

# Sexual Assault Policy

Coastal Alabama Community College does not tolerate sexual misconduct such as sexual harassment, sexual assault, stalking, intimate partner violence, or any other of the prohibited sexually related behaviors discussed herein below. These behaviors are harmful to the well-being of our community members, the learning/working environment, and collegial relationships among our students, faculty, staff, and visitors. All forms of prohibited conduct under this policy are regarded as serious College offenses, and violations will be subject to appropriate disciplinary action including the possibility of separation from the College. State and federal laws also address conduct that may meet the College's definitions of conduct prohibited under this policy, and criminal prosecution or civil court actions may take place independently of any disciplinary action instituted by the College.

Title IX of the Education Amendments of 1972 prohibits discrimination on the basis of sex or gender in the College's programs and activities. The U.S. Congress has also adopted subsequent legislation to enhance and/or apply in conjunction with Title IX. The College will respond to complaints or reports about conduct prohibited under this policy with measures designed to stop the behavior, eliminate any such gender discrimination, prevent the recurrence of the prohibited conduct, and remediate any adverse effects of such conduct on campus or in College-related programs or activities.

The College has an obligation to make reasonable efforts to investigate and address complaints or reports of sexual misconduct, whenever it becomes aware of such a complaint or report. Once made aware, the College must conduct an investigation regardless of how the information was brought to the College's attention or the extent to which the complainant (i.e., an individual who has been subjected to prohibited conduct, according to the complaint or report) wishes to participate or be involved. All individuals have access to resources that they may use for support and guidance without initiating College action. Retaliation against anyone involved in filing an internal complaint under this policy, filing an external complaint, participating in the internal disciplinary process, or opposing in a reasonable manner an act believed to constitute a violation of this policy, is prohibited and will not be tolerated.

In light of these commitments, the College has adopted this policy, which includes investigation and disciplinary procedures that will be followed in response to allegations of sex or gender discrimination, including sexual misconduct such as sexual harassment and sexual assault, intimate partner violence, stalking, and related retaliation. In a case of alleged sex or gender discrimination or sexual misconduct, this policy supersedes policies and procedures for other forms of misconduct. In addition to this policy, a Coastal Alabama employee who is a victim of any misconduct that constitutes a violation of Title IX shall also be covered by the Board of Trustees Employee Grievance Policy (Policy No. 620.01) that has been adopted for institutions within the Alabama Community College System.

## **A. SEXUAL ASSAULT VICTIMS' BILL OF RIGHTS**

All members and representatives of the College community are expected to recognize and abide by the following principles regarding victims of campus-related sexual assaults or other misconduct described herein:

### 1. The Right to Human Dignity

Victims shall:

- Be treated with fairness and respect for their dignity.
- Have their privacy honored.
- Have their allegations of sexual assault or other misconduct treated seriously.
- Be free from any suggestion that they are responsible for the sexual assaults or other misconduct committed against them.
- Be free from any threat of retaliation or other attempt to prevent the reporting of sexual misconduct.
- Be free from unwanted pressure from campus personnel to:
  - o Report sexual assaults or other misconduct if they do not wish to do so.
  - o Report sexual assaults as less serious offenses.
  - o Refrain from reporting sexual assaults or other sexual misconduct for any reason, including the fear of unwanted personal publicity.

### 2. The Right to Resources On and Off Campus

Victims of whom the College shall have become aware shall:

- Receive notice describing options to pursue a criminal complaint with the appropriate law enforcement agency, to pursue the College's disciplinary process, or to pursue both processes simultaneously.
- Be notified of existing campus and community-based medical, counseling, mental health services for victims of sexual assault whether or not the assault is formally reported to campus or civil authorities.
- Have the right to know that there will not be a monetary charge for filing criminal or College disciplinary complaints.
- Have access to campus counseling and be informed of additional information about resources and options to aid in recovery.
- Be informed of and assisted in exercising:
  - o Any rights to confidential or anonymous testing for sexually transmitted infections, HIV, and pregnancy.
  - o Any rights to preventive measures such as HIV prophylaxis.
  - o Any rights that may be provided by law to obtain the communicable diseases test results of sexual assault suspects.

### 3. The Right to Campus Judicial Proceedings

Victims have the right to:

- Written and advance notice about a disciplinary hearing involving the person or persons accused of sexually assaulting them or engaging in other misconduct toward them is covered by this policy.
- Have the opportunity to present witnesses and other evidence, and to receive notice of the process, information about procedures, and written notice of the outcome in a manner that is equivalent to the process of the accused.
- Remain present during the entire proceeding, whenever possible. Alternative arrangements may be made for those who do not want to be present in the same room as the accused during the disciplinary hearing.
- Be heard at the proceeding.
- Be assured that their irrelevant past sexual history will not be discussed during the hearing.

### 4. The Right to Law Enforcement and Campus Intervention

- Reports of sexual assault will be subject to being investigated and evaluated by the appropriate criminal and civil authorities of the jurisdiction in which the sexual assault is reported.
- Victims shall receive full and prompt cooperation and assistance of campus personnel in notifying the proper authorities.
- Victims shall receive full, prompt, and victim-sensitive cooperation of campus personnel with regard to obtaining, securing and maintaining evidence, including a medical examination when it is necessary to preserve evidence of a reported sexual assault; "No contact" orders (e.g., Cease and Desist orders) shall be issued promptly and in writing to all parties to a reported sexual assault after the College receives notice of a complaint.
- Campus personnel shall take reasonable and necessary actions to prevent further unwanted contact by any victim's alleged assailant(s).
- Victims shall be notified of the options for and provided assistance in changing academic and living situations if such changes are reasonably available.

### 5. Note: Statutory Mandates

Nothing in this Victims' Bill of Rights statement shall be construed to preclude or in any way restrict the College from carrying out its duties under law to report suspected offenses to the appropriate law enforcement authorities. Except as required by law, the College will take care not to identify the victim.

Nothing in this statement shall be construed to preclude or in any way restrict the College from issuing a Timely Warning when the College is aware of a reported sexual assault incident that potentially puts the campus community at risk. The College will take care not to identify the victim in such notices but, in certain cases of continuing danger, the College may identify the suspect, assailant, or the address where the crime occurred.

## **B. COLLEGE'S TITLE IX COORDINATORS**

The Dean of Student Services serves as the Title IX Coordinator for student complaints brought under this policy. Student complaints should be directed to Dean of Student Services, in person or by campus phone at 251-580-2103.

The Senior Personnel Officer serves as the Title IX Coordinator for employee complaints. Employee complaints should be directed to the Senior Personnel Officer in person or by campus phone at 251-580-4898.

The Title IX Coordinators will be informed of all complaints or reports of violations of this policy, and oversees the College's centralized response to ensure compliance with Title IX, the 2013 Amendments to the Violence Against Women Reauthorization Act (VAWA), and any other applicable Federal or State statute or regulation related to sexual misconduct on campus. The Title IX Coordinator's activities include (but are not limited to):

- Communicating with all members of the College community regarding Title IX and VAWA, and providing information about how individuals may access their rights provided under those statutes.
- Reviewing applicable College policies to ensure institutional compliance with Title IX and VAWA.
- Monitoring the College's administration of its own applicable policies, including record keeping, timeframes, and other procedural requirements.
- Conducting training regarding Title IX, VAWA, and prohibited conduct defined in this policy.
- Responding to any complaint or report regarding conduct that violates this policy. In this capacity, the Title IX Coordinators oversee the investigation and resolution of such alleged misconduct, direct the provision of any remedial measures, and monitor the administration of any related appeal.

## **C. SCOPE OF THIS POLICY**

This policy governs the conduct of students, employees, and third parties (i.e., non-members of the College community, third party may make a complaint or report of a violation of this policy committed by a member of the College community. A third party may also be permanently barred from the College or subject to other restrictions for failing to comply with this policy.

This policy applies to conduct that occurs on College property (i.e., on campus) or at College-sanctioned events or programs that take place off campus. All actions by a member of the College community that involve the use of the College's computing and network resources from a remote location, including but not limited to accessing email accounts, will be deemed to have occurred on campus. This policy also applies to conduct that occurs off College property (i.e., off campus) when the conduct is associated with a College-sponsored program or activity, or when such conduct may have a continuing adverse effect or could create a hostile environment on campus. Judgments about these matters will depend on the relevant facts of each individual case.

## **D. PROHIBITED CONDUCT**

In determining whether alleged conduct violates this policy, the College will consider the totality of the facts and circumstances involved in the incident, including the nature of the alleged conduct and the context in which it occurred. Any of the prohibited conduct defined in this policy can be committed by individuals of any gender, and it can occur between individuals of the same gender or different genders. It can occur between strangers or acquaintances, as well as people involved in intimate or sexual relationships.

### **1. Sexual Misconduct**

The following behaviors constitute sexual misconduct and are prohibited under this policy. All forms of sexual misconduct are serious offenses and will be subject to appropriate College disciplinary procedures. Sexual misconduct involving force, duress, or inducement of incapacitation, or where the perpetrator has deliberately taken advantage of another person's state of incapacitation, will be deemed especially egregious and may result in academic expulsion, or termination of employment. The consumption of alcohol or the use of illegal substances does not constitute a mitigating circumstance when it contributes to a violation of this policy.

- Non-Consensual Sexual Penetration (commonly referred to as rape): Any act of vaginal or anal penetration by a person's penis, finger, other body part, or an object; or oral penetration by a penis, without consent.
- Non-Consensual Sexual Contact (commonly referred to as sexual assault): Any sexual touching other than non-

consensual sexual penetration without consent. Examples of non-consensual sexual contact may include: genital-genital or oral-genital contact not involving penetration; contact with breasts, buttocks, or genital area, including contact over clothing; removing the clothing of another person; and kissing.

- Sexual Exploitation: Any act whereby one person violates the sexual privacy of another or takes unjust or abusive sexual advantage of another who has not provided consent, and that does not constitute nonconsensual sexual penetration or non-consensual sexual contact. Examples may include: recording, photographing, transmitting, viewing or distributing intimate or sexual images or sexual information without the knowledge and consent of all parties involved; voyeurism (i.e., spying on others who are in intimate or sexual situations).
- Sexual Harassment: Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature.
- Sexually Inappropriate Conduct: Unwelcome sexual conduct that may not rise to the level of sexual harassment or sexual exploitation, but that is sexual in nature. Examples may include obscene or sexually offensive gestures, comments or other behavior that would be considered lewd or lascivious by a person of reasonable sensitivity.

## 2. Other Prohibited Behaviors

Behaviors as described below are also prohibited under this policy:

- Domestic Violence in the Context of Intimate Relationships: Domestic violence means any incident resulting in the abuse, assault, harassment or the attempt or threats thereof, between families, household or dating or engagement relationship members.
- Intimate Relationship Violence (also known as dating violence or intimate partner violence): Acts of violence, threat or intimidation that harm or injure a partner in a current or former intimate relationship (defined below). These acts may be physical, emotional/psychological, or sexual in nature. Intimate relationship violence can be a single act or pattern of behavior.
- Dating Violence: The term dating violence is not defined by Alabama law, as such. However, the term dating violence is incorporated into the definition of domestic violence because the definition of domestic violence includes “dating or engagement” relationships.
- Stalking: A course of conduct (i.e., more than one act) directed at a specific person that would cause a reasonable person to feel fear for her, his, or others’ safety, or to suffer substantial emotional distress. Acts that together constitute stalking may include, but are not limited to; pursuing or following of a person electronically via social media websites or in person; non-consensual (unwanted) communication by any means (included but not limited to letters, cards, photos, text messages, emails, or other documentary or electronic communications); unwanted gifts; trespassing; and surveillance or other types of observation.
- Retaliation: Any attempt to seek retribution against, or cause harm or undue discomfort to, an individual or group of individuals involved in filing a complaint or report under this policy, filing an external complaint, participating in a disciplinary process, or opposing in a reasonable manner an action believed to constitute a violation of this policy. Retaliation can take many forms, including abuse or violence, threats, and intimidation. Actions in response to a good faith report or response under this policy are considered retaliatory if they have a materially adverse effect on the working, academic or College-controlled living environment of an individual; or if they hinder or prevent the individual from effectively carrying out their College responsibilities. Any individual or group of individuals can engage in retaliation and will be held accountable under this policy.

## 3. Terminology

The following definitions clarify key terminology as used throughout the policy.

**Intimate Relationship:** An intimate relationship is a short- or long-term relationship between persons of any gender that provides romantic and/or physical intimacy or emotional dependence. Intimate relationships may include (but are not limited to) marriages, civil unions, dating relationships, “hook-up” relationships, relationships in which partners are characterized as “girlfriends” or “boyfriends,” and relationships between persons with a child in common.

Consent and Incapacitation: In reviewing possible violations of sexual misconduct, the College considers consent as the voluntary, informed, uncoerced agreement through words and actions freely given, which a reasonable person would interpret as a willingness to participate in mutually agreed-upon sexual acts. Consensual sexual activity happens when each partner knowingly, willfully, and affirmatively chooses to participate in the activity.

Indications that consent is not present include: when physical force is used or there is a reasonable belief of the threat of physical force; when duress is present; when one person overcomes the physical limitations of another person; when the person against whom an action is taken is induced by fraud or deceit; and when a person is incapable of making an intentional decision to participate in a sexual act, which could include instances in which the person is in a state of incapacitation.

Important points regarding consent include:

- Consent to one act does not constitute consent to another act.
- Consent on a prior occasion does not constitute consent on a subsequent occasion.
- The existence of a prior or current relationship does not, in itself, constitute consent.
- Consent can be withdrawn or modified at any time.
- Consent is not implicit in a person's manner of dress.
- Accepting a meal, a gift, or an invitation for a date does not imply or constitute consent to any further activity.
- Silence, passivity, or lack of resistance does not necessarily constitute consent.
- Initiation or acceptance of a sexually-related behavior described herein by someone who a reasonable person knows or should have known to be deemed incapacitated is not consent. In the context of this policy, incapacitation is the state in which a person's perception or judgment is so impaired that he or she lacks the cognitive capacity to make or act on conscious decisions.

The use of drugs or alcohol can cause incapacitation. An individual who is incapacitated is unable to consent to a sexual activity. Engaging in sexual activity with an individual who is incapacitated (and therefore unable to consent), where a person knows or ought reasonably to have understood that the individual is incapacitated, constitutes sexual misconduct.

- Victim: A person who has been the subject of prohibited conduct, regardless of whether that individual makes a complaint or seeks disciplinary action.
- Complainant: A victim who has made a complaint of a violation of this policy, or on whose behalf a complaint was made or a disciplinary action was initiated.
- Respondent: The term respondent refers to the individual(s) who has been accused of prohibited conduct.
- Third party: The term third party refers to any individual who is not a College student, a faculty member, or a staff member (e.g., vendors, alumni/ae, or local residents). Being a third party does not preclude a person from coverage by this policy, even where the person may not be subject to internal disciplinary action by the College. A third party who is a victim shall have the right to report and have investigated any complaint made hereunder; and a third party who is a respondent found to have violated this policy may be permanently barred from College campuses and/or activities, or subject to other reasonable actions by the College.

## **E. CONFIDENTIALITY, PRIVACY, AND RELATED RESPONSIBILITIES**

The College is committed to protecting the privacy of all individuals involved in a report of sexual assault, sexual violence, and stalking or intimate partner violence. All College employees who are involved in the College's Title IX response receive specific instruction about respecting and safeguarding private information. Throughout the process, every effort will be made to protect the privacy interests of all individuals involved in a manner consistent with the need for a thorough review of the report. Issues of privacy and confidentiality play important roles in this policy, and may affect individuals differently. Requests for confidentiality may limit the College's ability to conduct an investigation. In some circumstances, the reporting responsibilities of College employees, or the College's responsibility to investigate, may conflict with the preferences of the complainant and/or respondent with regard to privacy and confidentiality. Therefore, all individuals are encouraged to familiarize themselves with their options and responsibilities in determining their preferred course of action. In any situation where a party's desire for confidentiality is in conflict with Federal or State reporting requirements, the College shall be obligated to fulfill its duty to comply with applicable laws and regulations.

Privacy and confidentiality are related but the following definitions clarify the terminology as used throughout the policy.

1. Privacy:

Privacy generally means that information related to a report of misconduct will only be shared with a limited circle of individuals. The use of this information is limited to those College employees who “need to know” in order to assist in the active review, investigation or resolution of the report. While not bound by confidentiality, these individuals will be discreet and respect the privacy of all individuals involved in the process.

2. Confidentiality:

Confidentiality means that information shared by an individual with designated campus or community professionals cannot be revealed to any other individual without the express permission of the individual. These individuals are prohibited from breaking confidentiality unless there is an imminent threat of harm to self or others.

When a report involves suspected abuse of a minor under the age of 18, the College is required by law to notify local law enforcement and the local agency for child protective services.

3. Request for Confidentiality:

Where a Complainant requests that his/her name or other identifiable information not be shared with the Respondent or that no formal action be taken, the College will balance this request with its dual obligation to provide a safe and non-discriminatory environment for all College community members and to remain true to principles of fundamental fairness that require notice and an opportunity to respond before action is taken against a Respondent. In making this determination, the College may consider the seriousness of the conduct, the respective ages and roles of the Complainant and Respondent, whether there have been other complaints or reports of harassment or misconduct against the Respondent, and the rights of the Respondent to receive notice and relevant information before disciplinary action is sought.

The College will take all reasonable steps to investigate and respond to the complaint consistent with the request for confidentiality or request not to pursue an investigation, but its ability to do so may be limited based on the nature of the request by the Complainant. Where the College is unable to take action consistent with the request of the Complainant, the Title IX Coordinators will inform the Complainant about the chosen course of action, which may include the College seeking disciplinary action against a Respondent. Alternatively, the course of action may also include steps to limit the effects of the alleged harassment and prevent its recurrence that do not involve formal disciplinary action against a Respondent or revealing the identity of the Complainant. Any additional disclosure of information related to the complaint or report may be made if consistent with the Family Educational Rights and Privacy Act (FERPA), the Title IX requirements, or other applicable Federal or State laws or regulations.

4. Responsibility to Report:

In emergency situations, if there is a suspected crime in progress, or imminent or serious threats to the safety of anyone, students, faculty and staff members must immediately contact the College Police Department by dialing 251-580-2222 or contact 911 from an on-campus telephone or personal cell phone. A victim may choose not to make a complaint or report in his or her own case, even if the victim otherwise has reporting obligations by virtue of being a faculty member, staff member, or Residential College Adviser. However, the victim shall not have the option of prohibiting the College from carrying out any investigative or reporting duty or responsibility that it may have under applicable laws and regulations.

5. Release of Information:

If the College Police Department becomes aware of a serious and continuing threat to the campus community, the College Police Department will issue a timely notification through the Marketing and Communications Office to protect the health or safety of the community. The College Police Department may also be required to publicly disclose a reported incident of sexual misconduct in the daily crime log or annual security report. In addition, the College may also share non-identifying information, including data about outcomes and penalties, in aggregate form. At no time will the College release the name or other personally identifiable information of the complainant to the general public without the express consent of the complainant or as otherwise permitted or required by law.

## **F. SUPPORT RESOURCES**

A complainant or witness has many options, including counseling, filing an internal complaint, and/or filing a criminal complaint. The College recognizes that deciding among these options can be difficult. Complainants and witnesses are encouraged to seek assistance before deciding how to proceed. The following resources are available to provide support and/or receive complaints or reports.

#### 1. Emergency Resources and Law Enforcement:

Emergency medical assistance and campus safety/law enforcement assistance are available both on and off campus. Individuals are encouraged to contact law enforcement and seek medical treatment as soon as possible following an incident that poses a threat to safety or physical well-being or following a potential criminal offense. Contact information for law enforcement officials and medical treatment facilities are as follows:

#### 2. Area Police Departments:

- Atmore Police Department: 251-368-3784
- Baldwin County Sheriff's Office: 251-937-0200
- Bay Minette Police Department: 251-937-4037
- Brewton Police Department: 251-867-3212
- Clarke County Sheriff's Office: 251-275-8156
- Choctaw County Sheriff's Office: 205-459-2166
- East Brewton Police Department: 251-867-4864
- Escambia County Sheriff's Office, Atmore: 251-368-4779
- Escambia County Sheriff's Office, Brewton: 251-867-0304
- Fairhope Police Department: 251-928-2385
- Gilbertown Police Department: 251-843-2766
- Gulf Shores Police Department: 251-968-2431
- Jackson Police Department: 251-867-4864
- Monroeville Police Department: 251-575-3246
- Monroe County Sheriff's Office: 251-575-2963
- Thomasville Police Department: 334-636-2174

#### 3. Area Hospitals:

- North Baldwin Infirmary, Bay Minette: 251-937-5521
- Thomas Hospital, Fairhope: 251-928-2375
- South Baldwin Hospital, Foley: 251-949-3400
- D.W. McMillan Hospital, Brewton: 251-867-8061
- Grove Hill Memorial Hospital, Grove Hill: 251-275-3191
- Monroe County Hospital, Monroeville: 251-575-3111
- Atmore Community Hospital, Atmore: 251:368-2500
- Rape Crisis Center: 251-473-7273 / 251-928-9500: The Center provides immediate medical attention and counseling. This includes the collection of personal physical evidence and a blood test for sexually transmitted diseases. Counseling, in an on-going basis, is available after the incident.

#### 4. Alabama Crime Victims' Compensation Commission: 1-800-541-9388

In non-emergency situations, students living in College-managed housing must promptly report suspected violations to the appropriate officials as follows:

- Resident Assistant or Housing official is notified of assault: Residence Hall Director, Danielle Pitts: 251-580-2174 or

## **G. OPTIONS FOR COMPLAINANTS AND OTHER REPORTING PARTIES**

The College encourages all individuals to report any alleged or suspected violation of this policy to the appropriate Title IX Coordinator, and to report potential criminal conduct to law enforcement. Anyone who seeks to make a complaint or report may:

- Request interim measures from the Title IX Coordinators (see H. below);
- File a complaint or report with the Title IX Coordinators, thereby invoking the College's internal disciplinary process (see I. below);
- Contact the College Police Department by dialing (251) 580-2222 or 911 for assistance in filing a criminal complaint and preserving physical evidence (see F. above); and/or
- Contact local law enforcement to file a criminal complaint (see F. above). An individual may pursue some or all of these steps at the same time (e.g., one may simultaneously pursue an internal complaint and a criminal complaint). When initiating any of the above, an individual does not need to know whether they wish to request any particular course of action, nor how to label what happened. Before or during this decision-making process, complainants and other reporting persons are encouraged to seek assistance from support resources.

## **H. INTERIM MEASURES**

Upon receipt of a complaint or report of a violation of this policy, the College will make good faith efforts to provide reasonable and appropriate interim measures designed to preserve the complainant's educational experience, the safety of all parties and the broader College community, maintain the integrity of the investigative and/or resolution process, and deter retaliation. The College may provide interim measures regardless of whether the complainant seeks formal disciplinary action.

Interim measures may include:

- Access to counseling services and assistance in arranging an initial appointment.
- Rescheduling of exams and assignments.
- Change in class schedule, including the ability to transfer course sections or withdraw from a course.
- Change in work schedule or job assignment.
- Change in campus housing.
- Providing medical services.
- Imposition of an on-campus "no contact order," an administrative remedy designed to curtail contact and communications between two or more individuals; and/or
- Any other reasonable remedy that can be used to achieve the goals of this policy. Any interim measures will not disproportionately impact the complainant. Requests for interim measures may be made by or on behalf of the complainant to any College official, including the Title IX Coordinators. The Title IX Coordinators are responsible for ensuring the implementation of interim measures and coordinating the College's response with the appropriate offices on campus. All individuals are encouraged to report concerns about the failure of another to abide by any restrictions imposed by an interim measure. The College will take immediate action to enforce a previously implemented measure and disciplinary penalties can be imposed for failing to abide by a College-imposed measure.

## **I. FILING A COMPLAINT OR REPORT WITH THE TITLE IX COORDINATORS**

Individuals are encouraged to report any alleged violation of this policy, whether the reporting party is the alleged victim, or the alleged victim is another person who the reporting party has reason to believe has been subjected to misconduct prohibited by this policy. Such reports should be made directly to the appropriate Title IX Coordinator. In order to do so, individuals may schedule an appointment with the Title IX Coordinator.



Timeliness of Report Complainants and other reporting individuals are encouraged to report any violation of this policy as soon as possible in order to maximize the College's ability to respond promptly and effectively. Complaints and reports may be made at any time without regard to how much time has elapsed since the incident(s) in question. If the respondent is no longer a student or employee at the time of the complaint or report, the College may not be able to take disciplinary action against the respondent, but it will still seek to meet its Title IX obligations by providing support for the complainant and taking steps to end the prohibited behavior, prevent its recurrence, and address its effects. The College shall also reserve the right to take the complaint into consideration in the event that the respondent should ever again attempt to become a student or employee of the College.

## **J. INVESTIGATIONS AND DISCIPLINARY PROCEDURES IN GENERAL FOR THIS POLICY**

The College is committed to providing a prompt and impartial investigation of all alleged violations of this policy. During the disciplinary process, both parties (complainant and respondent) have equivalent rights, including the opportunity to present evidence, to be accompanied by an adviser of their choice, and to appeal. The College will concurrently provide both parties with written notification of the outcome of the process and any appeal. With regard to any proposed disciplinary action against a student or employee, the action shall be carried out in accordance with applicable student or employee disciplinary laws, regulations, policies, and procedures.

1. Responsibility to Investigate: In order to protect the safety of the campus community, the Title IX Coordinators may investigate allegations of violations of this policy even absent the filing of a formal complaint or report, or if a complaint or report has been withdrawn. The Title IX Coordinators may need to proceed with an investigation even if a complainant specifically requests that the matter not be pursued. In such a circumstance, the Title IX Coordinators will take into account the complainant's articulated concerns, the best interests of the campus community, fairness to all individuals involved, and the College's obligations under Title IX.

This policy differs from Alabama criminal law. Proceedings under this policy may be carried out prior to, simultaneously with, or following civil or criminal proceedings off campus. Neither a decision by law enforcement regarding prosecution nor the outcome of any criminal proceeding will be considered determinative of whether a violation of this policy has occurred.

2. Initial Assessment of Complaints: The investigative process is initiated when the Title IX Coordinators receives a complaint or report of a violation of this policy. The Title IX Coordinators will conduct an initial assessment. Following the initial assessment, the Title IX Coordinators may take any of the following actions:

- If the Title IX Coordinators determines that the complaint, even if substantiated, would not rise to the level of a policy violation, the Title IX Coordinators may dismiss the complaint.
- If the Title IX Coordinators determines that the complaint is outside the scope of this policy, the Title IX Coordinators may refer the complaint to another office for review.
- If the Title IX Coordinators determines that the complaint or report would, if substantiated, constitute a violation of this policy, the Title IX Coordinators will determine appropriate interim measures and initiate an investigation.

3. Timeframes of Any Related Disciplinary Proceedings: Timeframes for all phases of the disciplinary process, including the investigation, any related disciplinary proceedings, and any related appeal, apply equally to both complainant and respondent.

4. Cooperation with Investigation and Disciplinary Procedures: Coastal Alabama Community College expects all members of the College community to cooperate fully with the investigation and disciplinary procedures, including the preservation of all material evidence by the alleged victim. The College recognizes that an individual may be reluctant to participate in the process; nevertheless, any student or member of the faculty or staff who refuses to cooperate in an investigation may be subject to discipline. Refusal to cooperate includes delaying or failing to acknowledge requests from College officials for information, and delaying or failing to make oneself available for meetings with College officials. It is understood that there may be circumstances in which a complainant wishes to limit their participation. The complainant retains this right and will not be subject to discipline, although the College may be obligated to conduct an investigation regardless of the complainant's wishes. If a respondent chooses not to answer any or all questions in an investigation for any reason, the College process will continue, findings will be reached in accordance with the preponderance of evidence standard with respect to all available credible evidence in support of or contrary to the alleged conduct, and the College will take such action or actions as are appropriate to findings supported by the evidence. The College will not, however, draw any adverse inference from a respondent's silence.

5. Sexual History: The sexual history of the complainant and/or the respondent will generally not be used in determining whether a violation of this policy has occurred. However, in certain circumstances, the sexual history between parties may have limited relevance. For example, if consent is at issue, the sexual history between the parties may be relevant to determining whether consent was sought and given during the incident in question, although it must be remembered that even in the context of a relationship, consent to one sexual act does not constitute consent to another sexual act, and consent on one occasion does not constitute consent on a subsequent occasion. In addition, under very limited circumstances, sexual history may be relevant to explain injury, to provide proof of a pattern, or for another specific question raised by an allegation or in defense against an allegation.

6. Consolidation of Investigation: The Title IX Coordinators has the discretion to consolidate multiple complaints or reports into a single investigation if evidence relevant to one incident might be relevant to the others.

7. Circumstances Relating to Misconduct Affecting Health or Safety: In connection with this policy, in circumstances seriously affecting the health or well-being of any person, or where physical safety is seriously threatened, or where the ability of the College to carry out its essential operations is seriously threatened or impaired, the president or an authorized representative may summarily suspend, dismiss, or bar any person from the College, subject to a post-action review on the action taken by the College. In all such cases, actions taken will be reviewed promptly, typically within one week, by the appropriate College authority.

#### **K. MAKING A CRIMINAL COMPLAINT TO LAW ENFORCEMENT**

At the complainant's request, the College Police Department will assist the complainant by making a report and following up with an investigation if a complainant decides to pursue the criminal process. See F. above for contact information related to law enforcement.

#### **L. DISCIPLINARY ACTION WHEN THE RESPONDENT IS A STUDENT**

In addition to any criminal or civil actions which may be pending or in process, the College reserves the right to separately pursue appropriate disciplinary action against the respondent(s). Persons found responsible for sexual assault may expect disciplinary actions up to and including dismissal from the College. Policies and procedures contained in the Student Code of Conduct will be followed in all disciplinary procedures.

#### **M. DISCIPLINARY ACTION WHEN THE RESPONDENT IS AN EMPLOYEE**

In addition to any criminal or civil actions which may be pending or in process, the College reserves the right separately pursue appropriate disciplinary action against the respondent(s). For violations of this policy by faculty or staff members, disciplinary penalties may include (in accordance with the employment laws, regulations, and policies governing the employee in question) counseling or training, written warning, formal reprimand, suspension with or without pay, demotion, or termination. The College also reserves the right to place an accused employee on paid administrative leave during the pendency of the investigation and/or hearing of an allegation of a violation of this policy.

#### **N. DISCIPLINARY PROCEDURES WHEN ONE PARTY IS A MEMBER OF THE COLLEGE COMMUNITY AND THE OTHER PARTY IS A NON-MEMBER OF THE COLLEGE COMMUNITY**

When a third party, (i.e., a non-member of our College community) is involved as a complainant or a respondent, the College will use disciplinary procedures that are generally consistent with the disciplinary procedures stated in sections D and E, appropriately modified based on the particular circumstances involved and taking into account privacy requirements and the like. In no case will a member of our community (i.e., current student, faculty member or staff member) be afforded lesser rights or lesser opportunities to participate in the disciplinary proceeding than the non-member of the College community.

#### **O. OTHER INVESTIGATION AND RESOLUTION PROCEDURES**

If a complaint or report of conduct prohibited by this policy is made against multiple individuals, an office, or the College in general, the Title IX Coordinators will review the matter and take appropriate action, in accordance with this policy. The Title IX Coordinators may conduct an investigation, using investigative and disciplinary procedures that are generally consistent with those stated in this policy, appropriately modified based on the particular circumstances involved.

**P. REPORTING AND PRESERVATION OF INFORMATION**

Each respective Title IX Coordinator will be responsible for the preservation of the records involved in every complaint received, and investigation and hearing conducted, under this policy and shall further be responsible for ensuring that all reports are made to such Federal and State agencies as are required to be notified under Title IX and related laws and regulations. In conjunction with ensuring that the required reports are made on a timely basis, the respective Title IX Coordinator shall notify the President of the appropriate reports having been made.