



Policy Title:	Title IX Policy
Policy Number:	UNIV-468
Revision Date:	May 2022
Policies Superseded:	HREO-110; HREO-159; PRES-117 UNIV-465 Sexual Assault/Violence UNIV-467 Sexual Harassment UNIV-466 Title IX Statement of Non-discrimination
Policy Management Area(s):	Title IX

Complaints, notices, and/or allegations occurring after August 14, 2020 will be processed under this policy, UNIV- 468 Title IX Policy. Complaints, notices, and/or allegations occurring prior August 14, 2020 will be processed under the policy in place at the time of the incident.

SUMMARY:

Coastal Carolina University prohibits sexual misconduct, including sexual harassment. Members of the University community, guests, and visitors have the right to be free from all forms of gender and sex-based discrimination, and all members of the campus community are expected to conduct themselves in a manner that does not infringe upon the rights of others.

POLICY:

- I. Title IX of the Education Amendments of 1972 and certain other federal and state laws prohibit discrimination in education programs and activities operated by Coastal Carolina University. Coastal Carolina University complies with the requirements of Title IX of the Education Amendments of 1972, 20 U.S.C. Sec. 1681, et seq., and subsequent regulations, which prohibits discrimination on the basis of sex, including pregnancy and parental status, in all programs and activities receiving federal financial assistance.

- II. Nothing in this policy is intended to restrict or deprive any person of their rights granted to them under the U.S. Constitution. Respondents are presumed to be not responsible for the alleged conduct; determinations of responsibility will only be made at the conclusion of the Title IX grievance process.

III. DEFINITIONS

- A. Actual knowledge – notice of sexual harassment or allegations of sexual harassment to a recipient’s Title IX coordinator or any official of the recipient who has authority to institute corrective measures on behalf of the recipient, or to any employee of an elementary and secondary school. Imputation of knowledge based solely on vicarious liability or constructive notice is insufficient to constitute actual knowledge. This standard is not met when the only official of the recipient with actual knowledge is the respondent. The mere ability or obligation to report sexual harassment or to inform a student about how to report sexual harassment, or having been trained to do so, does not qualify an individual as one who has authority to institute corrective measures on behalf of the recipient. “Notice” as used in this paragraph includes, but is not limited to, a report of sexual harassment to the Title IX coordinator.
- B. Complainant – an individual who is alleged to be the victim of conduct that could constitute sexual harassment.
- C. Consent – consent is based on a choice and must be informed, freely, and actively given, and mutually understandable, indicating a willingness to participate in a mutually agreed-upon activity. If an individual cannot say “no,” their saying “yes” has no meaning.

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.

Consent is determined using both objective and subjective standard. The objective standard is met when a reasonable person would consider the words or actions of the parties to have manifested an agreement between them to do the same thing, in the same way, at the same time, with one another. The subjective standard is met when a party believes, in good faith, that the words or actions of the parties manifested an agreement between them to do the same thing, in the same way, at the same time, with one another.

1. Under this policy, “no” always means no, but “yes” does not always mean yes, if coerced.
2. A person cannot consent if they are unable to understand what is happening or is disoriented, helpless, asleep or unconscious for any reason, including alcohol or consumption of other drugs.
3. Consent to some sexual contact (such as kissing or fondling) cannot be presumed to be consent for other sexual activity (such as intercourse).
4. A current or previous dating relationship or sexual relationship does not constitute consent, nor does a prior decision or plan to engage in sexual activity.
5. Silence or the absence of resistance, alone, is not consent.
6. Consent to sexual activity may be withdrawn at any time, as long as the withdrawal is communicated clearly. Withdrawal can be done in numerous ways and need not be verbal.

7. Consent is not effectively given if it results from the use of physical force, threats, intimidation, or coercion. Being verbally, emotionally, psychologically, or physically pressured into any kind of sexual activity is not consent.
 8. Consent may never be given by an individual under the age of 16.
- D. Dating violence – violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim. The existence of such a relationship shall be determined based on the reporting party’s statement and with consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship. For the purposes of this definition, dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse. Dating violence does not include acts covered under the definition of domestic violence.
- E. Domestic violence – a felony or misdemeanor crime of violence committed—
- By a current or former spouse or intimate partner of the victim.
 - By a person with whom the victim shares a child in common.
 - By a person who is cohabitating with, or has cohabitated with, the victim as a spouse or intimate partner.
 - By a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred.
 - 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 the jurisdiction in which the crime of violence occurred.
- *To categorize an incident as domestic violence, the relationship between the perpetrator and the victim must be more than just two people living together as roommates. The people cohabitating must be current or former spouses or have an intimate relationship.
- F. Formal complaint – a document filed by a complainant or signed by the Title IX coordinator alleging sexual harassment against a respondent and requesting that the recipient investigate the allegation of sexual harassment. At the time of filing a formal complaint, a complainant must be participating in or attempting to participate in the education program or activity of the recipient with which the formal complaint is filed. A formal complaint may be filed with the Title IX coordinator in person, by mail, or by electronic mail, by using the contact information required to be listed for the Title IX coordinator, and by any additional method designated by the recipient. As used in this paragraph, the phrase “document filed by a complainant” means a document or electronic submission (such as by electronic mail or through an online portal provided for this purpose by the recipient) that contains the complainant’s physical or digital signature, or otherwise indicates that the complainant is the person filing the formal complaint. Where the Title IX coordinator signs a formal complaint, the Title IX coordinator is not a complainant or otherwise a party.

- G. 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.
1. 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 their gender identity.
 2. 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.
 3. 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.
 4. Sex assigned at birth – the sex designation recorded on an infant’s birth certificate, should such a record be provided at birth.
 5. 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.
- H. 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.
- I. Mandatory Title IX reporter – a mandatory Title IX reporter is an employee who must report Title IX incidents to the Title IX coordinator. For Coastal Carolina University, mandatory Title IX reporters are:
- a. Human Resources and Equal Opportunity employees.
 - b. President, vice presidents, associate/assistant vice presidents, and directors.

- c. Provost, associate/assistant provosts, academic deans, department chairs, and other academic administrators.
 - d. Staff who work directly with students, including all Student Affairs staff who work directly with students.
 - e. Advisors to recognized student organizations.
 - f. Community and graduate community directors in their capacity as employees.
 - g. Resident advisors in their capacity as employees.
 - h. Athletic directors, assistant athletic directors, coaches, and assistant coaches of official University teams.
- J. Pregnancy or parenting status – for the purpose of this policy, pregnancy or parenting status includes pregnancy, childbirth, termination of pregnancy, recovery from any of these conditions or related medical conditions, including but not limited to lactation.
- K. Preponderance of the Evidence – the greater weight of the evidence; more likely than not. This is the standard used by the investigator when determining the outcome of an investigation.
- L. Reasonable Person – a term frequently used to denote a hypothetical person in society who exercises average care, skill and judgment in conduct.
- M. Respondent – an individual who has been reported to be the perpetrator of conduct that could constitute sexual harassment.
- N. Retaliation – any materially adverse action or threat of a materially adverse action taken by the University, or an employee or student thereof, against a student, faculty member, or staff member for:
- Making a good faith report of wrongdoing, violation of law, or policy.
 - Reasonably participating in the investigation conducted by, or at the direction of, the University.
 - Reasonably objecting to or resisting wrongdoing.
 - Being a close associate of someone who makes or may make a good faith report of misconduct.

In addition, intimidation, threats, coercion, or discrimination against any individual for the purpose of interfering with any right or privilege secured by Title IX, or because the individual has made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing in the title IX process.

- O. 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 infection (STI) without informing the other person of the infection, and further includes administering alcohol or drugs (example: "date rape" drugs) to another person without their knowledge or consent.
5. Demanding payment or other benefit from someone in return for not revealing photos or videos of a sexual nature of that individual.

P. Sexual harassment – conduct on the basis of sex that satisfies one or more of the following:

1. An employee of the recipient conditioning the provision of an aid, benefit, or service of the recipient on an individual's participation in unwelcome sexual conduct.
2. Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the recipient's education program or activity.
3. "Sexual assault" as defined in 20 U.S.C. 1092(f)(6)(A)(v), "dating violence" as defined in 34 U.S.C. 12291(a)(10), "domestic violence" as defined in 34 U.S.C. 12291(a)(8), or "stalking" as defined in 34 U.S.C. 12291(a)(30).

Q. Sexual Orientation – a person's sexual identity in relation to the gender to which they are sexually and romantically attracted.

R. Sexual assault –an offense classified as a forcible or nonforcible sex offense under the uniform crime reporting system of the Federal Bureau of Investigation.

1. Sex offenses, forcible – any sexual act directed against another person, without the consent of the victim including instances where the victim is incapable of giving consent.
 - a. Forcible rape – (except statutory rape) the carnal knowledge of a person, forcibly and/or against that person's will or not forcibly or against the person's will in instances where the victim is incapable of giving consent because of his/her temporary or permanent mental or physical incapacity.
 - b. Forcible sodomy – oral or anal sexual intercourse with another person, forcibly and/or against that person's will or not forcibly or against the person's will in instances where the victim is incapable of giving consent because of his/her

- youth or because of his/her temporary or permanent mental or physical incapacity.
- c. Sexual assault with an object – to use an object or instrument to unlawfully penetrate, however slightly, the genital or anal opening of the body of another person, forcibly and/or against that person’s will or not forcibly or against the person’s will in instances where the victim is incapable of giving consent because of his/her youth or because of his/her temporary or permanent mental or physical incapacity.
 - d. Forcible fondling – the touching of the private body parts of another person for the purpose of sexual gratification, forcibly and/or against that person’s will or not forcibly or against the person’s will in instances where the victim is incapable of giving consent because of his/her youth or because of his/her temporary or permanent mental or physical incapacity.
2. Sex offenses, nonforcible – (except prostitution offenses) unlawful, nonforcible sexual intercourse.
 - a. Incest – nonforcible sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.
 - b. Statutory rape – nonforcible sexual intercourse with a person who is under the statutory age of consent.
- S. Stalking – engaging in a course of conduct directed at a specific person that would cause a reasonable person to:
- Fear for the person’s safety or the safety of others.
- Suffer substantial emotional distress. For the purposes of this definition—
- Course of conduct means two or more acts, including, but not limited to, acts in which the stalker directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with a person’s property.
 - Reasonable person means a reasonable person under similar circumstances and with similar identities to the victim.
 - Substantial emotional distress means significant mental suffering or anguish that may, but does not necessarily require medical or other professional treatment or counseling.
- T. Supportive measures – non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the complainant or the respondent before or after the filing of a formal complaint or where no formal complaint has been filed. Such measures are designed to restore or preserve equal access to the recipient’s education program or activity without unreasonably burdening the other party, including measures designed to protect the safety of all parties or the recipient’s educational environment, or deter sexual harassment. Supportive measures may include counseling, extensions of deadlines or other course-related adjustments, modifications of

work or class schedules, campus escort services, mutual restrictions on contact between the parties, changes in work or housing locations, leaves of absence, increased security and monitoring of certain areas of the campus, and other similar measures. The recipient must maintain as confidential any supportive measures provided to the complainant or respondent, to the extent that maintaining such confidentiality would not impair the ability of the recipient to provide the supportive measures. The Title IX coordinator is responsible for coordinating the effective implementation of supportive measures.

IV. LEGAL AUTHORITY AND REFERENCES

- A. Title IX of the Education Amendments of 1972.
- B. Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act.
- C. Violence Against Women Reauthorization Act (VAWA) of 2013.

V. JURISDICTION

This policy applies to allegations of sexual harassment or sex-based discrimination, as defined by this policy, that take place on Coastal Carolina University property, at University-sponsored events, or at off-campus events where the University had control of the event or respondent. In all cases, the alleged conduct must have occurred within the United States.

VI. ASSESSMENT AND DISMISSAL OF FORMAL COMPLAINTS

Upon receipt of a formal complaint, the University will respond to any immediate health or safety concerns raised. They will then conduct an initial assessment for the sole purpose of determining whether the alleged conduct, if substantiated, would constitute prohibited conduct *under this policy*. Following the initial assessment, the Title IX Coordinator may take any of the following actions:

- A. If the allegations forming the basis of the formal complaint would, if substantiated, constitute prohibited conduct within the jurisdictional parameters of Title IX, the Title IX Coordinator will implement appropriate supportive measures. In addition, they initiate an investigation of the allegations under this policy.
- B. If the allegations forming the basis of the formal complaint would not, if substantiated, constitute prohibited conduct within the jurisdictional parameters of Title IX, the Title IX Coordinator will dismiss the formal complaint from the Title IX grievance process (and either party may appeal this dismissal). However, if appropriate, the Title IX Coordinator may refer the matter to the University Sexual Misconduct process or to another office for review.
- C. At any time prior to the hearing, the University may dismiss a formal complaint if:

1. The complainant notifies the Title IX Coordinator in writing that the complainant wishes to withdraw the formal complaint or any allegations therein;
2. The respondent is no longer enrolled or employed by the University;
3. Specific circumstances prevent the University from gathering sufficient evidence to reach a determination as to the formal complaint or the allegations therein.

V. SUPPORTIVE MEASURES

Supportive measures can be taken to protect the parties. These measures may include, but are not limited to:

- Mutual no contact orders.
- Counseling and/or medical services.
- Academic support.
- Living arrangement adjustments.
- Provision of a campus escort.
- Academic or work schedule and assignment accommodations.
- Safety planning.
- Referral to campus and community resources.

VII. SANCTIONS FOR FINDINGS OF RESPONSIBILITY

A. Student Sanctions

Sanctions, or action plans, for violations of Title IX for a student who has been determined to be in violation of this policy may include, but are not limited to the following. For definitions of these action plans, please refer to the current version of the CCU Code of Student Conduct.

- a. Warning.
- b. Community service.
- c. Educational programs (including behavioral assessments and counseling).
- d. Conditions.
- e. Disciplinary probation.
- f. Residence hall suspension.
- g. Loss of housing.
- h. Suspension.
- i. Permanent dismissal.
- j. No-contact order.

B. Employee Sanctions

Sanctions for an employee who has been determined to be in violation of this policy may include, but are not limited to:

- a. Counseling or Oral Warning
- b. Written reprimand.
- c. Suspension.
- d. 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.
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 restore or preserve equal access to the recipient's education program or activity.

VIII. TITLE IX COORDINATOR AND THEIR ROLE AT CCU

The Title IX Coordinator and 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 Title IX 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.

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IX. LINKS TO RELATED POLICIES

- A. [FAST-238 Workplace and Domestic Violence; Workplace Bullying](#)
- B. [STUD-341 Hazing](#)

- C. [UNIV-414 Whistleblower and Retaliation Protections](#)
- D. [UNIV-469 Pregnancy or Parenting Students](#)