardless of the person’s gender, gender identity, sexual orientation, age, race, nationality, class status, ability, religion or other protected status.

Sexual misconduct comprises a broad range of behaviors focused on sex that may or may not be sexual in nature. Any intercourse or other intentional sexual touching or activity without the other person’s consent is sexual assault, which is a form of sexual misconduct under the Policy. Sexual harassment and sexual exploitation, stalking, domestic violence, and dating violence are also forms of sexual misconduct. Intimidation for one of these purposes is sexual misconduct, as is retaliation following an incident of alleged sexual misconduct or attempted sexual misconduct.

Misconduct can occur between strangers or acquaintances, or people who know each other well, including between people involved in an intimate or sexual relationship, can be committed by anyone regardless of gender identity, and can occur between people of the same or different sex or gender. **The Policy prohibits all forms of sexual misconduct.**

The College’s Title IX Coordinator is responsible for monitoring and overseeing the College’s compliance with Title IX and the prevention of sexual harassment, sexual misconduct and discrimination. The College’s Title IX Coordinator will work with all students affected by sexual misconduct to ensure their safety and support their well-being. This assistance may include providing accommodations to support or protect a student after an incident of sexual misconduct and while an investigation or disciplinary proceeding is pending.

Inquiries or concerns about Title IX may be referred to the College’s Title IX Coordinator, which is the Campus President.

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The College strongly encourages any victim of sexual misconduct to seek immediate assistance and report the incident in a timely manner. Victims of sexual misconduct may file a report with the Police Department. Victims may also file a report with the College’s Title IX Coordinator. The victim of the sexual misconduct may choose for the investigation to be pursued simultaneously through the criminal justice system and the College’s disciplinary procedures. The College and the criminal justice system work independently from each other. Law enforcement officers do not determine whether a violation of this Policy has occurred. The College prohibits retaliation against those who file a complaint or third-party report, or otherwise participate in the investigative and/or disciplinary process (e.g., as a witness).

Counseling, advocacy and support services are available for victims of sexual misconduct, whether or not a victim chooses to make an official report or participate in the College’s disciplinary or criminal process. InterCoast Colleges does not provide counseling or health care services. Personal counseling offered by the College will be limited to initial crisis assessment and referral. The Policy includes information about counseling and support services that are available outside the College.

The College encourages victims of sexual misconduct to talk to somebody about what happened – so victims can get the support they need, and so the College can respond appropriately. The College will seek to respect a victim's request for confidentiality to the extent possible, while remaining ever mindful of the victim's well-being. While the College cannot guarantee confidentiality with respect to student reports of sexual misconduct, the College can assist a victim of sexual misconduct in obtaining support services and/or confidential counseling. More information about the College's confidentiality policy and available support services is included in the Policy.

When a victim tells the Title IX Coordinator or a responsible employee about an incident of sexual violence, the victim has the right to expect the College to take immediate and appropriate steps to investigate what happened and to resolve the matter promptly and equitably. The College's Title IX Coordinator oversees the College's investigation, response to, and resolution of all reports of prohibited sexual misconduct, and of related retaliation, involving students, faculty, and staff. As soon as practicable after receiving a report, the Title IX Coordinator will make an initial assessment of the report to determine whether the report, on its face, alleges an act prohibited by the Policy. If the Title IX Coordinator determines the report states facts which, if true, could constitute a violation of this Policy, the Title IX Coordinator will assess whether the complaint should proceed through the voluntary resolution process or formal investigation process.

If all parties voluntarily agree to participate in an informal resolution that does not involve a full investigation and adjudication after receiving a full disclosure of the allegation(s) and their options for formal resolution and if the College determines that the particular Title IX complaint is appropriate for such a process, the College will facilitate an informal resolution to assist the parties in reaching a voluntary resolution. The College retains the discretion to determine which cases are appropriate for voluntary resolution. As the title implies, participation in voluntary resolution is a choice, and either party can request to end this manner of resolution and pursue an investigation and adjudication at any time, including if voluntary resolution is unsuccessful at resolving the report.

If voluntary resolution is inappropriate, unsuccessful, or not agreed to by either party, the College will proceed with a formal investigation process. The Title IX Coordinator will designate a specially trained investigator (or team of investigators) to interview the complainant, respondent and any witnesses. The investigator will also gather pertinent documentary materials (if any) and other information. In general, an investigation may last up to 30 days, from the date that written notice of the investigation was sent to the complainant and respondent. Adjudication through the hearing panel, if applicable, will generally take up to 30 days from the date the investigative report is provided to both the complainant and the respondent.

The investigator will prepare a report that includes a statement of the allegations and issues, the positions of the complainant and respondent, a summary of the evidence (including from interviews and documentation gathered), an explanation why any proffered evidence was not investigated, assessment of individual credibility, and findings of fact and an analysis of whether a violation of the Policy has occurred. The investigator will use "preponderance of the evidence" as the standard of proof to determine whether a violation of the Policy occurred. The complainant and respondent will be simultaneously notified of the completion of the investigation and provided with the investigator's report. Upon receipt of the investigative report, the complainant and respondent shall each have the opportunity to request a hearing be conducted. If neither party requests a hearing within 10 calendar days from their receipt of the investigative report, then the recommended findings of responsibility set forth in the investigative report shall be final.

If requested by either complainant or respondent following the distribution of the investigative report, the College will convene a hearing panel following the end of the investigation. The hearing panel determines whether the respondent is responsible or not responsible for a violation of the Policy. The hearing panel will consist of three members who will be individuals associated with the College. Both the complainant and respondent will have the opportunity to submit written responses to the investigation report and other relevant information to the hearing panel. The Title IX Coordinator will, whenever possible, give the complainant and respondent at least five days' advance notice of the hearing. Both the complainant and the respondent shall be provided with an opportunity to review any information gathered by the investigator during the investigation process prior to the hearing. The hearing is a closed proceeding, meaning that no one other than the panel members, the complainant and respondent, their respective advisors, witnesses (when called), and necessary College personnel may be present during the proceeding.

The panel will use "preponderance of the evidence" as the standard of proof to determine whether a violation of the Policy occurred. The panel will find a student responsible, or not responsible, based on a majority vote. The panel will generally render a decision within 10 days after the conclusion of a hearing. The panel's decision will include an explanation of the basis for the decision. The parties will be informed of the results of the adjudication hearing by simultaneous written notice to both parties of the outcome of the complaint. If the panel finds the respondent responsible, the matter will proceed to the sanctions stage.

The Title IX Coordinator, with the advice and counsel of the other hearing panel members, is responsible for imposing sanctions that are:

- Fair and appropriate given the facts of the particular case;
- Consistent with the College's handling of similar cases;
- Adequate to protect the safety of the campus community; and
- Reflective of the seriousness of sexual misconduct.

The College may also determine that additional measures are appropriate to respond to the effects of the incident on the College community.

Both parties shall have the option to appeal the hearing panel's determination. Appeals are decided by the President of InterCoast Colleges. The three grounds for appeal are:

1. A procedural error affecting the determination or sanction;
2. New information that was not available at the time of the investigation or hearing and that may change the determination or sanction;
and
3. Excessiveness or insufficiency of the sanction.

Disagreement with the finding or sanctions is not, by itself, grounds for appeals. If both the complainant and respondent appeal, the appeals will be considered concurrently. All appeal decisions are final.

Disciplinary proceedings conducted by the College are subject to the Family Educational Records and Privacy Act (FERPA), a federal law governing the privacy of student information. FERPA generally limits disclosure of student information outside the College without the student's consent, but it does provide for release of student disciplinary information without a student's consent in certain circumstances. Additional information about FERPA can be found on the College's website at www.intercoast.edu.