All complaints, notices and/or allegations received by the University on or after September 15, 2015, will be processed under this policy, UNIV-TIX 468 Sexual Misconduct (September 2015), regardless of the date of the occurrence.

SUMMARY:

Members of the Coastal Carolina University community, guests and visitors have the right to be free from all forms of gender and sex-based discrimination, examples of which include sexual violence, sexual harassment, domestic violence, dating violence and stalking. All members of the campus community are expected to conduct themselves in a manner that does not infringe upon the rights of others.

Coastal Carolina University believes in a zero tolerance policy for sexual or gender-based misconduct. When an allegation of misconduct is brought to a responsible employee’s attention, and a respondent is found to have violated this policy, serious sanctions will be used to reasonably ensure that such actions are never repeated. This policy has been developed to reaffirm these principles and to provide recourse for those individuals whose rights have been violated. This policy is intended to define community expectations and to establish a mechanism for determining when those expectations have been violated.

This policy applies to allegations of sexual misconduct that take place on Coastal Carolina University property or at University-sponsored events, regardless of their location. It may also apply to allegations of sexual misconduct that occur off-campus or online when it is determined that the conduct could have an on-campus impact or an impact on the educational mission of the University.

POLICY:

I. DEFINITIONS – PLEASE NOTE: when the singular of a word is used in this policy, it is also representative of the plural form of that word.
A. Accused – the accused is a person alleged to have committed an act(s) of sexual misconduct. In some contexts, the party may be referenced as the respondent and/or the alleged perpetrator.

B. Complainant – the complainant is a person alleging to have been the subject of an act of sexual misconduct. The complainant may be referenced as the alleged victim.

C. Consent – consent is knowing, voluntary and clear permission by word or action to engage in mutually agreed upon sexual activity. Since individuals may experience the same interaction in different ways, it is the responsibility of each party to make certain that the other has consented before engaging in the activity. For consent to be valid, there must be a clear expression in words or actions that the other individual consented to that specific sexual conduct.
   1. A person cannot consent if he or she is unable to understand what is happening or is disoriented, helpless, asleep or unconscious for any reason, including alcohol or consumption of other drugs. An individual who engages in sexual activity when the individual knows, or should know, that the other person is physically or mentally incapacitated has violated this policy.
   2. It is not an excuse that the individual responding party of a sexual misconduct allegation was intoxicated at the time of the alleged offense and, therefore, did not realize the incapacity of the other.
   3. Consent to some sexual contact (such as kissing or fondling) cannot be presumed to be consent for other sexual activity (such as intercourse). A current or previous dating relationship does not constitute consent. The existence of consent is based on the totality of the circumstances, including the context in which the alleged incident occurred. Silence or the absence of resistance alone is not consent. A person can withdraw consent at any time during sexual activity by expressing in words or actions that he or she no longer wants the act to continue, and, if that happens, the other person must stop immediately.

D. Dating Violence – violence by a person who has been in a romantic or intimate relationship with the victim which will be gauged by its length, type and frequency of interaction.

E. Domestic Violence – asserted violent misdemeanor and felony offenses committed by the victim's current or former spouse, current or former cohabitant, person similarly situated under domestic or family violence law, or anyone else protected under domestic or family violence law.
F. Gender – the attitudes, feelings and behaviors that a given culture associates with a person’s biological sex. Behavior that is compatible with cultural expectations is referred to as gender-normative; behaviors that are viewed as incompatible with these expectations constitute gender non-conformity.

G. Gender Expression – the way in which a person acts to communicate gender within a given culture, for example, in terms of clothing, communication patterns and interests. A person’s gender expression may or may not be consistent with socially prescribed gender roles, and may or may not reflect his or her gender identity.

H. Gender Identity – an individual’s internal sense of gender. A person’s gender identity may be different from or the same as the person’s sex assigned at birth.

I. Gender Transition – the process by which transgender individuals begin asserting the sex that corresponds to their gender identity instead of the sex they were assigned at birth. During gender transition, individuals begin to live and identify as the sex consistent with their gender identity and may dress differently, adopt a new name and use pronouns consistent with their gender identity. Transgender individuals may undergo gender transition at any stage of their lives, and gender transition can happen swiftly or over a long period of time.

J. Hazing – acts likely to cause physical or psychological harm or social ostracism to any person in the University community when related to the admission, initiation, pledging, joining or any other group-affiliation activity on the basis of actual or perceived membership in a protected class.

K. Hearing – an interview or a series of interviews with the complainant, respondent, witnesses and other individuals involved in the investigation, designed to provide all parties with the opportunity to present their accounts of the event in question, any evidence to be considered, and to disclose any and all additional witnesses that may hold relevant information. The terms hearing and interview may be used interchangeably.

L. Incapacitation – a state in which someone cannot make rational, reasonable decisions because they lack the capacity to give knowing consent (e.g., to understand the “who, what, when, where, why or how” of their sexual interaction). This expression also covers a person whose incapacity results from mental disability, involuntary physical, emotional,
or psychological restraint, and/or from the taking of incapacitating substances.

M. Intimidation – implied threats or acts that cause a reasonable fear of harm in another on the basis of actual or perceived membership in a protected class.

N. Preponderance of the Evidence – the greater weight of the evidence; more likely than not.

O. Responsible Employee – all employees of Coastal Carolina University are considered Responsible Employees for the purposes of Sexual Misconduct and are mandated to report any instance of misconduct that they know of or should know of to the Title IX Coordinator. Employees are also Mandatory Reporters for cases involving minors on campus; please refer to the Protection of Minors Policy for additional information.

1. The only exception to the Mandatory Reporting procedure is if an employee of the University is acting in a role that allows for confidentiality. Examples of this confidential role include members of the clergy, healthcare providers or licensed mental health professionals acting in the capacity of those roles at the time they became aware of the misconduct.

P. Reasonable Person – a legal term frequently used to denote a hypothetical person in society who exercises average care, skill and judgment in conduct.

Q. Sex Assigned at Birth – the sex designation recorded on an infant’s birth certificate, should such a record be provided at birth.

R. Transgender – describes those individuals whose gender identity is different from the sex they were assigned at birth. A transgender male is someone who identifies as male but was assigned the sex of female at birth; a transgender female is someone who identifies as female but was assigned the sex of male at birth.

S. Sexual Exploitation – refers to a situation in which a person takes non-consensual or abusive sexual advantage of another and in which the conduct does not fall within the definitions of Sexual Harassment, Non-Consensual Sexual Intercourse or Non-Consensual Sexual Contact. Examples of sexual exploitation include, but are not limited to:

1. Sexual voyeurism (example: watching a person undressing, using the bathroom or engaging in sexual acts without the consent of the person observed).
2. Taking pictures or video or audio recording of another in a sexual act or in any other private activity without the consent of all involved in the activity or exceeding the boundaries of consent (example: allowing another person to hide in a closet and observe sexual activity or disseminating sexual pictures without the photographed person’s consent).

3. Prostitution

4. Sexual exploitation also includes engaging in sexual activity with another person while knowingly infected with human immunodeficiency virus (HIV) or other sexually transmitted disease (STD) without informing the other person of the infection, and further includes administering alcohol or drugs (example: “date rape” drugs) to another person without his or her knowledge or consent.

T. Sexual Violence/Assault – both sexual violence and sexual assault are gender-neutral.

U. Non-consensual intercourse –
1. any sexual penetration or intercourse (anal, oral or vaginal)
2. however slight
3. with any object
4. by a person upon another person
5. that is without consent and/or by force.
6. Sexual penetration includes vaginal or anal penetration by a penis, tongue, finger or object, or oral copulation by mouth-to-genital contact or genital-to-mouth contact.

V. Non-Consensual Sexual Contact –
1. any intentional sexual touching
2. however slight
3. with any object
4. by a person upon another person
5. that is without consent and/or by force.
6. Sexual touching includes any bodily contact with the breasts, groin, genitals, mouth or other bodily orifice of another individual, or any other bodily contact in a sexual manner.

W. Sexual Harassment – unwelcome conduct of a sexual nature. Conduct may include, but is not limited to:
1. Sufficiently severe, persistent/pervasive and objectively offensive that it
2. Has the effect of unreasonably interfering with, denying or limiting employment opportunities or the ability to participate in or benefit
from the University’s educational, social and/or residential program, and is

3. Based on power differentials (quid pro quo), the creation of a hostile environment or retaliation.¹

X. Sexual Orientation – a person’s sexual identity in relation to the gender to which he/she is sexually and romantically attracted.

Y. Stalking – a course of conduct directed at a specific person that would cause a reasonable person to fear for her, his or others' safety, or to suffer substantial emotional distress.

Z. Title IX Equity Grievance Procedure – the Equity Grievance Procedure is available to a party of a Title IX complaint who feels that his/her rights have been violated, regardless of the status of the party (e.g., member or non-member of the campus community, students, student organizations, faculty, administrators and/or staff).

II. COMPLAINT PROCEDURE

A. All complaints of a possible Title IX violation can be made to a responsible employee (refer to definition above) on Coastal Carolina University’s campus. It will then be that responsible employee’s obligation to report the possible violation to the University’s Title IX Coordinator as soon as practicable.

B. Interim measures can be taken to protect the alleged complainant of the alleged sexual misconduct during this initial phase and the ensuing investigation. These measures may include, but are not limited to:

1. No contact orders
2. No trespass notices
3. Counseling and/or medical services
4. Academic support
5. Living arrangement adjustments
6. Provision of a campus escort
7. Academic or work schedule and assignment accommodations
8. Safety planning
9. Referral to campus and community resources

¹ Examples of Sexual Harassment: A professor insists that a student have sex with him/her in exchange for a good grade. This is harassment regardless of whether the student accedes to the request. A student repeatedly sends sexually oriented jokes around on an email list s/he created, even when asked to stop, causing one recipient to avoid the sender on campus and in the residence hall in which they both live. Explicit sexual pictures are displayed in a professor’s office or on the exterior of a residence hall door. Two supervisors frequently “rate” several employees' bodies and sex appeal, commenting suggestively about their clothing and appearance.
C. **IF THE ACCUSED IS A STUDENT OF COASTAL CAROLINA UNIVERSITY**, regardless of the status of the complainant, he/she will be subject to the Code of Student Conduct and the investigation will be conducted by the Dean of Students Office. Please refer to the Code of Student Conduct for the investigation process.

D. **When the complainant is a Coastal Carolina University student and THE ACCUSED IS SOMEONE OTHER THAN A COASTAL CAROLINA UNIVERSITY STUDENT**, e.g., a staff member, a faculty member, another member of the University community or an outsider, the Title IX investigation process will be as follows:

1. An investigation will be carried out by a member of the Title IX staff or a designee. The investigation will be carried out as quickly as possible, using the guidance of the Office for Civil Rights.

2. The complainant may communicate with the assigned investigator to share all information relating to the case, including names of witnesses, evidence and anything else he/she feels will be of assistance in the process.

3. The accused will be notified in writing that a complaint against him/her has been filed. The will then have an opportunity to meet with the assigned investigator to present information relating to the case, including the names of witnesses, evidence, and anything else he/she feels will be of assistance in the process.

4. The assigned investigator will conduct interviews with witnesses presented by the complainant and the accused. The investigator will also analyze evidence presented by both sides and any other information provided to aid in the decision-making process.

5. Once interviews are completed, the assigned investigator will compile a report of all interviews, evidence, and other gathered, reported, and subsequently discovered information.

6. The investigator, using the Reasonable Person approach, will balance the information gathered in the report to determine if a violation occurred beyond a preponderance of the evidence.

7. If the assigned investigator determines that a violation did occur, the Title IX Coordinator will make recommendations to the administration who will determine the most appropriate sanction to be imposed. This decision will stand as final unless the complainant or respondent elects to appeal (Section III) within three (3) days of the administration’s decision being handed down.

8. Both parties will be notified simultaneously and in writing of the outcome of the proceeding, appeal procedures, any changes to the result before it becomes final and when the decision becomes final.

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III. **RIGHTS OF THE PARTIES**
A. Rights of the Complainant
1. The option to notify and seek assistance from law enforcement and/or campus authorities. If the complainant chooses to seek assistance, Coastal Carolina University will assist in putting him/her in contact with the appropriate officials.
2. The option not to notify law enforcement and/or campus authorities.
3. To be treated with respect by CCU officials;
4. To take advantage of campus support resources (such as Counseling Services, members of the University Chaplain Council and Student Health Services for students or EAP services for employees);
5. To experience a safe living, educational and work environment;
6. To have an advisor during this process;
7. To refuse to have a complaint resolved through these Title IX procedures;
8. To receive amnesty for minor student misconduct (such as an alcohol or drug violation) that is ancillary to the incident;
9. To be free from retaliation;
10. To have complaints heard in substantial accordance with these procedures;
11. To review the statements of the accused in the alleged violation;
12. To present evidence in any investigation or hearing;
13. To know the results of any final outcome, including relevant sanctions from any hearing or appeal;
14. To appeal; and
15. To challenge the seating of any hearing officer on the appeal panel for good cause.

B. Rights of the Accused
1. To be treated with respect by CCU officials;
2. To take advantage of campus support resources (such as Counseling Services, members of the University Chaplain Council and Student Health Services for students, or EAP services for employees);
3. To have an advisor during this process;
4. To have grievances heard in substantial accordance with these procedures;
5. To be informed of the outcome/resolution of the complaint and the rationale for the outcome in writing;
6. To be provided written/electronic notice of allegations(s), an account of the alleged misconduct and notice of the scheduled hearing;
7. To a hearing;
8. To a timely process and decision;
9. To appeal;
10. To not participate in the conduct hearing or to remain silent; and
11. To challenge the seating of any hearing officer for good cause.
12. A written decision specifying the violation and penalty assessed.

IV. SANCTIONS

A. Student Sanctions (Action Plans)
1. Sanctions, or action plans, for violations of Title IX for students are determined through the Student Conduct process and the Dean of Students Office. For additional information on the action plans, please see the Code of Student Conduct (CSC).
2. Action Plans
   a. Loss of Housing – permanent separation, or separation for a designated time period, of the student from the residence halls.
   b. Suspension for a Period of Time – denial of enrollment, attendance and other privileges at the University for a given period; conditions for readmission may be specified.
   c. Permanent Dismissal – involuntary separation of the student from the University without future readmission.
   d. “No-Contact” Order – A no-contact order is a University directive that restricts contact between individuals in any way, including in person, via email, telephone, text messaging, social networking or any other method of communication. Direct or indirect contact would be considered a violation of harassment (CSC.IV.C.5) and failure to comply (CSC.IV.C.8). This violation could be grounds for suspension or permanent dismissal.

B. Employee Sanctions
1. Sanctions for violations of Title IX for faculty and staff are recommended by the Title IX Investigator/Coordinator and reviewed by administration. The approved sanctions will then be sent to the appropriate President’s Council Vice President for implementation. Administration reserves the right to accept the Investigator’s recommendation, alter the recommendation or create its own, so long as it fits within the prescribed sanction for the founded violation.
2. Sanctions for an employee who has been determined to be in violation of this policy may include, but are not limited to:
   a. Verbal or written warning
   b. Required counseling
c. Training

d. Demotion

e. Reassignment

f. Suspension

g. Termination

C. Factors considered when determining a sanction for students, faculty, and staff may include:

1. The nature of, severity of and circumstances surrounding the violation.
2. The respondent’s disciplinary history.
3. Previous substantiated complaints or allegations against the respondent involving similar conduct.
4. Any other information deemed relevant by the Title IX Investigator.
5. The need to bring an end to the discrimination, harassment and/or retaliation.
6. The need to prevent the recurrence of discrimination, harassment and/or retaliation.
7. The need to remedy the effects of the discrimination, harassment and/or retaliation on the complainant and the community.

V. EQUITY GRIEVANCE PROCEDURE (The Appeal)

A. Student Appeals – students should appeal decisions through the Student Conduct Process. Please see the Code of Student Conduct for additional information.

B. Faculty and Staff Appeals – both the Accused and the Complainant have the right to appeal the decision of a Title IX Investigation within three (3) business days of their notification of the final decision. Requests to appeal should be sent, in writing, to the Office of University Compliance at compliance@coastal.edu.

C. Any party may appeal, but appeals are limited to the following:

1. A procedural error or omission occurred that significantly impacted the outcome of the hearing (e.g., substantiated bias, material deviation from established procedures, etc.).
2. To consider new evidence, unknown or unavailable during the original hearing or investigation, that could substantially impact the original finding or sanction. A summary of this new evidence and its potential impact must be included.
3. If the sanctions substantially deviate from the range of sanctions the University has designated for this offense.
D. Once University Compliance is on notice of the request to appeal:
   1. The case will be assigned to the appeals panel of the Equity Grievance Procedure who will review the appeal request(s). The original finding and sanction/actions will stand if the appeal is:
      a. not timely, or
      b. not based on the grounds listed above.
      c. Any decision made on these grounds is final.
   2. When any party requests an appeal, the other party (parties) will be notified and joined in the appeal.
   3. The party requesting appeal must show that the grounds for an appeal request have been met, and the other party or parties may show the grounds have not been met or that additional grounds are met.
   4. The original finding and sanction are presumed to have been decided reasonably and appropriately.

E. When the Equity Grievance Procedure appeals panel finds that at least one of the grounds is met and proceeds, additional principles governing the review of appeals include the following:
   1. Appeals decisions by the Equity Grievance Procedure panel are to be deferential to the original decision, making changes to the finding only where there is clear error and to the sanction/responsive action only if there is a compelling justification to do so.
   2. Sanctions imposed are implemented immediately unless the University Administration or designee stays their implementation in extraordinary circumstances, pending the outcome of the appeal.

F. The Vice President for University Compliance and Human Resources, after conferring with the Equity Grievance Procedure appeals panel, will communicate a written decision on the appeal to all parties within two to three business days of reviewing the appeal.
   1. All parties should be informed of whether the grounds for an appeal are accepted and the results of the appeal decision.
   2. Once an appeal is decided, the outcome is final: further appeals are not permitted.

Appeals are not intended to be full reviews of the grievance. In most cases, appeals are confined to a review of the written documentation or record of the original hearing and pertinent documentation regarding the grounds for appeal.

G. The Appeals Panel
1. The Panel will consist of four members. Of these four members, one will serve as the non-voting chair and the other three will vote on the appeal. If one of the three voting members abstains from the vote, the chair will serve as the tie-breaking vote, if necessary.

2. The panel members are taken from the same pool of faculty and staff that is used in the Student Conduct Process. This pool is created via Faculty Senate elections and Presidential appointees.

VI. TITLE IX COORDINATOR AND THEIR ROLE AT CCU

843-349-2382
titleix@coastal.edu
Kearns Hall- 104B

The Title IX Coordinator, appointed by the President of the University, is charged with administering, monitoring and overseeing the overall implementation of Title IX compliance at the University, including coordination of campuswide education programs and training regarding sexual violence for all students, faculty, staff and other members of the University community. The Coordinator will operate independently and will have no additional job responsibilities that may create a conflict of interest, such as serving as a disciplinary hearing board member or general counsel.

VII. CONTACT INFORMATION FOR RESOURCES AND REPORTING

A. On the Coastal Carolina University campus:
   1. CCU Department of Public Safety: 843-349-2177 (2911 from a campus line)
   2. Counseling Services: 843-349-2305
   3. Dean of Students Office: 843-349-4161
   4. Human Resources and Equal Opportunity: 843-349-2134 or 843-349-5022
   5. Student Health Services: 843-349-6543
   6. Title IX Coordinator: 843-333-6229
   7. University Housing: 843-349-6400

B. In the Community:
   1. Emergency Assistance: 911
   2. Conway Medical Center: 843-347-7111
   3. Family Justice Center (Georgetown): 843-546-3926
   4. Grand Strand Regional Medical Center: 843-692-1000
   5. Life Services EAP: 1-800-822-4847
   6. Rape Crisis Center: 843-448-7273
   7. Waccamaw Center for Mental Health: 843-347-4888
   8. Waccamaw Community Hospital: 843-652-1000
C. Resources:
   1. Title IX- Sexual Assault
   2. CCU’s Title IX Website

VIII. Recommendations for Complainants of Sexual Violence

   A. Go to a safe location.
   B. Memorize as much detail as possible about the attacker and the incident.
   C. Help to preserve evidence.

D. Complainants of a sexual assault are encouraged NOT TO:
   1. Bathe or douche
   2. Urinate
   3. Drink anything
   4. Smoke, eat or brush teeth if oral contact has occurred

E. Complainants of a sexual assault are strongly encouraged TO:
   1. Place soiled clothes in a paper bag (plastic may destroy crucial evidence) if clothes are changed.
   2. Go to the hospital. With the complainant’s consent, hospital personnel will perform an exam using a sexual assault evidence collection kit. If the sexual assault occurred within seventy-two (72) hours, a rape protocol exam can still be administered at local hospitals. Even if the complainant does not decide to press charges right away, the preservation of evidence is crucial.
   3. Contact University Counseling Services for assistance and/or a referral.

F. Complainants of sexual misconduct have the option to, or not to, notify and seek assistance from law enforcement and/or campus authorities. If the complainant chooses to seek assistance, Coastal Carolina University will assist in putting him/her in contact with the appropriate officials.

IX. LINKS TO RELATED POLICIES

   A. UNIV-TIX 466 Title IX Statement
   B. UNIV-TIX 465 Sexual Violence/Assault
   C. UNIV-COMP 414 Whistleblower and Retaliation Protections
D. UNIV-TIX 467 Sexual Harassment

E. UNIV-TIX 469 Pregnancy or Parenting Individuals
X. PROCEDURE FLOWCHARTS – These charts are to be used as a guide. Please refer to the policy for specific details and procedures.

A. If the accused is a student – Investigation:

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Complaint is filed.

Coordinator/Investigator communicates with complainant; resources are offered to complainant and/or victim.

Student is notified in writing that a complaint has been filed against them.

Dean of Students Office investigates complaint.

Student will be notified by email and/or in writing of assessed charges and notice to appear at the pre-hearing conference.

Pre-Hearing is held and is conducted by a conduct officer; further investigation could be needed prior to moving to one of two resolution processes.

Administrative Resolution

Student has the right to appeal.

Student Conduct Board Hearing

Student has the right to appeal.
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B. If the Accused is a Student – Appeal:

- **Original Hearing Body:** University Housing Conduct Officer
  - **Appeal to:** Dean of Students
  - **Appellate Body will make final decision:** uphold decision, modify decision or require new hearing

- **Original Hearing Body:** Dean Of Students Office Conduct Officer
  - **Appeal to:** Student Conduct Board
  - **Appellate Body will make final decision:** uphold decision, modify decision or require new hearing

- **Original Hearing Body:** Student Conduct Board
  - **Appeal to:** Executive Vice President
  - **Appellate Body will make final decision:** uphold decision, modify decision or require new hearing
C. If the Accused is Someone Other than a Student – Investigation:

- Complaint is filed
- Coordinator/Investigator communicates with complainant; resources are provided to complainant and/or victim.
- Accused is notified in writing of a complaint being filed against them
- Investigation Begins
  - Witnesses are interviewed, evidence is collected.
- Investigator presents findings; Coordinator makes recommendations based on the findings in the report to Administration. Administration approves report or makes alternate outcome recommendations.
- Complainant and Accused are notified of the outcome of the investigation. Notification of pending sanctions, if any, will come after enforcement by administration.
- Both parties now have the right to appeal.
  (See Appeals Flowchart for Appeals Process)
- If the claim is determined to be unfounded, the process ends here.
- If the claim is founded, recommendations are presented to the Vice President of the area in which the employee works and to the Executive Vice President.
  - Sanctions are enforced; complainant is notified that sanctions have been carried out.
D. If the Accused is Someone other than a Student – Appeal:

Notice of desire to appeal is made to Compliance Office at compliance@coastal.edu.

The 4-person Appeal Panel is selected from the pool; this panel will determine if an appeal is warranted under the 3 criteria.

If it is determined that an appeal is not permissible, the process ends here.

If it is determined that an appeal is allowed, the appeal will move forward.

The Appeals Panel will review the investigation notes, evidence, and other documentation they deem relevant. Their determination will be made either by reviewing the record or by calling a hearing.

Both parties will be notified of the determination of the Appeals Panel. This decision is final.

The other party is notified of the appeal request.